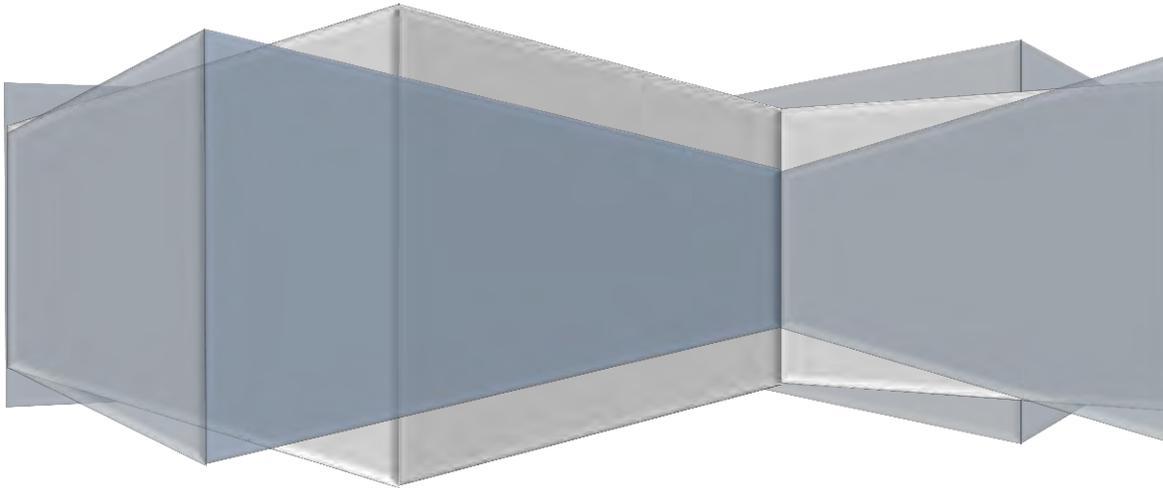


Title VI+ Program

How to Guide (Plan Template)



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How to Guide

Title VI+ Program Required Submissions

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1.0 Background

Title VI of the Civil Rights Act 1964 specifically provides that “no person in the United States shall, on the ground 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.” Under Title VI, financial recipients are also required to provide Limited English Proficiency (LEP) individuals with meaningful access to their programs and services. Another requirement for recipients of Federal Transit Administration (FTA) funds includes incorporating Environmental Justice (EJ) principles into plans, projects, and activities.

Title VI is a Federal law that applies to **recipients** (including subrecipients) of Federal financial assistance. Recipients of FTA funds are required to have a Title VI Program which is a document that demonstrates how the recipient complies with the transit-related activities of Title VI. (It is important to note that “recipients are responsible for ensuring that all of their activities are in compliance with Title VI.”)

The FTA outlined requirements and guidelines for FTA recipients in its Circular FTA C 4702.1B (Title VI Circular) dated October 1, 2012. The FTA also issued Environmental Justice (EJ) Policy guidance in its Circular FTA C4703.1 (EJ Circular) dated August 15, 2012. This “How to Guide” was developed primarily using these two Circulars and FTA’s Office of Civil Rights, April 13, 2007 publication “Implementing the Department of Transportation’s Policy Guidance Concerning Recipients’ Responsibilities to **Limited English Proficient (LEP)** Persons, A Handbook for Public Transportation Providers”(LEP Handbook).”

This Guide was developed to help federally funded transit providers comply with the FTA’s Title VI Program submissions. Submission requirements coincide with the federally funded recipient “type”. The types are: All; Transit Providers that operate 50 or more fixed route vehicles in peak service and are located in an Urbanized Area (UZA) of 200,000 or more in population; States; and Metropolitan Transportation Planning Organizations. Under the heading of each section of this How to Guide, the federally funded recipient type is listed after applicability. The Guide begins with “All” followed by the two types of transit providers. By following the sections that apply to your agency’s type, you will have developed a Title VI Program that can be submitted to the FTA. Every three years you are required to update the information and, where applicable, provide the analyses.

The primary focus of this “How to Guide” is on the required Title VI Program elements for transit agencies that receive FTA funding. In addition to using this Guide, you should refer directly to the

The following definition is from the Title VI Circular:
Recipient means any public or private entity that receives Federal financial assistance from FTA, whether directly from FTA or indirectly through a primary recipient. This term includes subrecipients, direct recipients, designated recipients, and primary recipients. The term does not include any ultimate beneficiary under any such assistance program.

The following definition is from the Title VI Circular:
Limited English Proficient (LEP) refers to persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.

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- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.”

The FTA Title VI Circular groups Title VI Program required elements in the following five categories:

1. All Recipients (general or base requirements)
2. Transit Providers that operate Fixed Route Service
3. Transit Providers that operate 50 or more **fixed route** vehicles in peak service and are located in an **Urbanized Area (UZA)** of 200,000 or more in population
 - The FTA has published a list of transit providers that fall into this category, the web address is:
http://www.fta.dot.gov/documents/Grantees_by_Region_in_UZA_Pop200_with_50_Vehicles.pdf
 - The following is a list of Pennsylvania Transit Providers in this category:

The following definition is from the Title VI Circular:
Fixed route refers to public transportation service provided in vehicles operated along pre-determined routes according to a fixed schedule.

Title VI Circular separates transit service into two categories: fixed route and demand response. “An advance request for service is a key characteristic of demand response service.”

The Federal Highway Administration defines **Urbanized Areas (UZA)** as with populations of 50,000 residents or more.

