



U.S. Department
of Transportation
**Federal Transit
Administration**

1200 New Jersey Ave., S.E.
Washington, D.C. 20590

April 12, 2012

Mr. Steve Heminger
Executive Director
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, California 94607-4700

Dear Mr. Heminger:

Thank you for the cooperation your staff provided during the Title VI Compliance Review conducted September 19-21, 2011 of the Metropolitan Transportation Commission (MTC). Enclosed is the final report of the Title VI Compliance Review conducted by FTA.

We are confident that MTC will take steps to correct the deficiencies in the areas of *Language Access to LEP Persons and Clipper Program (Fare Equity Analysis)*.

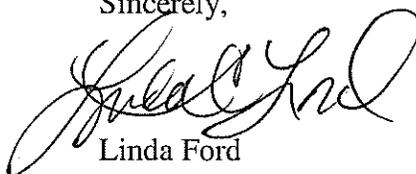
All corrective actions must be closed within sixty (60) days of the date of this letter. To assure FTA has the opportunity to review and comment on the corrective actions, please submit responses, no later than 30 days before the due date. Once we have reviewed your submissions, we will either request clarification or additional corrective action, or will close out the finding if your response sufficiently addresses the FTA Title VI Circular's requirements. Please submit your responses to Ms. Anita Heard at the address shown below.

Ms. Anita Heard
Program Analyst
FTA Office of Civil Rights
1200 New Jersey Avenue, SE
Washington, DC 20590

We appreciate the cooperation and assistance that you and your staff have provided us during this review. If you have any questions about this matter, please contact Ms. Anita Heard, Office of Civil Rights at (202) 493-0318 or at her email address, Anita.Heard@dot.gov.

We appreciate your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Ford", written in a cursive style.

Linda Ford
Acting Director, Office of Civil Rights

Cc: Leslie T. Rogers, Regional Administrator Region IX
Mr. Derrin Jourdan, Regional Civil Rights Officer, Region IX

**TITLE VI COMPLIANCE REVIEW
OF THE
Metropolitan Transportation Commission (MTC)
Oakland, California**

Final Report

April 2012

Prepared By

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
OFFICE OF CIVIL RIGHTS
OFFICE OF CHIEF COUNSEL**

Table of Contents

I. GENERAL INFORMATION1

II. JURISDICTION AND AUTHORITIES2

III. PURPOSE AND OBJECTIVES.....3

IV. BACKGROUND INFORMATION4

V. SCOPE AND METHODOLOGY.....9

VI. FINDINGS AND RECOMMENDATIONS16

A. Findings of the General Reporting Requirements 16

B. Findings of the Program-Specific Requirements for Metropolitan Planning
Organizations..... 25

VII. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS29

VIII. ATTENDEES35

I. GENERAL INFORMATION

Grant Recipient: Metropolitan Transportation Commission (MTC)

City/State: Oakland, California

Grantee Number: 1224

Executive Official: Mr. Steve Heminger
Executive Director
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, California 94607-4700

Report Prepared By: Federal Transit Administration
Office of Civil Rights
Office of Chief Counsel
1200 New Jersey Ave SE
Washington, DC 20590

Site Visit Dates: September 19-21, 2011

FTA Compliance Review
Team Members: Amber Ontiveros, Lead Reviewer, Office of Civil Rights
Bonnie Graves, Reviewer, Office of Chief Counsel

II. JURISDICTION AND AUTHORITIES

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d).
- Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.).
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.).
- U.S. Department of Justice regulation, 28 CFR part 42, Subpart F, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs” (December 1, 1976, unless otherwise noted).
- U.S. DOT regulation, 49 CFR part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964” (June 18, 1970, unless otherwise noted).
- U.S. DOT Order 5610.2, “U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations,” (April 15, 1997).
- U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons, (December 14, 2005).
- FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines For Federal Transit Administration Recipients”, May 17, 2007.
- FTA Master Agreement, (MA 17) October 1, 2010.

III. PURPOSE AND OBJECTIVES

Purpose

The FTA Office of Civil Rights periodically conducts discretionary reviews of grant recipients and subrecipients to determine whether they are honoring their commitments, as represented by certification, to comply with Federal civil rights requirements. Consistent with its regulations and guidelines, FTA determined that a Compliance Review of MTC's Title VI Program was necessary.

The primary purpose of this Compliance Review was to determine the extent to which MTC has met its General Reporting and Program-Specific requirements, in accordance with FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients." Members of the Compliance Review team also discussed with MTC the requirements of the U.S. Department of Transportation (DOT) Guidance on Special Language Services to Limited English Proficient (LEP) Beneficiaries that is contained in FTA Circular 4702.1A. A secondary purpose of this Compliance Review was to provide technical assistance and to make recommendations regarding corrective actions, as deemed necessary and appropriate.

Objectives

The objectives of FTA's Title VI Program, as set forth in FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for FTA Recipients," are to:

- Ensure the level and quality of FTA-assisted transportation service is provided without regard to race, color, or national origin;

- Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations;
- Promote the full and fair participation of all affected populations in transit decision-making;
- Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations; and
- Ensure meaningful access to programs and activities by persons with limited English proficiency.

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

IV. BACKGROUND INFORMATION

The California State Legislature created MTC as a local area planning agency in 1970 (California Government Code § 66500 et seq.) to provide comprehensive regional transportation planning for the region comprised of the nine-county San Francisco Bay Area (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma counties). MTC is the transportation planning, coordinating and financing agency for the region, and, for federal purposes, is the region’s designated recipient and the region’s metropolitan planning organization (MPO).

