14. Title VI Civil Rights

~~"Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., provides that no person in the United States shall, on the ground of sex, age, 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." T he Secretary of Transportation is required under 49 U.S.C. 5332(c) to take affirmative action to ensure that no person on the basis of "race, color, creed, national origin, sex or age," shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part by FTA.~~

~~The Caltrans DMT Title VI Program was developed in response to federal nondiscrimination regulations issued by the United States Department of Transportation (DOT). As described in FTA Circular 4702.1B and the Caltrans Title VI Program Plan, successful grant applicants are responsible for providing annual Title VI compliance reporting and to include subrecipients serving significant minority populations. Additional details are provided to each successful applicant in their Standard Agreement at Exhibit C.~~

~~Caltrans DMT annually certifies and assures in the grant application to FTA that the State and its local recipients are in compliance with all applicable civil rights requirements and have signed the FTA Civil Rights Assurance and the DOT Title VI Standard Assurance. In fulfillment of this assurance, the following is required of applicants/recipients:~~

- ~~*General Certifications and Assurances*: All applicants are required to make a specific assurance with regards to Title VI at the time of application submittal.~~
- ~~*Subrecipient Assurances*: Each subrecipient is required to have (on file) a signed "FTA Civil Rights Assurance" and a "DOT Title VI Assurance." Copies of these assurances are forwarded to subrecipients, along with the Caltrans Standard Agreement, for completion and signature.~~
- ~~*Subrecipient Standard Agreement*: The Standard Agreement requires compliance with Title VI by the subrecipient and any of its contractors or sub-contractors.~~
- ~~*Subrecipient Monitoring*: Caltrans staff monitors each subrecipient, with an active contract, triennially. This monitoring visit provides an opportunity to discuss any complaints the subrecipient may have received and to resolve any potential discrimination issues.~~
- ~~*Procurement*: Under the State contract, bidders are required to certify when responding~~
- ~~The *Invitation for Bid* states subrecipients will comply with all applicable federal laws and regulations. Compliance with Title VI is formatted into a separate certification and must be signed by each vendor responding to the bid.~~
- ~~A subrecipient conducting its own procurement is required to have each bidder certify that they will comply with all applicable federal laws and regulations when responding to an Invitation for Bid through the local procurement process.~~
- ~~*Meaningful Access to Limited English Proficient Persons:* subrecipients are required to make reasonable provisions to persons with limited English skills when federal funds have been used to secure vehicles or equipment.~~
- ~~*Non-Discrimination:* Subrecipients are prohibited from discriminating the use of vehicles or equipment where federal funds are involved on the basis of race, creed, national origin, sex, disability (49 U.S.C. 5332).~~

~~14.1 Annual Title VI Certification and Assurance~~

~~Each subrecipient is required to have a signed "FTA Civil Rights Assurance" and a "DOT Title VI Assurance" on file. Copies of these assurances are forwarded to subrecipients, along with the Caltrans DMT Standard Agreement, for completion and signature.~~

~~14.2 Complaint Procedures~~

~~In order to comply with 49 CFR Section 21.9(b), subrecipients 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. In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI complaint investigation and tracking procedures developed by the recipient.~~

~~The State has not received any complaints regarding the distribution of FTA funds; however, if a discrimination complaint is received by the State, the complaint procedures described in FTA Circular 4702.1B will be used. Subrecipients are required to report complaints and lawsuits in their application for funding. During the subrecipient monitoring process, complaints and lawsuits are again reviewed.~~

~~All references to FTA in this document were replaced with Caltrans DMT. In addition the following changes are made:~~

- ~~*Submission of Complaints:* For a complaint regarding the provision of transportation services, the complaint should be initially filed at the lowest level possible for resolution. Complaints are forwarded to the Caltrans DMT, Office of Business & Economic Opportunity, Equal Employment Opportunity Program, Discrimination Complaint Investigation Unit (DCIU) for jurisdiction determination, issue clarification, and investigation. Complaints are logged into a database and tracked by the DCIU. Information is also shared with the Title VI Program. Complainants are notified by DCIU of their appeal process and other options for filing complaints directly with the federal funding agency. Any deficiencies are noted, with subrecipients having 90 days to resolve the deficiency. Annual follow-ups are conducted to verify compliance. If the complainant is not satisfied with the resolution, then the complaint should be forwarded to the FTA for investigation as described in FTA Circular 4702.1B. For a complaint regarding funding decisions, the complaint should be initially directed to the Subrecipient for resolution. If the complainant is not satisfied with the resolution, then the complaint should be forwarded to the State for investigation.~~
- ~~*Filing Complaints of Discrimination*: At the State level, complaints should be submitted in writing to the Grant Program's Branch Chief, within Caltrans DMT. Complaints directed to the federal level should be submitted as described in FTA Circular 4702.1B.~~

~~14.3 Requirement to Record Title VI Investigations, Complaints, and Lawsuits~~

~~In order to comply with 49 CFR Section 21.9(b), subrecipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipient and/or subrecipient that allege discrimination on the basis of race, color, or national origin. This list shall include the date of 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 or subrecipient in response to the investigation, lawsuit, or complaint.~~