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Title VI Complaint Procedures (instructions to public)	✓	✓	✓
Title VI Complaint Form	✓	✓	✓
List of transit-related Title VI investigations, complaints, and lawsuits	✓	✓	✓
Public Participation Plan	✓	✓	✓
Summary of outreach efforts since last Title VI submission	✓	✓	✓
LEP Plan/LAP	✓	✓	✓
A table depicting the membership of non-elected committees and councils and a description of the process used to encourage the participation of minorities	✓	✓	✓
Description of how the agency monitors its subrecipients for compliance with Title VI, and a schedule of subrecipient Title VI Program submissions	✓	✓	✓
Title VI equity analysis if the recipient has constructed a facility	✓	✓	✓
Documentation of review and approval of Title VI Program by governing entity.	✓	✓	✓
Service standard for vehicle load for each mode		✓	✓
Service standard for vehicle headway for each mode		✓	✓
Service standard for on-time performance for each mode		✓	✓
Service standard for service availability for each mode		✓	✓
Service policies for transit amenities for each mode		✓	✓
Service policies for vehicle assignment for each mode		✓	✓
Demographic and service profile maps and charts			✓
Demographic ridership and travel patterns, collected by surveys			✓

Facility includes, “storage facilities, maintenance facilities, operations centers, etc. “

Demographic and service profile maps and charts can be obtained by the agency partnering with its Metropolitan Planning Organization, Rural Planning Organizations or other planning groups.

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Results of monitoring program and report with documentation of governing entity considered, was aware of the results, and approved the analysis			✓
A description of the public engagement process for setting the “major service change policy,” disparate impact policy, and disproportionate burden policy			✓
Results of service and/or fare equity analyses conducted since the last Title VI Program submission, including documentation that governing entity considered, was aware of, and approved the results of the analysis			✓

“For all recipients (including subrecipients), the Title VI Program must be approved by the recipient’s board of directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission to FTA.” Recipients must submit documentation of the approval such as “Board resolution, meeting minutes or similar documentation.”

All transit providers (direct recipient, primary recipient or subrecipient) that receive financial assistance must comply with all general requirements.

The FTA at its discretion may require additional information that the FTA Title VI Circular.

NOTES:

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2.0 Overview of Reporting and Monitoring

This “How to Guide” provides a brief overview of reporting and monitoring requirements. If you are unsure or need additional information, please refer directly to the Title VI Circular, regulations or contact your FTA Regional Office.

The reporting and monitoring requirements are separated into type of recipient: **designated recipients**, **direct recipients**, **primary recipients** and **subrecipients**. These requirements “will vary depending on what role an entity serves. One entity could be all four types of recipients, and therefore have many different reporting and monitoring requirements.” The reporting requirements follow the source of funds. Recipient type will determine where the Title VI Plan is submitted and whether or not the entity has oversight responsibilities.

Following are a few reporting examples from the Title VI Circular:

- You are considered a direct recipient if you apply to FTA for funds and as such, you will submit a Title VI Program directly to FTA.
- If you pass through funds directly from FTA to subrecipient then you are a primary recipient and you are required to monitor your subrecipients’ compliance with Title VI and the subrecipient will submit their Title VI Program to you.
- If you receive funds from another FTA recipient you are a subrecipient and as such, submit your Title VI Program to the FTA entity that you receive funds.

Please refer to the Title VI Circular for more information and examples.

Every three years (or as directed) direct and primary recipients submit a Title VI Program to the FTA. Subsequent submittals are generally updates to the agency’s Title VI Program. The submission process is through the FTA’s Transportation Electronic Award Management (TEAM) computer system. The recipient uploads its Title VI Program by attaching the Program on the Civil Rights screen and then sends an e-mail to its FTA Regional Civil Rights Officer notifying that the Program has been uploaded. The Program must be “uploaded to TEAM no fewer than sixty calendar days prior to the date of expiration of the Title VI Program.” TEAM provides the status of the recipient’s program: Concur, In Review and Expired/Expiration. A recipient with expired status “may have its draw-down privileges suspended and grants may not be processed.”

The following definitions are from the Title VI Circular:

- **Designated recipient** means an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.
- **Direct recipient** means an entity that receives funding directly from FTA. For purposes of this Circular, a direct recipient is distinguished from a primary recipient in that a direct recipient does not extend financial assistance to subrecipients, whereas a primary recipient does.
- **Primary recipient** means any FTA recipient that extends Federal financial assistance to a subrecipient.
- **Subrecipient** means an entity that receives Federal financial assistance from FTA through a primary recipient.”

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- That your agency operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act.
- Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with your agency.
- Advice to the public of where to obtain more information on the Agency's Title VI Program, obligations, procedures and/or to file a complaint, such as,
 - Telephone number
 - TTY number (if available)
 - E-mail (if available)
 - Address of agency's Administrative Office
 - including procedures
- Provide agency's website address for more information
- Advise public that a complaint can be filed directly with FTA listing the following address: Federal Transit Administration Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor – TCR, 1200 New Jersey Ave., SE, Washington, DC 20590.
- Title VI Notice is considered a "vital" document and as such, must be provided in languages spoken by LEP persons that meet the **safe harbor threshold**.
 - At a minimum, provide a statement on the Notice in any other language(s) spoken by LEP populations "a telephone number of where to call if the information is needed in another language."

The FTA Title VI Circular states that, "Vital written documents include, but are not limited to, consent and complaint forms; intake and application forms with the potential for important consequences; written notices of rights; notices of denials, losses, or decreases in benefits or services; and notices advising LEP individuals of free language assistance services. Examples of vital documents include an ADA complementary paratransit eligibility application, a Title VI complaint form, notice of a person's rights under Title VI, and other documents that provide access to essential services."

TTY refers to text telephone and it is sometimes referred to TDD which means Telecommunication Device for the Deaf. This is a special device for the hearing or speech impaired.

Safe Harbor Threshold: "LEP language group that constitutes five percent (5%) or 1,000 persons, whichever is less, of the total population of persons eligible to be served or likely to be affected or encountered ... If there are fewer than 50 persons in a language group that reaches the five percent (5%) trigger, the recipient ... should provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost."

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4.7 Copy of Title VI Complaint Form

Subrecipients may adopt the Title VI Complaint Form of the primary recipient.

There is a requirement to submit a copy of your Complaint Form. The form must:

- Be available on your website
- Specify the three classes protected by Title VI (race, color, and national origin)
- Permit complainants to select one or more protected classes as the basis/basis for discrimination
- Complaint form is a “vital” document and as such, the document should be provided in English and any other language(s) spoken by your LEP population(s) that meets the safe harbor threshold.