MTC is responsible for development of the region's long-range *Regional Transportation Plan (RTP)*. MTC also screens requests from local agencies for state and federal grants for transportation projects to determine their compatibility with the plan. MTC plays a major role in the selection of projects to be funded by FTA and the Federal Highway Administration (FHWA) and projects to be funded by State Transportation Development Act (TDA) and Bay Area toll funds.

MTC is given policy direction by a 19-member governing board: 14 members are appointed directly by locally elected officials representing the nine Bay Area counties and cities (two each from Alameda, Contra Costa, San Francisco, San Mateo and Santa Clara counties; one each from Marin, Napa, Solano and Sonoma counties). Two members represent regional agencies: The Association of Bay Area Governments and the Bay Conservation and Development Commission. Three non-voting members represent the State Secretary for Business, Transportation and Housing; the U. S. Department of Transportation; and the U.S. Department of Housing and Urban Development.

Matters on the Commission agenda usually come in the form of recommendations from MTC standing committees. The Commission is organized into six standing committees, each composed of eight or nine commissioners, that have been delegated the authority to act on behalf of the Commission in some instances and to make recommendations for action to the Commission in others. The committees are: Administration, Programming and Allocations, Planning, Operations, Legislation, and Bay Area Toll Authority Oversight.

MTC also has a citizen advisory committee, known as the Policy Advisory Council, to advise MTC on transportation policies in the San Francisco Bay Area, incorporating diverse perspectives relating to the environment, the economy and social equity. The committee was established in April 2010 when MTC effectively merged three former advisory committees – the MTC Advisory Council, the Elderly and Disabled Advisory Committee, and the Minority Citizens Advisory Committee – into this new advisory committee.

The region has an extensive transportation network, including eight primary public transit systems as well as numerous other local transit operators, which together carry nearly 500 million passengers per year. The region’s varied geography has given rise to a diverse range of public transit modes: antique cable cars and historic streetcars; high-speed ferries; diesel commuter rail and electric-powered rapid transit rail; diesel and natural gas buses; and electric trolley buses.

FTA/FHWA Joint Planning Certification Review

FTA and FHWA conducted a joint Transportation Planning Certification Review (Review) of MTC in July 2007 and issued a final report in March 2008. The result of the Review was that FTA and FHWA jointly certified that the transportation planning process as carried out by MTC met the requirements of 23 CFR part 450 and 49 CFR part 613. The certification is valid until March 2012.

The Planning Certification Review team found no major deficiencies in the planning process requiring corrective actions. In the final report, the Review team commended MTC for the development of a new public participation plan. The

report identified three recommendations for improvement, including one recommendation related to Title VI. The Review team stated:

MTC should continue to work with the Minority Citizens Advisory Committee and local communities to identify appropriate data and methodologies to best assess Title VI and environmental justice issues in the transportation planning process.

FTA and FHWA conducted a joint Transportation Planning Certification Review in January 2012. The final results of that Review are not yet available as of the final date of this report.

Demographics

The total population of the San Francisco Bay Region from the 2008 American Community Survey is estimated at over seven million people. The region is diverse, with no single ethnic group holding a majority of the population, and the total combined minority ethnic groups representing 55 percent of the Bay Area's population. This population is spread throughout the nine counties and 101 cities within the region's 7,000 square mile area.

MTC has identified 43 "communities of concern" in the region where the population is at least 70 percent minority and 30 percent low-income. Low-income is defined as being at or below 200 percent of the federal poverty level to account for the region's high cost of living.

Table 1
Racial/Ethnic Breakdown for the Nine-County San Francisco Bay Area
 2008 - American Community Survey

Race	Total	Percentage
White	3,170,684	45%
Black	462,049	6.6%
American Indian and Alaska Native	18,037	0.3%
Asian	1,554,635	22.1%
Native Hawaiian and Other Pacific Islander	38,553	0.5%
Hispanic (of any race)	1,571,366	22.3%
Some other race	30,945	0.4%
Two-or-more races	200,450	2.8%
Total Population	7,046,719	100%
Total Minorities	3,876,035	55%

V. SCOPE AND METHODOLOGY

Scope

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

1. General Reporting Requirements – All recipients and subrecipients shall maintain and submit in the Title VI Program the following:
 - a. A summary of public outreach activities undertaken since the last Title VI Program submission
 - b. A copy of the agencies' plan for providing access to Limited English Proficient populations;
 - c. A copy of the agencies' Title VI complaint procedures;
 - d. A description of any investigations, complaints or lawsuits since the last Title VI Program submission;
 - e. A copy of the notice to beneficiaries regarding their rights under Title VI;
 - f. Annual Title VI Certifications and Assurances;
 - g. A description of any Environmental Justice Analyses of Construction Projects; and
 - h. Submit Title VI Program.

2. Program-Specific Requirements – Designated Recipients of Job Access and Reverse Commute (JARC) and New Freedom Programs in large urbanized areas shall maintain and submit in the Title VI Program the following:
 - a. A description of the procedures the agency uses to pass-through FTA financial assistance in a non-discriminatory manner.
 - b. A description of the procedures the agency uses to provide assistance to potential subrecipients applying for funding in a non-discriminatory manner.
 - c. A description of how the agency monitors its subrecipients for compliance with Title VI and a summary of the results of this monitoring.

3. Program-Specific Requirements – Metropolitan Planning Organizations shall maintain and submit in the Title VI Program the following:
 - a. A demographic profile of the metropolitan area that includes identification of the locations of socioeconomic groups, including low-income and minority populations as covered by the Executive Order on Environmental Justice and Title VI.
 - b. A description of the metropolitan transportation planning process that identifies the needs of low-income and minority populations.
 - c. A description of the analytical process that identifies the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups, identifying imbalances and responding to the analyses produced.

