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May 11, 2012

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

Re: **MTC Response to FTA Title VI Compliance Review Report**

Dear Ms. Heard:

On September 19, 20 and 21, 2011, the Federal Transit Administration (FTA) conducted an on-site Title VI Compliance Review ("the Review") of the Metropolitan Transportation Commission (MTC). FTA's Final Report on the Review was issued on April 12, 2012. Corrective actions were requested in two of the fourteen areas examined during the Review:

- Language access to Limited English Proficiency ("LEP") Persons
- Clipper® Program Fare Equity Analysis

FTA requested that MTC submit our proposed corrective actions for these two areas no later than 30 days before the due date for closure of the corrective actions (June 12, 2012.) The attached two tables outline MTC's proposed corrective actions. Table 1 is formatted to include information taken directly from the FTA's Final Report. Table 2 includes specific responses to the findings related to the Clipper program.

MTC believes that the proposed corrective actions and schedules are consistent with the requirements of FTA Circular 4702.1A and MTC's commitment to ensuring equitable opportunities for all Bay Area residents to share in the benefits of a well-maintained, efficient, regional transportation system. MTC looks forward to completing the proposed corrective actions and promptly closing out the remaining deficiencies.

Sincerely,

Steve Heminger
Executive Director

MTC letter to Anita Heard, FTA
May 11, 2012
Page 2

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Enclosures (4)

- Attachment A: Title VI and Language Assistance training program
- Attachment B: Title VI complaint forms, Notification to Beneficiaries, and Sample Agenda
- Attachment C: BART, AC Transit, VTA and Samtrans Letters
- Attachment D: Draft Final Clipper[®] Title VI Summary Report

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Table 1: MTC PROPOSED CORRECTIVE ACTIONS

| Title VI Requirements for MPOs | Findings | Description of Deficiencies | Corrective Action(s) | MTC Proposed Corrective Action |
|--|-----------------|--|--|---|
| <p>2. Language Access to LEP Persons</p> | <p>D</p> | <p>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.</p> | <p>A. 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>B. Provide training for staff.</p> <p>C. Develop competency standards. See DOT LEP guidance (www.dotcr.ost.dot.gov)</p> | <p>A. MTC will develop and issue a Request for Qualifications (RFQ) in July 2012 to obtain a consultant to assist with the analysis and outreach related to factors 2, 3, and 4 of MTC's Language Assistance Plan (LAP). MTC will forward a copy of the RFQ to the FTA upon its issuance. After the Consultant is selected (September 2012), MTC staff will work with them to expand the existing analysis and revise the LAP as necessary. The Revised LAP will then be released for public comment (January 2013). MTC will then revise the LAP as necessary and formally adopt the revised LAP (May 2013) or, if required, reissue the revised LAP for a second round of public comment.</p> <p>B. MTC staff developed a web-based Title VI and Language Assistance training program (Attachment A). The training was issued as a mandatory training for all MTC staff on April 17, 2012.</p> <p>C. MTC understands that competency to translate and interpret involves more than formal certification as an interpreter and requires demonstrated proficiency and ability to communicate information accurately. In April 2011, MTC issued a Request for Qualifications (RFQ) for Translation Services, which included a specific minimum requirement for accuracy and quality of written translations. MTC utilizes bilingual staff to provide translation/interpretation services in Spanish and Chinese, as needed, and to perform periodic quality checks of translated materials to ensure that translations are accurate. MTC will review the DOT Policy Guidance Concerning Recipients' Responsibilities to LEP Persons and develop competency standards based on the guidance provided.</p> <p>D. MTC's Title VI complaint form and notification to the public of its rights under Title VI are now translated into English, Spanish, and Chinese. A statement regarding how to obtain free translation</p> |

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|---|----------|--|--|--|
| | | | <p>D. 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> | <p>assistance in advance of board meetings has also been translated and is included on committee and board meeting notices (Attachment B).</p> |
| <p>13. Clipper[®] Program (Fare Equity Analysis)</p> | <p>D</p> | <p>In the implementation of MTC's Clipper program, MTC's 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</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. <u>MTC will report to FTA on how MTC will reduce the number of disparate impacts identified by the transit agencies.</u> MTC will report to FTA on</p> | <p>MTC solicited comments on the initial drafts of the individual fare instrument analyses conducted by MTC's consultant or MTC staff. All of the operators commented, and MTC revised the analyses in accordance with their comments in some instances and in some instances did not. The draft summary reports (not including Samtrans and VTA) were released for public comment in October 2011. During the comment period, we received letters from BART, AC Transit, and Samtrans addressing their continued concerns or areas of disagreement (Attachment C). VTA subsequently commented during the VTA comment period. Separate from these letters, MTC is unaware of any alternative fare equity assessments performed by any operator and respectfully requests that we be provided with any additional information concerning the transit agencies' fare equity assessments provided to FTA by any operator.</p> <p>MTC's efforts to complete its Clipper[®] Title VI analyses since September have included:</p> |