The form should be designed to determine the following:

- Complainant contact information
- Person completing form, i.e. complainant or another person
- If a third-party is completing the form, the third party has permission from the complainant to file the form
- If complainant needs an **accessible format** such as, Braille, large print, TDD/TTYs, audio tape, computer disk, other
- That the discrimination was based on race, color and/or national origin
- Date of alleged discrimination incident
- If complainant has previously filed a Title VI complaint with your agency
- If complainant has filed a complaint with a Federal, State, or local agency, or with any Federal or State court and if yes, request where complaint was filed and contact information.

The form should have space for the complainant to:

- Provide a detailed description of what happened and why he/she feels discriminated against.
- Provide names of persons involved (if known) and witnesses with any know contact information.
- Sign and date form.

Accessible Formats:

- The Federal Communications Commission has a fact sheet that explains telecommunication relay systems, the web address is: at www.fcc.gov/cgb/consumerefacts/trs.html.
- The following websites provide detailed technical information on webpage accessibility and alternative formats: <http://askjan.org/links/webpageaccess.htm> and <http://www.accessible.org/bobby-approved.html>.

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The **list** should at a minimum detail the following:

- Incident month, day and year
- Type: investigation, complaint and/or lawsuit
- Basis of complaint (race, color, or national origin)
- Summary of complaint
- Status
- Action(s) taken

Subrecipients shall develop and submit to the primary recipient a list of complaints, investigations, and/or lawsuits.

5.2 Example of List of Investigations, Lawsuits and Complaints:

The following example is from FTA Circular 4702.1B:

	Date (Month, Day, Year)	Summary (include basis of complaint: race, color, or national origin)	Status	Action(s) Taken
Investigations				
1.				
2.				
Lawsuits				
1.				
2.				
Complaints				
1.				
2.				

The following is a sample list of fields that Capital Area Transit (Harrisburg, PA) uses to track Title VI investigations, lawsuits and/or complaints:

List

You may want to maintain this list in a Spreadsheet and expand the list and use it as a tracking document. Other tracking items may include:

- Assign a case number for confidentiality)
- Date received
- Date acknowledgement letter sent
- Additional information requested and if yes, date and date response is due
- Date investigation assigned and date due
- Investigated by
- Date investigation completed
- Date complainant notified of decision
- Appeal date (if applicable)
- Status

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Case Number	Acknowledgement Due
Case Type (Investigation, Lawsuit or Complaint)	Acknowledgement sent
Complainant Name	Decision to Investigate (Yes or No)
Complainant Address	Complainant Notification Due
Complaint Basis (race, color and/or national origin)	Actual Date Complainant Notified
Summary of Complaint	Investigation Completion Due Date
Date Submitted	Actual Investigation Completed Date
Date of Alleged Incident	Date Complainant Notified
Complaint Complete	Comments
	Actions Taken
	Status

6.0 Public Participation Plan

Applicability: ALL Recipients/**Purpose:** To promote inclusive public participation with specific outreach to minorities, low income and LEP populations.

Subrecipients may elect to adopt their primary recipients Public Participation Plan.

6.1 Develop Public Participation Plan or Process

Public Participation Plan (PPP) document should “explicitly describe the proactive strategies, procedures, and desired outcomes that underpin the recipient’s public participation activities.” The PPP should be tailored to each program, plan or activity and the number and type of initiatives should vary based on the magnitude and impact on the community.

The principles of EJ should be considered through all agency public outreach and participation efforts. The principles that should be incorporated include:

- Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations;
- Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process; and

This **Public Participation Plan** is in addition to other requirements such as, those for public hearings, required comment periods, and Commonwealth of Pennsylvania Sunshine Act activities.

Other public participation requirements include: “49 U.S.C. Sections 5307(b) (requires programs of projects to be developed with public participation) and 5307(c)(1)(I) (requires a locally developed process to consider public comment before raising a fare or carrying out a major reduction in transportation service) and FTA/FHWA (Federal Highway Administration) joint planning regulations (23 CFR part 450).”

All major transportation plans and initiatives should be coordinated with the agency’s Metropolitan or Rural Planning Organization. Consideration should be given to reviewing and incorporating some or all of their PPP.

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- Prevent the denial of, reduction of, or significant delay in the receipt of benefits by minority and low-income populations.

EJ principles and public participation plans should be integrated in all NEPA decision making and documented accordingly.

Transit agencies are required to specifically engage the public in the following:

- Major service change policy
- Disparate impact policy
- Disproportionate burden policy
- Disparate impact threshold

6.2 Suggestions for Plan Steps

1. Learn about the people in the agency's service area and identify any "linguistic, institutional, cultural, economic, historical, or other barriers" that prevent or reduce community members from active participation. To accomplish this, the following are of activities to participate in:
 - community activities, and
 - partner and reach out to the community including neighborhood groups, educational institutions, faith-based organizations, businesses, social services, advocacy groups, organizations and agencies
2. **Develop partnerships** with community organizations including those who serve the underrepresented populations.
3. Develop ways to reduce or eliminate barriers to participation including LEP persons.
4. Identify the program, plan or activity.
5. Obtain and analyze **demographics** of areas impacted.
 - Minority
 - LEP persons
 - Low income
6. Conduct an **EJ analysis** if minority and/or low income populations will be affected. *These analyses are conducted separately.*
7. Conduct equity analysis for fare and major service changes.
8. Identify the degree of impact that the program, plan or activity will have on the community.
9. If affected demographics show an impact on minority, low income and/or LEP persons, develop an outreach plan identifying desired outcomes.

The creation of a formal Citizen's Advisory Committee can be a *starting point* for engaging communities and **developing partnerships.**

Demographics: Consider adding all underserved populations to your PPP such as, senior citizens and disabled persons.

The purpose of an **EJ Analysis** is to determine whether or not your proposed activity, plan, policy, or program will have a negative impact on minority and/or low-income population. Specifically, the results on the analysis will determine whether if there is a "disproportionately high and adverse human health or environmental effects on EJ populations."