Methodology

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

In the letter, FTA requested that MTC provide the following information regarding the Title VI requirements of FTA Circular 4702.1A:

FTA Circular 4702.1A Requirement/ Documentation to Be Provided by Friday, February 18, 2011	
0. Background	
a)	Description of MTC's planning area, including general population and other demographic information using the most recent Census data.
b)	MTC Organization Chart
c)	Any studies or surveys conducted by MTC, its consultants or other interested parties (colleges or universities, community groups, etc.) regarding ridership, service levels and amenities, passenger satisfaction, passenger demographics or fare issues for public transit service in its planning area during the past three years.
General Reporting Requirements and Guidelines	
1. Inclusive Public Participation (FTA C. 4702.1A, IV.9.)	
a)	Summary of MTC's current efforts to seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities.
2. Language Access to LEP Persons (FTA C. 4702.1A, IV.4.)	
a)	A copy of MTC's four factor analysis of the needs of persons with Limited English Proficiency.
b)	A copy of MTC's plan for providing language assistance for persons with Limited English Proficiency that is based on the USDOT LEP Guidance
3. Title VI Complaint Procedure (FTA C. 4702.1A, IV.2.)	
a)	MTC's procedures for investigating and tracking Title VI complaints and documentation that the procedures for filing complaints are available to members of the public upon request.
b)	Description of efforts made by MTC to apprise members of the public of protections against discrimination afforded to them by Title VI.
4. Record of Title VI Investigations, Complaints and Lawsuits (FTA C. 4702.1A, IV.3.)	
a)	In MTC's roles as the designated recipient as well as the MPO, provide a list of any investigations, lawsuits, or complaints naming MTC that alleges discrimination on the basis of race, color, or national origin during the past three years. This list must include: <ul style="list-style-type: none"> • the date the investigation, lawsuit, or complaint was filed; • a summary of the allegation(s); • the status of the investigation, lawsuit, or complaint; and • actions taken by MTC in response to the investigation, lawsuit, or complaint.
5. Notice to Beneficiaries of Protection Under Title VI (FTA C. 4702.1A, IV.5.)	
a)	Copy of MTC's Notice to Beneficiaries of Protections under Title VI.
b)	Documentation of efforts made by MTC to notify members of the public of the protections against discrimination afforded to them by Title VI.
6. Environmental Justice Analysis of Construction Projects (FTA C. 4702.1A, IV.8.)	
a)	Copies of any environmental justice assessments conducted for construction projects during the past three years and, if needed, a description of the program or other measures used or planned to mitigate any identified adverse impact on the minority or low-income communities.

FTA Circular 4702.1A Requirement/ Documentation to Be Provided by Friday, February 18, 2011
7. Submission of Title VI Program (FTA C. 4702.1A, IV.7.)
a) MTC's most recent Title VI Update that was submitted to FTA.
b) FTA Title VI Update Approval Letter
Program-Specific Guidance for Metropolitan Transportation Planning Organizations
8. Demographic Profile (FTA C. 4702.1A, VII.1a.)
a) A demographic profile of MTC's metropolitan area that includes identification of the locations of socioeconomic groups, including low-income and minority populations.
9. Metropolitan Planning Process (FTA C. 4702.1A, VII.1b.)
a) MTC's metropolitan transportation planning process that identifies the needs of low-income and minority populations.
10. Analytical Process for Identifying Impacts (FTA C. 4702.1A, VII.1c.)
a) MTC's analytical process for identifying the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups, identifying imbalances and responding to the analyses produced.
11. The Most Recent Copy FTA and FHWA's Joint Transportation Planning Certification Review
12. Additional Information Upon Request (FTA C. 4702.1A, IV. 6)
a) MTC's policy for implementation of the Clipper program, demographic analysis pertaining to the implementation of the new fare system, and/or any Title VI analysis/reports created in relation to the program. Include raw data and reports provided by regional transit operators in the Bay Area. Locations where the vendors to obtain the Clipper cards.
b) MTC's procedure for monitoring or enforcing compliance of its subrecipients as part of MTC's Program Management Plan.
c) A list of community members that FTA can contact regarding MTC's Title VI program.

MTC assembled most of the documents prior to the site visit and provided them to the Compliance Review team for advance review. FTA developed a detailed schedule for the three-day site visit with input from MTC.

The site visit to MTC occurred September 19 – September 21, 2011. The individuals participating in the review are listed in Section VIII of this report. An Entrance Conference was conducted at the beginning of the Compliance Review with MTC senior management staff and FTA's Review team. During the Entrance

Conference, the Review team explained the goals of the Review and the needed cooperation of staff members. The Review team and MTC discussed the detailed schedule of conducting the on-site review.

Following the Entrance Conference, the FTA Review team met with minority community representatives. The Review team then met with various staff members from the MTC planning, legal, government and community affairs, marketing, and civil rights departments to discuss how MTC incorporates FTA Title VI requirements into its planning activities. At the end of the site visit, the FTA Review team held an Exit Conference with MTC senior management. At the Exit Conference, the Review team discussed with MTC the initial advisory comments, findings, and corrective actions.

Community Meeting

The FTA Review team held a two-hour meeting with approximately thirty community representatives who worked with or represented communities of color. The community members expressed a number of concerns, many of which were related to MTC public meetings and the recent consolidation of three citizen advisory committees down to one citizen advisory committee. Community members asserted that public meetings are held during daytime hours when people are working, and not in the evenings. They asserted that meetings are held only in English; that they often feel discouraged about providing comments, as it seems as if the decisions have already been made; and that commissioners sometimes make statements during the meetings that make commenters feel disrespected and disregarded.

