



Metro

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Metropolitan Transportation Authority

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#59 **REVISED**
REGULAR BOARD MEETING
DECEMBER 15, 2011

SUBJECT: FTA CIVIL RIGHTS COMPLIANCE AUDIT

ACTION: RECEIVE AND FILE

RECOMMENDATION

Receive and file update on FTA Civil Rights Compliance Audit.

ISSUE

In July 2010 the Federal Transit Administration (FTA) initiated a Civil Rights Compliance Review of Metro. The final report is being issued by the FTA on December 12th or 13th. The Compliance Review Report will be provided to Directors as soon as it is available. Metro has also prepared a Corrective Action plan in response to the findings in the review. The Corrective Action Plan was prepared by Metro based on a draft of the Compliance Review Report. Some adjustments may be required to the Corrective Action Plan based on the final Compliance Review Report.

DISCUSSION

The Compliance Review is not an investigation into Civil Rights Violations. Metro was not singled out for this type of review. Similar reviews have recently been held elsewhere in California (e.g. San Diego, Bay Area) and across the country. The findings at other agencies were in some case more severe than at Metro, and in other cases less severe. The purpose of a Compliance Review is to determine how well Metro is following the FTA guidance and regulations pertaining to civil rights and to offer technical assistance to help improve compliance. The FTA hired an outside consultant to conduct the review and they found compliance issues in five of twelve subject areas of the guidance and regulations including:

- Notice to Beneficiaries
- Service Standards
- Service Monitoring
- Limited English Proficiency
- Service and Fare Equity

Notice to Beneficiaries

The regulation requires Metro to post notices around the system advising our customers that they have rights under Title VI of the Civil Rights Act, and they also have the ability to file complaints with Metro or the FTA. Our notices were found to be not compliant since they did not provide information on how to file a complaint, and did not have information in alternative languages. Metro has developed a new notice, and it will begin appearing on the system later this month.

Service Standards

The civil rights guidance asks transit agencies to put in place service standards in five areas. The same criteria must apply to all modes, although different modes can have different target levels. In addition transit agencies are required to have policies in place to ensure vehicles are equitably assigned among divisions, and that security is provided on a non-discriminatory basis.

A separate report being presented at the Board meeting on December 15, 2011 will address the service standard issues found by the reviewers. An additional report in January, 2012 will fulfill the requirement for a security policy.

Service Monitoring

The reviewers found that survey data presented by Metro to comply with the guidance did not include any action in response to the disparate responses to many of the questions asked about quality of service. Metro will implement a marketing plan in calendar year 2012 to ensure that riders are educated and made aware about the levels of service provided. The FTA has released draft guidance that would result in transit agencies no longer having the option of using this type of attitude and awareness survey to monitor civil rights.

Beginning with the second quarter of the next calendar year Metro will initiate a new monitoring program consistent with FTA regulations. The new program will evaluate the five service standards on a route by route basis with identification of each route by its civil rights status including Title VI (higher than average minority ridership); and Environmental Justice ridership (at least 50% minority ridership or higher than average low income ridership). Future reporting on vehicle assignment and security responses will also include civil rights information. This will enable the Board and the public a much clearer view of our service and compliance with civil rights requirements. This method of measuring civil rights compliance would meet the new guidance being proposed by the FTA.

Service and Fare Equity

The reviewers found that Metro has not complied with the guidance for conducting equity analyses for service and fare changes and new guide way projects. Specifically Metro must redo the equity analysis for the June, 2011 service changes and the 2010 fare increase. In addition fare equity analyses must be conducted for the reduction in the Day Pass price, the conversion to rolling passes and changes to the Silver Line Fare Increase.

The Compliance Review noted that the equity analysis completed for the 2011 service found disparate impacts but the Board did not make the necessary findings that the alternatives to the service changes were worse, or the changes were consistent with the business plan of the agency and in the best interests of the public and the agency. These issues were discussed in the report presented to the Board, but no specific action was requested which resulted in the negative finding by the reviewers.

The regulations do not require any rollback of the service or fare changes. Metro must redo the analysis and if disparate impacts are found the Board will be asked to make the appropriate findings. Staff expects to bring the revised service equity reports to the Board at the March meeting. The fare equity reports are expected to be presented at the April meeting.

The equity analysis of the Expo Line will be completed by February and the Orange Line Chatsworth extension analysis will be completed by June. Equity analyses will also be completed for projects in the advanced planning stage including the Regional Connector, Westside Subway and Crenshaw Line. Those studies should also be complete by June.

The reviewers also noted that Metro does not have in place a specific policy to determine what types of changes are subject to an equity analysis. Staff will be conducting public outreach to help develop this policy, and it is expected that a recommended policy will be presented at the February Board meeting for approval.

The service increases and decreases scheduled to be implemented on December 11, 2011 were suspended pending a review of service equity and civil rights issues. Staff is now reviewing the planned changes in light of the regulatory and guidance clarifications we have received in the compliance review. The changes will be implemented as soon as staff can ensure that all of the necessary steps have been taken to comply with all civil rights requirements.

Limited English Proficiency

Under the Civil Rights Act, an Executive Order and FTA guidance Metro is obligated to provide language assistance to persons who have limited proficiency in the English language. The guidance requires Metro to conduct a four factor analysis of language needs and to prepare a Language Assistance Plan. Metro did prepare these documents, however the compliance review found the documents to be unresponsive to the guidance. Metro has embarked on a program to update the documents and develop a Language Assistance Plan that includes training of staff and monitoring of performance. This project is scheduled for completion by December 2012.

Other Actions

Metro is also moving forward with actions beyond the FTA directives including:

- Strengthening and clarifying designations of responsibility for civil rights;
- Increasing training for employees and consultants involved in civil rights; and
- Reviewing performance of employees and consultants involved in civil rights.

FINANCIAL IMPACT

All work associated with the civil rights activities will be funded under existing programs. A review will be conducted to determine if any transfers must be made to cover unanticipated expenses as a result of new activities required to be fully compliant with FTA regulations and guidance. No new bus or rail operating or capital costs are anticipated.

The one-time costs incurred due to the delay in implementing the December 11, 2011 service changes will be offset by the cost savings from the delay in implementing those service increases.

The civil rights work is not optional and it must be completed in the time frames we specified in the Corrective Action Plan. Staff will report back to the Board if budget adjustments are required to complete the work.

NEXT STEPS

The anticipated Board actions are summarized below:

December 2011

- Approve service standards and vehicle allocation policy

January 2012

- Approve security response policy

February 2012

- Approve definition of major service (amend administrative code)

March 2012

- Receive Service change equity Report and make findings if required

April 2012

- Receive service equity report on fare changes and make findings if required

June 2012

- Receive service equity report on new guideway projects

December 2012

- Receive Language Assistance Plan

ATTACHMENTS

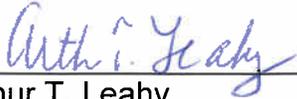
A copy of the FTA Civil Rights Compliance Review will be attached to this report if it is available at time of mail out. If the Review is not available at the time of mail out, it will be mailed out when it becomes available or provided at the Board Meeting. A copy of the Corrective Action Plan based on an early draft of the Compliance Review Report is attached.

- A. FTA Civil Rights Compliance Review (May follow as soon as available)
- B. Corrective Action Plan

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