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Required to submit a summary of outreach efforts made since the last Title VI submissions and the requirement specifically refers to including targeted PPP for minority populations. A more comprehensive PPP that includes other underserved populations, such as low-income and disabled is recommended. **Engaging** minority and low income populations (**EJ populations**) in your transportation decision-making process will result in better decisions.

Consider developing a table to track your **public engagement** efforts. The efforts should include all initiatives from an information pieces (media outreach) to community-at-large meetings. Following are suggestions tracking:

- Plan, program, policy or activity
- PPP goal and desired outcome
- Date(s) of initiative
- Type of initiative(s)
- Detailed description of initiative(s)
- Targeted audience(s)
- Number of people reached and/or participated
- Summary of results including any changes to plan, program, policy or activity based on feedback received
- Lessons learned

8.0 Limited English Proficiency/Language Assistance Plan

Applicability: ALL Recipients/**Purpose:** To demonstrate that an agency has taken “responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP).”

Subrecipients may elect to adopt their primary recipient’s LEP/LAP that may require modifications.

“Limited English Proficient (LEP) refers to persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.” Title VI prohibits

The FTA Environmental Justice Circular indicates that **“engaging EJ populations** in the decision-making process should not be regarded as “extra” or “special” effort; rather, public engagement of underrepresented groups such as EJ populations is the cornerstone to an inclusive and effective public engagement process.”

The EJ Circular further states that “with a robust and inclusive **public engagement** program, you will be in a better position to know whether your plans or projects as implemented will prevent the denial of, reduction in, or significant delay in the receipt of benefits by environmental justice populations. “

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Following is an example of a simple employee survey:

Employee Name:						
How often do you come in contact with limited English proficient persons and what language (if know) do they speak?				Were you successful in communicating with limited English proficient persons?		
Language	Rarely	Occasionally	Frequently	Don't Know	Unsuccessful	Successful
Spanish						
French						
German						
Vietnamese						
Other						
Unknown						
Please list the type of request by the limited English person, such as, timetable, application, etc...						
Spanish						
French						
German						
Vietnamese						
Other						
Unknown						

The next step would be to review any surveys, public meetings, hearings and outreach conducted by your agency and the number of LEP persons identified or in attendance. The last step would be to determine the usage of any of the agency's language assistance products, such as, website translation and **telecommunication relay service**.

NOTES:

Telecommunications Relay Service (TRS)

is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. This service is also available in non-English languages.

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Step 1: Inventory language assistance measures currently being provided, along with associated costs

An agency needs to list the language assistance measures it provides with current and projected costs.

Language assistance measures could include the following:

- Bi-lingual or multi-lingual website
- Provide bi-lingual or multi-lingual notice of available language assistance services
- Bi-lingual or multi-lingual translation of “vital” documents
- Ticket vending machines with bilingual or multi-lingual functions
- Bi-lingual or multi-lingual revenue vehicle signage including fare boxes
- Bi-lingual or multi-lingual station and/or major stop signage
- Employee training
- “I Speak” cards for field personnel and operators
- Bi-lingual or multi-lingual on-board and/or station announcements
- Cost of interpreter
- Oral language translation
- Updating documents with pictographs
- Installing multi-lingual technology
- Cost of public outreach initiatives

In addition to the above, agencies should estimate the “number of staff and percentage of staff time that is associated with providing language assistance.”

Language Assistance Measures	Estimated Total Cost	Scheduled Completion Date
Update website two languages	\$1100	6/1/2013
Non-technical vital document translation (.13¢ per word/\$45 per page)	22 pages x \$45 = \$990	8/1/2013
Instructions and training of customer service staff, operators and field personnel for successfully handling LEP persons. Training 1 hour for 67 employees, plus materials (I Speak cards)	\$1500	7/31/2013

“I Speak” cards can be used to make interacting with LEP persons easier for your employees because they can identify the language and this will enable them to obtain assistance for the customer in his/her language. The U.S. Census Bureau (among others) have a card with the sentence in 38 languages and the English language reads “☐ Mark this box if you read or speak English.” Some agencies use 38 languages while others reduce the number based on the prevalent languages in their service area. Agencies have also modified the card to provide a telephone number for information a specific language. One website address for the U.S. Census Bureau “I Speak” Card is: <http://www.lep.gov/ISpeakCards2004.pdf>.

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On-site interpreter \$95 per hour plus expenses 6 meetings, 2 hours each	\$1140 + \$150 expenses = \$1290	12/31/2013
Provide notice of right to language assistance, at no cost, on website, key documents and in vehicles	\$3600	6/1/2013
Bi-Lingual Staff (2 employees). Assists as needed.	\$0	N/A
Staff	Number	% of time
Customer Service Supervisor	1	10%
Customer Service Representative	2	5%
Field Supervisors	1	5%
Public/Media Relations Specialist	1	20%
Other Management	3	3%

Step 2: Determine what, if any, additional services are needed to provide meaningful access

Your LEP/LAP is a living document and will need to be routinely updated based on demographics, organizational changes and community outreach. An agency needs to determine and specifically list additional language assistance measures (if needed) to provide LEP persons with meaning access to your programs, services and activities. For example, an agency may decide to update the fare information on their fareboxes so that it is provided in two languages, a cost estimated at \$4500.

Step 3: Analyze your budget

An agency needs to review its budget and conduct a cost benefit analysis to determine the amount or percentage that can be “devoted to additional language assistance expenses.”

Step 4: Consider cost effective practices for providing language services

Transit agencies can reduce the costs of providing language assistance measures by being creative and developing partnerships. Other governmental agencies, educational institutions and businesses (i.e. medical providers) have LAPs and you may be able to use some of their resources. An agency’s community outreach can also result in partnerships that can assist them with both written and oral translations at costs that are nominal or free.

Outside sources for **interpreter** services include:

- contracting with interpreters,
- telephone services,
- internet services,
- language banks, and
- community organizations.