The three citizen advisory committees were the 26-member Minority Citizens Advisory Committee, the 20-member Elderly and Disabled Advisory Committee, and the MTC Advisory Council. The new Citizen Policy Advisory Committee (CPAC) has 27 members. In the area of social equity, nine members (one from each county) represent communities of color and issues affecting low-income communities or environmental justice. Of these, four members represent communities of color and four members represent environmental justice/low-income issues; the ninth member is representative of either category. In addition, nine members (one from each county) represent issues related to transportation for seniors and persons with disabilities. Four members represent seniors and four members represent people with disabilities; the ninth member is representative of either category. In addition, representing the areas of economy and the environment, there are a total of nine members, with four members representing economic interests and four bringing an environmental perspective; the ninth member is representative of either category. In addition, five of the nine are from each of the five most populous Bay Area counties – Alameda, Contra Costa, San Francisco, San Mateo and Santa Clara. One of the community members at the meeting was troubled that most of the members of the original three committees did not continue on the new CPAC.

The community members expressed concern that AC Transit, a transit agency that provides bus service in Alameda and Contra Costa Counties, receives eight percent of available regional transportation funds, which they believe is not sufficient. They also expressed concern that MTC limits the use of FTA section 5307 funds to capital items and does not allow these funds to be used for preventive maintenance, which is an eligible expense under the law. They contrasted recent budget issues with AC Transit and CalTrain, commuter rail that serves San Francisco, San Mateo

and Santa Clara Counties. The community members stated that AC Transit had to cut service due to budget constraints, while CalTrain received additional funds from MTC and did not have to cut service.

During the meeting, the FTA review team asked bilingual participants to call MTC and request assistance in Spanish and Chinese. The call made by the Chinese speaker went to voicemail. The call made by the Spanish speaker was answered and the caller was able to converse with the MTC staff person in Spanish.

Site Visit Observations

One member of the FTA Review team tested the ability of MTC front desk staff and library staff to respond to Spanish speakers. The Reviewer asked the front desk staff for the procedures for assisting a Spanish speaking individual. MTC staff in both points of entry were able to quickly respond to the request by following a desk reference telephonic interpretive service.

The FTA Review team also filed a complaint in Spanish with MTC to assess how it administered and processed complaints. MTC's response time to the complainant was within 30-days, translation of the complaint's allegations was accurate, and MTC's response was thorough and accurate.

VI. FINDINGS AND RECOMMENDATIONS

The Title VI Compliance Review focused on MTC's compliance with the General Reporting Requirements and the Program-Specific Requirements. This section describes the requirements and findings at the time of the Compliance Review site visit. In summary, no deficiencies were identified in nine of the fourteen areas reviewed. Advisory comments were made in the areas of *Title VI Complaint Form, MTC's process for identifying needs of minority and low-income populations, and MTC's analytical process that identifies the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups*. Deficiencies were identified in the following Title VI requirement areas:

- *Title VI Complaint Procedures*
- *Notification to Beneficiaries*
- *Limited English Proficiency*
- *Equity Analysis of Fare and Service Changes*
- *Monitoring Subrecipients*

Prior to the issuance of the Final Report, MTC took corrective action to close the deficiencies in the areas of *Notification to Beneficiaries* and *Title VI Complaint Procedures*, and also responded to the advisory comment related to developing a *Title VI Complaint Form*.

FINDINGS OF THE GENERAL REPORTING REQUIREMENTS

1. Inclusive Public Participation

Guidance: *FTA recipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency's public participation strategy shall offer early and continuous opportunities for the public to be involved in the*

identification of social, economic, and environmental impacts of proposed transportation decisions.

Findings: During this Compliance Review of MTC, no deficiencies were found regarding MTC's compliance with FTA guidance for inclusive public participation. Prior to the site visit, MTC provided a Public Participation Plan, updated December 3, 2010. This plan included a description of the public participation methods used by MTC, as follows:

- MTC's print and electronic newsletter, *Transactions*, offering news about MTC's activities, along with general transportation news for the nine-county San Francisco Bay Area.
- *The ABC's of MTC*, serving as a primer on MTC's roles and responsibilities for the region's interested persons and local policy-makers, and providing basic information on the Bay Area's transportation network.
- *MTC's Annual Report*, providing information about MTC allocations and expenditures.
- MTC encourages interested persons to attend MTC Commission and standing committee meetings to express their views
- Web access is provided to MTC meetings
- Public Meetings, Workshops and Forums
- MTC regularly issues news releases about Commission programs and actions of interest to the public.

2. Language Access to LEP Persons

Requirement: *FTA recipients shall take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of its programs and activities for individuals who are Limited English Proficient (LEP).*

Findings:

Prior to the site visit, MTC submitted its plan for providing language access to LEP persons. This document titled, “MTC Plan for Special Language Services to Limited English Proficient (LEP) Populations,” included MTC’s four-factor assessment and its Language Assistance Plan (LAP). For factors 2, 3, and 4, the analysis in the LEP plan was incomplete. In addition, MTC should train staff regarding how to access MTC’s language assistance measures, and should develop competency standards for contractors or staff providing language assistance.

Elements Required for LEP Assessment and Language Access Plan (Per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)		
	Included in MTC’s Plan	Notes/Comments
Part A – Four-Factor Assessment		
1. Demography –The number or proportion of LEP persons eligible to be served or likely to be encountered	Yes	
2. Frequency of Contact - the frequency with which LEP individuals come in contact with the program and/or activities	No	The factor lacked any statistical analysis to measure the frequency of contact. Rather, the factor included a narrative of previous contact with Spanish and Chinese speakers. MTC’s report indicates that Lao and Vietnamese translators have sometimes been requested. MTC must develop a method for collecting information from LEP’s to determine the frequency of contact by language.