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| | | <p>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: 1) number of vendors where riders may apply for discount fares on their Clipper® card, 2) the number of vendor outlets, and 3) the additional conditions the Clipper® card established for certain discount fares which created disparate impact.</p> | <p>a periodic basis on remedies identified with the transit operators to implement the program with the least discriminatory impact. <u>The first report will be sent to FTA within 60 days.</u> 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. In addition, in future analyses, MTC will conduct an analysis consistent with recent guidance issued in March 2011 on fare equity.</p> | <ul style="list-style-type: none"> • A three month community outreach effort and public comment period specific to the draft version of the Clipper® Title VI analysis; • Working with the Clipper® contractor and participating transit operators to expand the vendor network in a manner that optimally serves protected individuals; • Developing Clipper® Title VI analyses for the SamTrans and VTA fare media transitions; releasing those documents for public comment; and revising them in response to the public comments received; • Responding to operator concerns about discount fare availability. Detailed, operator-specific information is set forth in the <i>Draft Final Clipper Title VI Summary Report</i> and summarized in Table 2. <p>The attached <i>Draft Final Clipper® Title VI Summary Report</i> (Attachment D) provides more detail on the above information.</p> <p>As requested by FTA, MTC will report to FTA by June 12, 2012 on the remaining identified disparate impacts, in the form requested by FTA.</p> |

Table 2: Clipper® Activities to Address FTA Deficiency Findings

| FTA Deficiency Finding: Number of vendors where riders may apply for discount fares | | |
|--|--|---|
| Fare Media | Suggested Program Change per MTC Analysis | MTC Actions |
| Youth and Senior Cards | Additional locations accepting youth and senior applications | Establish a process that enables youths (or their parents/guardians) and seniors to apply for Clipper® cards by mail or e-mail. |
| Youth / Disabled / Senior BART Discounts | Reduced access | Agreed with BART that BART would continue sales of paper red (youth/disabled) and green (senior) tickets at retail locations and deferred to BART the decision concerning the number and location of retailers that will sell the red and green tickets. |
| FTA Deficiency Finding: Number of Clipper® vendor outlets | | |
| Transit Operator/ Fare Media | Suggested Program Change per MTC Analysis | MTC Actions |
| AC Transit / 31-Day Adult Ticket | Add one vendor | MTC and AC Transit determined the highest need for additional Clipper® vendors was in the 94603 zip code (East Oakland). MTC directed the Clipper® contractor, Cubic Transportation Systems, Inc. (Cubic), to recruit locations in this area. Two additional vendors in this area have joined the Clipper® network. |
| SFMTA / Disabled Monthly Sticker | Add two vendors | Added two vendors, one in Bernal Heights and one in the Richmond District |
| SFMTA / Youth Pass | Add two vendors | Added two vendors, one in Bernal Heights and one in the Richmond District |
| SFMTA / Bus Transfers | Add vendors in several areas | MTC has established a revised transition date of June 30, 2013, in Resolution No. 3866, Revised. As noted above, Clipper® added two vendors, one in Bernal Heights and one in the Richmond District. |
| SamTrans / Monthly Pass, Local/SF Pass, Eligible Discount Pass and Youth Pass | Add one vendor | Added two vendors in South San Francisco |

| FTA Deficiency Finding: Additional Conditions for Certain Discount Fares | | |
|---|---|--|
| Fare Media | Suggested Program Change per MTC Analysis | MTC Actions |
| Youth Cards | Least restrictive forms of ID to verify youth discount eligibility. | Accept those school IDs that show a student's birth date as a form of identification that proves eligibility for a youth Clipper® card, and explore accepting additional forms of documentation that indicate a youth's age, or other methods by which youths can prove their eligibility for a youth Clipper® card. |
| SFMTA BART-Daly City transfers | Retention of transfer machines. | Indicated to SFMTA that MTC would waive mandatory transition BART-Daly City transfers to Clipper®-only availability. |