NOTES:

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Based on the above example, an agency may want to take proactive steps to increase Hispanic/Latino participation on its Fixed Route Committee and increase African American and Hispanic/Latino participation on its Accessible Transportation Committee. As such, an agency should submit a description of its efforts to increase participation by **minority populations** and may include some of the following:

- attend community meetings,
- advertise in community publications,
- attend community activities,
- partner with a community business for assistance with outreach, and
- target marketing to specific minority populations.

10.0 Subrecipient Title VI Monitoring

Applicability: Primary Recipients/**Purpose:** To demonstrate that a primary recipient monitors its subrecipients for compliance with Title VI.

Primary recipients are required to provide a description of how it monitors subrecipients for Title VI compliance. The description needs to include the schedule of subrecipient Title VI Program submissions. Examples of monitoring activities that a primary recipient may undertake would include annually conduct audit of subrecipient's Title VI Program and/or on-site visits and review.

11.0 Title VI Equity Analysis

Applicability: All Recipients/**Purpose:** To demonstrate that an agency in determining the site or location of facilities did not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination.”

Recipients are required to submit a Title VI equity analysis if it constructed a facility. “The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin.” Facility includes, “storage facilities, maintenance facilities, operations centers, etc. “ Facility does not include bus shelters which are considered transit amenities nor does it include transit stations, power substations, etc., which are “evaluated during project development and the NEPA process.”

The following question was asked during a FTA Webinar and the associated response was provided by the FTA.

“Is it allowable to ask a person if he/she is a member of a **minority population** or what his/her income level is?”

Yes, grantees can inquire about a person's race or national origin and their income as part of a ridership survey. In addition, grantees may inquire about a person's *race* or national origin in order to comply with the Circular requirement to provide a table in the Title VI Program depicting the racial breakdown of planning and advisory committees, the membership of which is selected by the grantee.

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- Conduct Title VI Equity Analysis during planning stage
 - Ideally at Census tract or block group level
 - Include analysis of equity impacts of location/siting alternatives
 - Analysis should include any cumulative adverse impacts (evaluate other area facilities with similar impacts)
 - Analysis must occur before the selection of the preferred site
- Select location/site of facility without “regard to race, color, or national origin”
 - If selected location results in a **disparate impact**, to proceed, the agency must show through the analyses of alternatives that:
 1. there is a substantial legitimate justification for locating the project there, and
 2. that there are no alternative locations that would have a less disparate impact.
- Conduct and document public outreach with specific emphasis on populations impacted by location of facility.

The following is an overview of steps to conduct a Facility Equity Analysis:

1. Identification of potential locations/sites for facility
 - Ensure identification of alternative locations/sites
2. Analysis of demographic data at a level that will provide the community impact such as census tract or block group.
 - Minority population
 - Low income population
 - LEP population for public outreach initiatives
 - Comparison populations (such as, service area or project area)
3. Conduct separate analysis for minority and low income populations
4. Identify the effects of the facility on minority and low income populations
5. Identify benefits
6. Conduct innovative and non-traditional public outreach
 - Project overview
 - **Adverse effects**
 - Mitigation measures
 - Obtain feedback and input
7. Supplement data with community outreach information including a discussion of adverse effects
8. Identify adverse effects on minority and low income populations

The following definitions are from the Title VI Circular:

Disparate impact refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the recipient’s policy or practice lacks a substantial legitimate justification and where there exists one or more alternatives that would serve the same legitimate objectives but with less disproportionate effect on the basis of race, color, or national origin.

Adverse effect means the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to, things like : bodily impairment, illness, or death; air, noise, and water pollution and soil contamination; destruction of man-made or natural resources; destruction of community’s economic vitality; adverse employment effects; displacement of persons, businesses, farms, or non-profit organizations; increased traffic congestion, or separation of individuals within a given community or from the broader community.

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- Degree of effects
9. Identify whether adverse effects can be avoided, minimized, or mitigated
 10. Identify mitigation and enhancement measures
 11. Conduct Benefits and Burden Analysis
 - “an evaluation comparing the impacts likely to be experienced by EJ populations against those likely to be experienced by non-EJ populations and the community as a whole”
 12. Determine if effects are disproportionately high (consider the totality of the circumstances)
 - Disproportionately high if:
 - Effects predominately borne by EJ population, or
 - Effects suffered by EJ population are “appreciably more severe or greater in magnitude” than non-EJ populations
 - Determine if **disparate impact**
 - Determine if **disparate treatment**
 - Determine if **disproportionate burden**
 13. Determine if further mitigation measures or alternatives are practicable, and if yes, implement
 - Practicable is determined by taking into account the “social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects.”

12.0 Governing Entity Approval of Title VI Program

Applicability: All Recipients/**Purpose:** To provide documentation of governing entity approval of Title VI Program.

All recipients must provide documentation (board meeting minutes, resolution, etc.) showing that the Title VI Program was reviewed and approved by the “board of directors or appropriate governing entity or official(s) responsible for policy decisions. **“The approval must occur prior to submission to FTA.”**”

13.0 Service Standards and Service Policies

Applicability: All Fixed Route Transit Provider Recipients/**Purpose:** To provide documentation that an agency has developed service standards and policies for all fixed route modes of operation to “ensure service design and operations practices do not result in discrimination on the basis of race, color, or national origin.”

The following definitions are from the Title VI Circular:

Disparate impact refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the recipient’s policy or practice lacks a substantial legitimate justification and where there exists one or more alternatives that would serve the same legitimate objectives but with less disproportionate effect on the basis of race, color, or national origin.

Disparate treatment refers to actions that result in circumstances where similarly situated persons are intentionally treated differently (i.e., less favorably) than others because of their race, color, or national origin.

Disproportionate burden refers to a neutral policy or practice that disproportionately affects low-income populations more than non-low-income populations. A finding of disproportionate burden requires the recipient to evaluate alternatives and mitigate burdens where practicable.

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1) Vehicle load for each mode

- Vehicle load is a measurement of the maximum amount of passengers that can be on board at one time.
- Vehicle load is the **ratio of passengers to the total number of seats** on a vehicle.
- Vehicle load may vary based on the type of service (express, local, etc.), time of day (peak, mid-day, night and other), day of week (weekdays, Saturdays, Sundays), or service frequency.