Elements Required for LEP Assessment and Language Access Plan (Per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)		
3. Importance - the nature and importance of the program, activity, or service to people's lives;	No	MTC's report discusses the importance of planning access for individuals, but fails to assess whether LEP's have determined which types of MTC's services are important and therefore need language assistance to access those services.
4. Resources - the resources available and costs	No	MTC's plan did not analyze costs.
Part B - Develop Language Assistance Plan		
1. Identification of LEP Persons	Yes	Only the first factor was addressed. LEP's have not been identified because of lack of information on the other three factors.
2. Language Assistance Measures	Some	While MTC had telephone translation service, MTC had not determined the vital documents that needed translation. Therefore, the language assistance measures are limited because the four factor analysis has not been properly assessed.
3. Training of Staff	No	MTC does not have training for its' workforce on how to access the telephone service available.
4. Competency Standards	No	MTC has not developed competency standards for its translation services.
5. Provide Notice to LEP Persons	Yes	MTC has provided notification of the public's rights in multiple languages.
6. Monitor and Update the LAP	No	MTC has not developed a mechanism for administratively monitoring and updating the language assistance plan.

Corrective Actions and Schedules: Expand upon existing analysis to more clearly describe the frequency of contact with LEP persons; the importance to LEP populations of programs, services and activities; and the costs to translate documents into other languages.

MTC's language assistance plan needs to be revised to include the updated four factor analysis, a list of vital documents, translation of those documents, training

for MTC staff, and competency standards. MTC will translate vital documents including its complaint form, notification to the public of its rights under Title VI, and place on its board meeting notices a statement, in languages other than English, regarding how to obtain free translation assistance in advance of board meetings.

- FTA recognizes the amount of time it will take to correct all LEP deficiencies. Therefore, MTC will provide a plan to FTA explaining how it will correct all LEP deficiencies within 60 days.

3. Title VI Complaint Procedures

Requirement: *FTA recipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public upon request.*

Findings: During the review of MTC, deficiencies were found. Prior to the site visit, MTC submitted their Title VI of the Civil Rights Act of 1964 MTC 2010 Compliance Report, which included their complaint procedures and descriptions of their efforts to apprise members of the public of the protections against discrimination afforded them. The complaint procedure did not specify that a complainant may file a complaint with FTA directly, as opposed to going through MTC's complaint process first.

Corrective Actions and Schedules: MTC fixed deficiencies prior to the exit conference.

- The deficiency in this area is closed.

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

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

Findings: During this Title VI Compliance Review of MTC, no deficiencies were found regarding MTC's compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. Prior to the site visit, MTC submitted a copy of the *Darensburg, et al v. MTC* lawsuit, as well as copies of other complaints.

5. Notice to Beneficiaries of Protection Under Title VI

Requirement: *FTA recipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Recipients shall disseminate this information to the public through measures that can include but shall not be limited to a posting on its Web site.*

Findings: During this Title VI Compliance Review of MTC, deficiencies were found regarding MTC's compliance with FTA requirements for Notice to Beneficiaries of Protection under Title VI. Specifically, MTC's notice did not include a description of the procedures that members of the public should follow in order to request additional information on the recipients' nondiscrimination obligations, or a description of the procedures that members of the public should follow in order to file a discrimination complaint against MTC. While the

complaint information was on the website, it was not on the hard copy notice posted at MTC.

MTC submitted its information dissemination procedures that included all of the three elements required in FTA Circular 4702.1A, IV.5 as shown on the following table:

Elements Required in Title VI Notification (Per FTA Circular 4702.1A Chapter IV Section 5.a)	Included in MTC's Draft Policy?
A statement that the agency operates programs without regard to race, color, and national origin	Yes
A description of the procedures that members of the public should follow in order to request additional information on the recipient's nondiscrimination obligations	No
A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient.	No

Prior to the conclusion of the site visit, MTC revised its Title VI notice and provided the Review team with the updated notice. The revised notice, dated September 21, 2011, has been posted in MTC's offices and on its website. The deficiency in this area is closed.

6. Annual Title VI Certification and Assurance

Requirement: *Each FTA recipient shall submit its annual Title VI certification and assurance as part of its Annual Certifications and Assurances submission to FTA (in the FTA web-based Transportation Electronic Award Management (TEAM) grants management system).*

Findings: During this Title VI Compliance Review of MTC, no deficiencies were found regarding MTC's compliance with FTA requirements for Annual Title VI Certification and Assurance. The FTA Civil Rights Assurance is incorporated in the Annual Certifications and Assurances submitted to FTA through the Transportation Electronic Award and Management (TEAM) system. MTC executed its FY 2010 Annual Certifications and Assurances in TEAM on December 21, 2011. MTC checked as applicable, *01 Assurances Required For Each Applicant*. This is the category where the nondiscrimination assurance is located.

7. Environmental Justice Analysis of Construction Projects

Guidance: *FTA recipients should integrate an environmental justice analysis into its National Environmental Policy Act (NEPA) documentation of construction projects. (Recipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required.). In preparing documentation for a categorical exclusion (CE), recipients can meet this requirement by completing and submitting FTA's standard CE checklist, which includes a section on community disruption and environmental justice.*

Findings: During this Title VI Compliance Review of MTC, no deficiencies were found with the general reporting requirement regarding Environmental Justice Analysis of Construction Projects. MTC engaged in one construction project since the last Title VI Compliance Report was submitted to FTA in 2006. A seismic retrofit of MTC's office building was funded by the Federal Emergency Management Agency (FEMA). The project was classified as categorically exempt under NEPA and CEQA.

MTC did not directly use any FTA funding during the past four years to plan or construct any fixed facilities. While MTC is the designated recipient for all FTA formula funds in the region, funds for capital and operating purposes are allocated to direct recipients through the use of Supplemental Grant Agreements. The recipients apply for funds directly from FTA, and are responsible for the preparation of any Environmental Justice Analysis of Construction Projects.

8. Submit Title VI Program

Requirement: *MPOs that receive funds from FTA are required to document their compliance with the general reporting requirements by submitting a Title VI Program to FTA’s Regional Civil Rights Officer once every four years.*

Findings: During this Title VI Compliance Review of MTC, no deficiencies were found regarding MTC’s compliance with FTA requirements to submit a Title VI Program. MTC submitted a *Title VI Compliance Report* (Title VI Program) to FTA on October 27, 2010. According to the *Introduction*, this submittal was prepared in response to FTA C. 4702.1A. Upon review of the document, all elements required by the Circular were included in the Title VI Program. Individual elements that were not fully compliant are described in this Report as deficiencies and requiring corrective actions.

ELEMENTS REQUIRED FOR TITLE VI PROGRAM	
GENERAL REQUIREMENTS (Per FTA C. 4702.1A, IV, 7. a. (1) – (5))	In MTC’s Title VI Program Submittal?
<ul style="list-style-type: none"> • A summary of public outreach and involvement activities undertaken since the last submission and a description of steps taken to ensure that minority and low-income people had meaningful access to these activities. 	Yes
<ul style="list-style-type: none"> • A copy of the agency’s plan for providing language assistance for persons with limited English proficiency that was based on the DOT LEP Guidance or a copy of the agency’s alternative framework for providing language assistance. 	Yes
<ul style="list-style-type: none"> • A copy of the agency procedures for tracking and investigating Title VI complaints. 	Yes

ELEMENTS REQUIRED FOR TITLE VI PROGRAM	
GENERAL REQUIREMENTS (Per FTA C. 4702.1A, IV, 7. a. (1) – (5))	In MTC's Title VI Program Submittal?
<ul style="list-style-type: none"> • A list of any Title VI investigations, complaints, or lawsuits filed with the agency since the time of the last submission. This list should include only those investigations, complaints, or lawsuits that pertain to the agency submitting the report, not necessarily the larger agency or department of which the entity is a part. 	Yes
<ul style="list-style-type: none"> • A copy of the agency's notice to the public that it complies with Title VI and instructions to the public on how to file a discrimination complaint. 	Yes

PROGRAM-SPECIFIC REQUIREMENTS

9. Demographic Data

Guidance: *MPOs should have an analytic basis in place for certifying their compliance with Title VI. Examples of this analysis can include a demographic profile of the metropolitan area that includes identification of the locations of socioeconomic groups, including low-income and minority populations as covered by the Executive Order on Environmental Justice and Title VI.*

Findings: During this Compliance Review of MTC, no deficiencies were found regarding MTC's compliance with FTA guidance for developing demographic data.

Elements Required for Demographic Data (Per FTA C. 4702.1A, V, 1. a.)	Included in MTC's Title VI Submittals?
A base map of the agency's service area that includes each census tract or traffic analysis zone (TAZ), major streets, etc., fixed transit facilities and major activity centers. The map should also highlight those transit facilities that were recently modernized or are scheduled for modernization in the next five years.	Yes
A demographic map that plots the above information and also shades those Census tracts or TAZ where the percentage of the total minority and low-income population residing in these areas exceeds the average minority and low-income population for the service area as a whole.	Yes
A chart for each Census tract or TAZ that shows the actual numbers and percentages for each minority group within the zone or tract.	Yes

10. Identifying Needs of Minority and Low-Income Populations

Guidance: *MPOs should have an analytic basis in place for certifying their compliance with Title VI. Examples of this analysis can include a metropolitan transportation planning process that identifies the needs of low-income and minority populations.*

Findings: During this Compliance Review, MTC's analysis to identify the needs of minority and low-income populations met the specific language outlined in the circular, however the FTA review team reminded MTC that the analysis did not disaggregate the data for minority populations distinctly from low-income populations. Rather, it focused almost entirely on low-income analysis to identify the needs of low-income and minority populations during the metropolitan planning process.

Advisory Comment: The Review team reminded MTC to disaggregate the equity analysis data in order to analyze the needs of minority populations as distinct from low-income populations.

11. Identifying Benefits and Burdens of Metropolitan Transportation System Investments

Guidance: *MPOs should have an analytic basis in place for certifying their compliance with Title VI. Examples of this analysis can include an analytical process that identifies the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups, identifying imbalances and responding to the analyses produced.*

Findings: During this Compliance Review of MTC, no deficiencies were found regarding MTC's compliance with FTA guidance for conducting an equity analysis

that identifies the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups. Again, MTC's analysis aggregated low-income and other data. Therefore the analysis did not distinctly assess the benefits and burdens of investments for minority populations.

Advisory Comments: The Review team encouraged MTC to disaggregate minority populations from low-income populations when it conducts equity analyses in order to determine whether the benefits and burdens result in disparate impact on minority populations.