2) Vehicle headways for each mode

- Vehicle headway is a measurement of the level of service for a specific route.
- Vehicle headway is “one component of the amount of travel time expended by a passenger to reach his/her destination.”
- Vehicle headway is expressed in time (minutes) and is a measurement of distance between two vehicles traveling in the same direction at a specific time point on a route.
- Vehicle headway can also vary by type of service, time of day, day of week, population density.
- Headway standards are usually “related to vehicle load.”
 - Example: a service standard might state that vehicle headways will be improved first on routes that exceed the load factor standard or on routes that have the highest load factors.”

3) On-time performance for each mode

- On-time performance is a measurement of trips that arrive/depart within a pre-determined time frame (such as, -1 to 5 minutes) at a specific published time point.
- On-time performance is expressed as a percentage of the number of trips completed as scheduled.
- “On-time performance can be measured against route origins and destinations only, or against origins and destinations as well as specified time points along the route.”
- Example: An agency’s on-time performance standard may be that all trips system-wide are to operate 95% on-time and a trip is considered on-time if it arrives/departs within one minute earlier to five minutes later than the scheduled/published time.
 - Some agencies do not permit early arrivals/departures and as such, their standard may be between 0 to 5 minutes.
- On-time performance can be measured system-wide, by route, by time-of-day, by day type, etc.

Example of **ratio of passengers to total number of seats**: If a 40-foot bus has a maximum of 40 seats and the agency’s load factor is 1.25 then maximum number of passengers is 50 (40 seated and 10 standing).

Some agencies have policies that limit or do not allow for standees and the policies may vary based on service type, i.e. prohibiting standees on park and ride routes.

Title VI Circular examples of **vehicle headways**:

Peak: every 15 minutes

Off-peak: every 30 minutes
Peak: every 15 minutes for densely populated areas

Peak Other: every 30 minutes
Off-peak: every 30 minutes for densely populated areas.

Off-peak Other: every 40 minutes.

On-time performance is sometimes referred to as schedule adherence.

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The following are examples from the Title VI Circular of the four required measurements:

Vehicle Load Standards

Vehicle Load Standards					
Written Format	Tabular format				
The average of all loads during the peak operating period should not exceed vehicles' achievable capacities, which are 30 passengers for a 15' mini-bus, 51 passengers for low-floor 40-foot buses, 60 passengers for standard 40-foot buses, and 133 passengers on a light rail car.	Vehicle Type	Seated	Standing	Total	Maximum Load Factor
	15' Mini-Bus	28	2	30	1.1
	40' Low Floor Bus	39	12	51	1.3
	40' Standard Bus	43	17	60	1.4
	Light Rail Vehicle	64	69	133	2.1

Vehicle Headway Standards

Written Format:

Service operates on regional trunk lines every 15 minutes or better from early morning to late in the evening, seven days a week. On weekdays, 15 minute or better service should begin no later than 6:00 a.m. and continue until 10:30 p.m. On weekends, 15 minute or better service should begin by 8:00 a.m. and continue until 10:30 p.m.

Scheduling involves the consideration of a number of factors including: ridership productivity, transit/pedestrian friendly streets, density of transit-dependent population and activities, relationship

An agency may determine **headway** based on policy, demand or clock.

Policy headways are established by an agency through a policy, and the headways usually vary by day type (weekday, Saturday, Sunday), time-of-day (peak, mid-day, night other) and service type (local, express, etc.)

Demand headways are determined by calculating the minimum number of buses or trips needed to accommodate the maximum passenger volume within the agency's vehicle load standard.

Clock headways are the scheduled headways between vehicle trips that can be evenly divided into 60 minutes.

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50+ Peak Transit Provider Recipients are required to submit maps with census data. Census data as referenced in this section refers to Census tract, Census block or block group, traffic analysis zone (TAZ), or other locally available geographic data. The following are required maps and charts:

- A base map of the transit provider’s service area that overlays Census data with “transit facilities—including transit routes, fixed guideway alignments, transit stops and stations, depots, maintenance and garage facilities, and administrative buildings—as well as **major activity centers** or transit trip generators, and major streets and highways.”
 - Overlay this map with minority population Census data with “fixed transit facilities, such as bus shelters, transit stations, and fixed guideways.”
 - “Another map shall highlight those transit facilities that were recently replaced, improved or are scheduled (projects identified in planning documents) for an update in the next five years.”
- A demographic map that plots the base map information and also shades Census data where the percentage of the total minority population residing in these areas exceeds the average percentage of minority populations for the service area as a whole.”
 - Maps can “highlight separately the presence of specific minority populations if this information will assist the transit provider in determining compliance with Title VI and/or LEP. “
- A “GIS or alternative map overlaying minority populations with fixed transit facilities, such as bus shelters, transit stations, and fixed guideways.”
- Demographic maps with Census data that show “where the percentage of the total low-income population residing in these areas exceeds the average percentage of low-income populations for the service area as a whole.”

The **Title VI Circular Appendix** provides two sample demographic maps, which are depicted on the following pages.

The Title VI Circular indicates that “**major activity centers** and transit trip generators can include, but are not necessarily limited to, the central business district, outlying high employment areas, schools, and hospitals.”

The **Title VI Circular Appendix** indicates that the “FTA will publish additional guidance, and/or update this appendix, with detailed approaches to data collection, surveys, and analysis methods.”

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16.0 Results of Monitoring Program and Report

Applicability: All Fixed Route Transit Provider Recipients that operate 50 or more (50+ Peak) fixed route vehicles in peak service and are located in a UZA of 200,000 or more in population; or has been placed in this category at the discretion of the Director of Civil Rights in consultation with the FTA Administrator. **Purpose:** To provide results of monitoring program and report.

50+ Peak Transit Provider Recipients are required to monitor service standards and policies (at least every three years) and provide results. The agency must submit **documentation** of its “board’s or governing entity or official(s)’s consideration, awareness, and approval of the monitoring results. These transit providers are required to “compare actual/observed service” to its service policies and standards, at a minimum the following are required:

- Service Standards
 - Vehicle load for each mode
 - Vehicle headway for each mode
 - On-time performance for each mode
 - Service accessibility for each mode
- Service Policies
 - Vehicle assignment for each mode
 - Distribution of transit amenities (policy and standards) for each mode

Performance monitoring and the results are required to be submitted to the FTA every three years and the Title VI **minority transit route** definition must be used. An agency is assessing the level of service “to ensure the end result of policies and decision making is equitable.” The assessment begins with determining the percentage of minority population in its service area and then comparing the percentages above and below. Following is the methodology from the Title VI Circular:

- Select a sample of minority and non-minority routes from all modes of service provided, e.g., local bus, bus rapid transit, light rail, etc. The sample shall include routes that provide service to predominantly minority areas and non-minority areas. The greater the sample size, the more reliable the results.
- An agency can supplement minority transit route data with ridership data and adjust route designations accordingly. The data must be adequate to support a change in designation and changes should be included with the analyses in the monitoring/results report.

Examples of **documentation** include “a resolution, copy of meeting minutes, or similar” items.

Title VI Circular definition: **Minority transit route** means a route that has at least 1/3 of its total revenue mileage in a Census block or block group, or traffic analysis zone(s) with a percentage of minority population that exceeds the percentage of minority population in the transit service area. A recipient may supplement this service area data with route-specific ridership data in cases where ridership does not reflect the characteristics of the census block, block group, or traffic analysis zone.

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- Public engagement, public hearing and/or public comment procedures
- Statement indicating that new routes and restructuring of routes are considered major service changes
- A list of policy exemptions

The Title VI Circular states, “a transit provider may exempt a temporary addition of service (e.g., demonstration projects), including those that would otherwise qualify as a major service change, from its definition of major service change. If a temporary service addition or change lasts longer than 12 months, then FTA considers the service addition or change permanent and the transit provider must conduct a service equity analysis if the service otherwise qualifies as a major service change.”

18.0 Disparate Impact Policy

Applicability: All Fixed Route Transit Provider Recipients that operate 50 or more (50+ Peak) fixed route vehicles in peak service and are located in a UZA of 200,000 or more in population; or has been placed in this category at the discretion of the Director of Civil Rights in consultation with the FTA Administrator. **Purpose:** To document an agency’s public engagement process for its **disparate impact** policy.

50+ Peak Transit Provider Recipients are required to “engage the public in the decision-making process to develop the disparate impact policy.” The recipient submits documentation of its public engagement process and its “board’s or governing entity or official(s)’s consideration, awareness, and approval.”

A disparate impact policy is developed by an agency to establish thresholds for determining “when adverse effects of fare and service changes are borne disproportionately by minority populations. The disparate impact threshold defines statistically significant disparity and may be presented as a statistical percentage of impacts borne by minority populations compared to impacts borne by non-minority populations. Transit providers should consider whether to evaluate changes to routes **separately or cumulatively** and include this in their disparate impact policy.” The policy should describe the public engagement process for developing the disparate impact policy.

50+ Peak Transit Provider Recipients are required to evaluate proposed major service changes and fare changes to determine whether a disparate impact exists as a result of the proposed change.

Disparate impact refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the recipient’s policy or practice lacks a substantial legitimate justification and where there exists one or more alternatives that would serve the same legitimate objectives but with less disproportionate effect on the basis of race, color, or national origin.

“Assessing routes **separately or cumulatively** can have a significant impact on your analysis.”

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populations. “The disproportionate burden threshold defines statistically significant disparity and may be presented as a statistical percentage of impacts borne by low-income populations as compared to impacts borne by non-low-income populations.” The policy should describe the public engagement process for developing the disproportionate burden policy.

50+ Peak Transit Provider Recipients are required to evaluate proposed major service changes and fare changes “to determine whether **low-income** populations will bear a disproportionate burden of the changes.”

The disproportionate burden policy “must be applied uniformly, regardless of mode.”

50+ Peak Transit Provider Recipients are required “to develop a policy for measuring disproportionate burdens on low-income populations. The policy shall establish a threshold for determining when adverse effects of service changes are borne disproportionately by low-income populations.”

Following are examples:

- A disproportionate burden occurs when the minority population adversely affected by a fare or service change is “x” percent more than the average minority population of “x’s service area.
- This policy was developed with extensive public participation including “X” small community focus group meetings. It is the policy of “X” to evaluate fare and major service changes at the planning or programming stages to determine whether those changes will have a disproportionate burden on low income populations.

“X” has established a threshold of 20% which means that a disproportionate burden occurs when the fare or service change affects a low income population 20% more than non-low income. Span of service or headway changes will be analyzed using all routes. All other changes will be evaluated on a route-by-route basis.

“X” will take corrective actions if the analysis shows a disproportionate burden. The goal is to avoid, minimize or mitigate the impacts. All corrective actions will be reanalyzed for disproportionate burden. “X” may proceed with the fare or service change if mitigation measures or alternatives are not practicable this would include taking into account the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects.

“**Low-income** means a person whose median household income is at or below the Department of Health and Human Services (HHS) poverty guidelines. (You are encouraged to use a locally developed threshold, such as that used for FTA’s grant program, or a percentage of median income for the area, provided that the threshold is at least as inclusive as the HHS poverty guidelines. Public Law 112-141 (MAP-21), revises 49 U.S.C. § 5302 to include a definition of “low-income individual” to mean “an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section, for a family of the size involved.)”

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This “How to Guide” provides an overview of the requirements and summarizes the elements for Service and Fare Equity Analysis. Recipients who are undertaking an analysis should refer to the EJ and Title VI Circulars. The Title VI Circular provides extensive appendices which include checklists for considerations for Service Equity Analysis and Fare Equity Analysis. The appendix also includes detailed examples with associated text, tabular, charts and maps.