12. Clipper Program (Fare Equity Analysis)

Requirement: *Recipients shall evaluate significant system-wide fare changes at the planning and programming stages to determine whether those changes have a discriminatory impact.*

Findings: During this Title VI Compliance Review of MTC, deficiencies were found regarding MTC's compliance with FTA requirements for Evaluation of Fare Changes. In most cases it appears that the Clipper provides the same fare value as other fare media, however the analysis is not complete. In the implementation of MTC's Clipper program, its own analysis showed that the administration of the program resulted in disparate impact either in the number of vendors or the type of fares that were part of the Clipper program. Following the site visit, FTA staff contacted the transit agencies who participated in the Clipper program. The transit agencies' fare equity assessments yielded many more disparate impacts than what MTC's analysis showed, such as the number of vendors where riders may apply for discount fares on their Clipper card, the number of vendor outlets, and the

additional conditions the Clipper card established for certain discount fares which created disparate impact.

Corrective Actions and Schedules: In order to ensure the Clipper program is administered in a non-discriminatory manner, MTC will work with transit operators to address any disparate impacts noted before implementation or changes to the Clipper Program. MTC will report to FTA on a periodic basis on remedies identified with the transit operators to implement the program with the least discriminatory impacts. MTC will report to FTA on how it corrected the identified disparate impacts within 60 days of receipt of this report and every 90 days thereafter.

13. Monitoring Subrecipients

Requirement: *Recipients shall include in their compliance report a description of how the agency monitors its subrecipients for compliance with Title VI and a summary of the results of this monitoring.*

Findings: Prior to the site visit, correspondence between MTC and FTA showed that MTC was not in compliance with monitoring subrecipients. At the site visit FTA obtained a copy of a letter sent on October 1, 2010 to all subrecipients including direct recipients. The letter requested a copy of subrecipients Title VI programs. In addition, MTC modified its program management plan, and provided training to its subrecipients regarding complying with Title VI. This information showed MTC is not currently deficient.

VII. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

**TITLE VI COMPLIANCE REVIEW OF
METROPOLITAN PLANNING ORGANIZATIONS**

Title VI Requirements For MPOs	Findings	Description of Deficiencies	Corrective Action(s)	Response Days/Date	Date Closed
GENERAL REPORTING REQUIREMENTS – FTA C. 4702.1A. chapter IV, sections 1-9					
1. Inclusive Public Participation	ND				
2. Language Access to LEP Persons	D	For factors 2, 3, and 4, the analysis in the LEP plan was incomplete. In addition, MTC should train staff regarding how to access MTC’s language assistance measures, and should develop competency standards for contractors or staff providing language assistance measures.	<p>Expand upon existing analysis to more clearly describe the frequency of contact with LEP persons; the importance to LEP populations of programs, services and activities; and the costs to translate documents into other languages.</p> <p>Provide training for staff. Develop competency standards. See DOT LEP guidance (www.dotcr.ost.dot.gov).</p> <p>MTC will translate its complaint form, notification to the public of its rights under Title VI, and place on its board meeting notices a statement, in languages other than English, regarding how to obtain free translation assistance in advance of board meetings.</p>	60 days	

Title VI Requirements For MPOs	Findings	Description of Deficiencies	Corrective Action(s)	Response Days/Date	Date Closed
3. Title VI Complaint Procedures	D	Complaint procedure does not specify a complainant may directly file a complaint with FTA, as opposed to going through MTC's complaint process first	MTC revised its complaint procedure during the Compliance Review, posted it, and provided the Review team with the updated procedure.		Sept. 21, 2011
4. Record of Title VI Investigations, Complaints, and lawsuits	ND				
5. Notice to Beneficiaries of Protected Under Title VI	D	MTC's notice does not include a description of the procedures that members of the public should follow in order to request additional information on the recipients' nondiscrimination obligations, or a description of the procedures that members of the public should follow in order to file a discrimination complaint against MTC. While the complaint information is on the website, it is not on the hard copy notice posted at MTC.	MTC revised its notice during the Compliance Review, posted it, and provided the Review team with the updated notice.		Sept. 21, 2011

Title VI Requirements For MPOs	Findings	Description of Deficiencies	Corrective Action(s)	Response Days/Date	Date Closed
6. Complaint Form	AC	FTA recommends MTC create a Title VI complaint form as part of its standard Title VI program.	MTC was working to create a complaint form to assist complainants in filing Title VI complaints with MTC at the closing of the exit conference.		
7. Annual Title VI Certification and Assurance	ND				
8. Environmental Justice Analysis of Construction Projects	ND				
9. Title VI program submission	ND				
PROGRAM-SPECIFIC REQUIREMENTS - FTA C. 4702.1A. chapter VII, section 2					
10. A demographic profile of the metropolitan area that identifies the locations of socioeconomic groups, including low-income and minority populations	ND				
11. MTC's process for identifying needs of minority and low-income populations	AC	FTA recommends MTC disaggregate the equity analysis data to analyze the needs of minority populations as distinct from low-income populations			

Title VI Requirements For MPOs	Findings	Description of Deficiencies	Corrective Action(s)	Response Days/Date	Date Closed
12. An analytical process that identifies the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups, identifying imbalances and responding to the analysis produced.	AC	FTA recommends MTC's equity analysis disaggregate minority populations from low-income populations to determine whether the benefits and burdens result in disparate impact on minority populations.			
PROGRAM-SPECIFIC REQUIREMENTS - FTA C. 4702.1A. chapter V, sections 4, 6					