Service and fare equity analyses are to be conducted prior to implementing major service changes (consistent with agency’s policy, Section 17.0) and/or fare changes. The analyses are conducted to determine whether the planned changes will:

- have a disparate impact on the basis of race, color, or national origin; or
- whether low-income populations will bear a disproportionate burden of the changes.

Disparate impact is generally measured by comparing the proportion of persons in the protected class (such as, minority, national origin LEP persons) who are adversely affected or could possibly be affected by the change to the proportion of persons not in the protected class who are adversely affected.

Disproportionate burden is generally measured by comparing the proportion of low-income persons who are adversely affected or could possibly be affected by the change to non-, low-income persons.

20.1 Service Equity Analysis

Requirement to conduct service equity analysis on major service changes as established by the agency in its Major Service Change Policy (Section 17.0). Conduct two separate analyses to determine the impacts of proposed on minority and low-income populations.

Service Equity Analysis for Minority Populations

- 1) Using the agency’s Major Service Change Policy Measurement/Threshold it determines if the proposed change meets or exceeds the measurement/threshold.
- 2) Identify and analyze adverse effects including the degree of the effects as they relate to the proposed change. “Adverse effect is measured by the change between the existing and proposed service levels that would be deemed significant.” Changes in service that have an adverse effect and that may result in a disparate impact include reductions in service.
- 3) Using the threshold established by the agency in its Disparate Impact Policy (Section 18.0), the transit provider will determine if the adverse effects of the proposed change will be borne

Title VI Circular provides the following:
“reductions in service (e.g., elimination of route, shortlining a route, rerouting an existing route, increase in headways). Elimination of a route will generally have a greater adverse impact than a change in headways. Additions to service may also result in disparate impacts, especially if they come at the expense of reductions in service on other routes.”

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disproportionately by minority populations. “The disparate impact threshold defines statistically significant disparity and may be presented as a statistical percentage of impacts borne by minority populations compared to impacts borne by non-minority populations.”

- 4) A description of the data analysis is required and it includes:
 - service equity analysis **dataset(s)**
 - techniques and/or technologies were used to collect the data.
 - “When relying on population data instead of ridership data, the choice of dataset should be the smallest geographic area that reasonably has access to the bus or rail stop or station. For example, passengers will generally walk up to one-quarter mile to a bus stop or one-half mile to a light or heavy rail station, or drive up to three miles to a commuter rail station. Demographics of the neighborhoods within those distances should be the datasets used. Transit providers may use the data from an entire Census block or block group when a portion of the area is within the walking or driving distance described above.”
- 5) Assess the impacts as follows:
 - Disparate Impact
 - Compare proportion of persons in the protected class who are adversely affected by the change and the proportion of persons not in the protected class who are adversely affected. The population for a statistical measure of disparate impact is all persons that are either affected by the change or that could possibly be affected by the change.
 - The comparison population may vary depending on the type of change under evaluation. The analysis shall include the reason for the comparison population selected.
 - “Transit providers are cautioned not to “mix and match” their comparison populations. Ridership of affected route(s) should be compared to ridership of the system, and Census blocks or block groups should be compared with the population of the service area.”
 - “In instances where a transit provider does not have adequate ridership data or is otherwise uncertain as to which **population to use for comparison purposes**, the transit provider should contact their FTA regional office for technical assistance.”
 - Data
 - “Ridership Data. When the transit provider determines that the correct population base is ridership, the transit provider shall document the reasons for

Dataset(s) include using American Community Survey (ACS), Census blocks, block groups, traffic analysis zone (TAZ) level, or using ridership data.

Population to use for comparison purposes: “When making headway changes, eliminating a route, or increasing service to an area currently served by the transit system, the appropriate comparison population would likely be ridership, and the transit provider would compare the ridership of the affected route(s) with the ridership of the system.

When proposing to provide new service to a neighborhood or corridor not served by the transit system, the appropriate comparison population would likely be the population of the service area, and the transit provider would compare the population in Census blocks or block groups served by the proposed route(s) with the population in the service area.

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- selecting this population base and analyze any available information generated from ridership surveys to determine the minority and non-minority population ridership of the affected route(s) and the minority and non-minority ridership of the entire system.”
- “GIS or Alternative Maps. When the transit provider determines that the correct population base is Census blocks or block groups, the transit provider shall document the reasons for selecting this population base and shall prepare maps of the routes that would be reduced, increased, eliminated, added, or restructured, overlaid on a demographic map of the service area, in order to study the affected population.”
 - Determine Disparate Impact
 - Compare existing service to each proposed change calculating the absolute change as well as the percent change.
 - Using disparate impact threshold determine whether the proposed change “will result in adverse effects that are disproportionately borne by minority populations, by comparing the proportion of minorities adversely affected to the proportion of non-minorities adversely affected. The transit provider shall consider the degree of the adverse effects when doing this analysis.”
 - Analysis required to be expressed as a percent change in tabular format.
- 6) Identify and Analyze Modifications
- If potential disparate impacts are determined, the proposed change should be modified in order to “avoid, minimize, or mitigate potential disparate impacts.
 - All modification must be analyzed to determine if the modifications avoided, minimized, or mitigated disparate impacts.
- 7) Disparate impact identified
- No modification to proposed change
 - “If a transit provider chooses not to alter the proposed service changes despite the potential disparate impact on minority populations, or if the transit provider finds, even after the revisions, that minority riders will continue to bear a disproportionate share of the proposed service change, the transit provider may implement the service change only if:
 - the transit provider has a substantial legitimate justification for the proposed service change, **and**

Population to use for comparison purposes (continued): Further, if a transit provider is proposing a major service change that involves both headway changes and new service to a neighborhood or corridor not served by the transit system, the transit provider would not have to use different comparison populations for the different types of changes. The transit provider would select either ridership or population of the service area and conduct an analysis using the same comparison population.”

GIS or Alternative Maps

“Transit providers may also find it helpful to prepare these maps when doing an analysis based on ridership.”

- Transit providers may also find it helpful to prepare these maps when doing an analysis based on ridership.
- Transit providers may also find it helpful to prepare these maps when doing an analysis based on ridership.