Title VI Requirements For MPOs	Findings	Description of Deficiencies	Corrective Action(s)	Response Days/Date	Date Closed
13. Clipper Program (Fare Equity Analysis)	D	<p>In the implementation of MTC's Clipper program, its own analysis showed that the administration of the program resulted in disparate impact either in the number of vendors or the type of fares that were part of the Clipper program. Following the site visit FTA staff contacted the transit agencies who participated in the Clipper program. The transit agencies fare equity assessments yielded many more disparate impacts than what MTC's analysis showed such as the number of vendors where riders may apply for discount fares on their Clipper card, the number of vendor outlets, and the additional conditions the Clipper card established for certain discount fares which created disparate impact. 33</p>	<p>MTC will work with the transit agencies to ensure that the administration of the Clipper program results in the least discriminatory impact. To that end, MTC will work with the grantees who administer the Clipper program to address the disparate impacts noted before implementation or changes to the Clipper program. MTC will report to FTA on how MTC will reduce the number of disparate impacts identified by the transit agencies. MTC will report to FTA on a periodic basis on remedies identified with the transit operators to implement the program with the least discriminatory impact. The first report will be sent to FTA within 60 days. For all disparate impacts identified, MTC will report to FTA on the substantial need that is in the public interest and whether alternatives would have more severe adverse effects than the preferred alternative.</p> <p>In addition, in future analyses MTC will conduct an analysis consistent with recent guidance issued in March 2011 on fare equity.</p>	Within 60 days	

Title VI Requirements For MPOs	Findings	Description of Deficiencies	Corrective Action(s)	Response Days/Date	Date Closed
PROGRAM-SPECIFIC REQUIREMENTS - FTA C. 4702.1A. chapter VI, sections 2-5					
14. Monitor Subrecipients	ND	Prior to the compliance review, correspondence between FTA and MTC showed that MTC was not monitoring JARC, New Freedom and planning subrecipients for compliance with Title VI.	At the site visit FTA obtained a copy of a letter sent on October 1, 2010 to all subrecipients including FTA direct recipients. The letter requested a copy of subrecipients' Title VI programs. In addition, MTC modified its program management plan, and provided training to its subrecipients regarding complying with Title VI.		

Findings at the time of the site visit: ND = No Deficiency; D = Deficiency; NA = Not Applicable; NR = Not Reviewed; AC = Advisory Comment

VIII. ATTENDEES

NAME	TITLE/ ORGANIZATION	PHONE	E-MAIL
Ann Flemer	Deputy Executive Director, Policy, Metropolitan Transportation Commission	510.817.5820	aflemer@mtc.ca.gov
Steve Heminger	Executive Director, Metropolitan Transportation Commission	510.817.5810	sheminger@mtc.ca.gov
Andy Fremier	Deputy Executive Director, Operations, Metropolitan Transportation Commission	510.817.5840	afremier@mtc.ca.gov
Adrienne Weil	General Counsel, Metropolitan Transportation Commission	510.817.5830	aweil@mtc.ca.gov
Melanie Morgan	Associate General Counsel, Metropolitan Transportation Commission	510.817.5720	mmorgan@mtc.ca.gov
Denise Rodrigues	Contract Compliance Manager, Metropolitan Transportation Commission	510.817.5897	drodri@mtc.ca.gov
Shimon Isreal	Associate Transportation Planner/Analyst, Metropolitan Transportation Commission	510.817.5839	sisreal@mtc.ca.gov
Pam Grove	Public Information, Metropolitan Transportation Commission	510.817.5706	pgrove@mtc.ca.gov
Robert Hoffman	Building Manager, Metropolitan Transportation Commission	510.817.5723	rhoffman@mtc.ca.gov
Catalina Alvarado	Public Information Officer, Metropolitan Transportation Commission	510.817.5783	calvarado@mtc.ca.gov
Alix Bockelman	Director of Programming and Allocations, Metropolitan Transportation Commission	510.817.5850	abockelman@mtc.ca.gov
Doug Johnson	Senior Planner, Metropolitan Transportation Commission	510.817.5846	djohns@mtc.ca.gov
Jennifer Yeaman	Lifeline and Equity Planner, Metropolitan Transportation Commission	510.817.5764	jyeaman@mtc.ca.gov
Ellen Griffin	Senior Analyst, Legislative and Public Affairs, Metropolitan Transportation Commission	510.817.5854	egriffin@mtc.ca.gov
Sri Srinivasan	Programming and Allocations, Metropolitan Transportation Commission	510.817.5793	ssrinivasan@mtc.ca.gov
Melanie Crotty	Director of Traveler Coordination and Information, Metropolitan Transportation Commission	510.817.5880	mcrotty@mtc.ca.gov
Jake Avidon	Traveler Coordination and Information, Metropolitan Transportation Commission	510.817.5765	javidon@mtc.ca.gov
Anne Richman	Senior Program & Policy Analyst, Metropolitan Transportation Commission	510.817.5722	arichman@mtc.ca.gov

NAME	TITLE/ ORGANIZATION	PHONE	E-MAIL
Kimpreet Puar	Traveler Coordination and Information,, Metropolitan Transportation Commission	510.817.5985	kpuar@mtc.ca.gov
Lysa Hale	Consultant, Synapse Strategies	510-325-7319	mail@lyshale.com
Luz Campos	Receptionist, Metropolitan Transportation Commission	510.817.5700 or 817-5990	lcampos@mtc.ca.gov
Ron Cegura	Administrative Assistant, Office of General Counsel, Metropolitan Transportation Commission	510.817.5712	rcegura@mtc.ca.gov
Kristen Mazur	Transit Program Manager, Metropolitan Transportation Commission	510.817.5789	kmazur@mtc.ca.gov
Drennen Shelton	Metropolitan Transportation Commission	510.817.5909	dshelton@mtc.ca.gov
Julie Tunnel	Librarian, Metropolitan Transportation Commission	510.817.5835	jtunnel@mtc.ca.gov