~~14.4 Limited English Proficiency~~

~~Title VI and its implementing regulations require that FTA recipients (Caltrans DMT) take 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).~~

~~14.4.1 Developing a Language Implementation Plan~~

~~Subrecipients can ensure that LEP persons have meaningful access to their programs and activities by developing and carrying out a language implementation plan pursuant to the recommendations in Section VII of the DOT LEP Guidance. Certain FTA subrecipients, such as those serving very few LEP persons or those with very limited resources may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not eliminate the underlying obligation to ensure meaningful access by LEP persons to subrecipient programs or activities. Subrecipients electing not to prepare a written language implementation plan should consider other ways to reasonably provide meaningful access. The elements of an effective implementation plan on language assistance for LEP persons can be found at section VII of Caltrans' Policy Guidance, located at 70 FR 74087 (2005).~~

~~The Caltrans Title VI Program has developed a LEP Plan; maintains the listing of Caltrans interpreters and statewide contract for telephone interpretation services; participates in triennial surveys conducted by the State Personnel Board; and provides the Title VI Liaisons with technical assistance and procedures for carrying out the LEP activities. The Caltrans DMT Title VI Program compliance reviews, mentioned above, are also an opportunity for ensuring meaningful access, and LEP activities.~~

~~Caltrans DMT emphasizes the fair treatment and meaningful involvement of people of all races, cultures, and income levels, including minority and low-income populations through its public involvement processes. Statistical data on race, color, national origin, sex, age, disability, income level, and LEP of participants in and beneficiaries of Caltrans DMT programs (e.g. affected populations and participants) is maintained by Caltrans DMT's districts and divisions and reported to the Title VI Program. The Title VI Program reviews the data to ensure Caltrans DMT is meeting the Title VI requirements. Procedures are reviewed, updated and distributed as needed. The annual report is published which includes outreach activities. The Title VI Program sends out guidelines on how to conduct the public participation surveys at public outreach meetings. Additional information can be found on the Caltrans LEP website.~~

~~14.5 Requirement to Notify Beneficiaries of Protection under Title VI~~

~~In order to comply with 49 CFR Section 21.9(d), subrecipients 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. Subrecipients that provide transit service shall disseminate this information to the public through measures that can include but shall not be limited to a posting on the agency's Web site.~~

~~14.5.1 Contents~~

~~The notice shall include:~~

- ~~A statement that the agency operates programs without regard to race, color, and national origin;~~
- ~~A description of the procedures that members of the public should follow in order to request additional information on the subrecipient's nondiscrimination obligations; and~~
- ~~A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient or subrecipient.~~

~~14.5.2 Effective Practices for Fulfilling the Notification Requirement~~

~~In complying with the above requirements, recipients and subrecipients should keep the following guidance in mind:~~

- ~~Dissemination. Agencies may inform the public of their rights under Title VI through such measures as posters, comment cards, or flyers placed at stations and in transit vehicles. The type, timing, and frequency of these measures are at the recipient's or subrecipient's discretion.~~
- ~~General notification. Agencies may include a statement of nondiscrimination on the basis of race, color, and national origin as part of a broader statement of its commitment to nondiscriminatory~~

~~service. This broader statement can also include a commitment to nondiscrimination on the basis of characteristics not covered by Title VI, such as age, gender, and disability.~~

- ~~Document translation. Notices detailing a recipient's or subrecipient's Title VI obligations and complaint procedures should be translated into languages other than English, as needed and consistent with the DOT LEP Guidance.~~
- ~~Subrecipients. In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI Notice developed by the recipient; however, subrecipients should notify their beneficiaries that they may file discrimination complaints directly with the subrecipient.~~

~~14.6 Requirement to Provide Additional Information upon Request~~

~~At the discretion of FTA, information other than that required in FTA Circular 4702.1B, may be requested, in writing, from a recipient or subrecipient to investigate complaints of discrimination or to resolve concerns about possible noncompliance with Title VI.~~

~~14.7 Requirement to Prepare and Submit a Title VI Program~~

~~To ensure compliance with 49 CFR Section 21.9(b), FTA requires that Caltrans DMT document their compliance with the program-specific requirements in FTA Circular 4702.1B and submit to FTA a Title VI program that also includes documentation of compliance with the general reporting requirements in Chapter IV, General Requirements and Guidelines. This program shall be submitted once every three years on or prior to a date arranged by FTA.~~

~~14.7.1 Contents~~

~~Caltrans DMT, to which this chapter applies, shall include the following information in their compliance report:~~

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

~~14.7.2 Eliminating Redundancy~~

~~If, prior to the deadline for subsequent reporting periods, the State DOT or administrating agency has not altered its procedures for certifying that the statewide planning process complies with Title VI, its description of the procedures the agency uses to pass-through FTA financial assistance in a non-discriminatory manner, its description of the procedures the agency uses to provide assistance to potential subrecipients applying for funding in a non-discriminatory manner, or its description of how the agency monitors its subrecipients for compliance, the agency should submit a statement to this effect in lieu of copies of the original documents.~~

~~14.8 Guidance on Conducting an Analysis of Construction Projects~~

~~In order to integrate, into environmental analyses, considerations expressed in the DOT Order on Environmental Justice, subrecipients should integrate an environmental justice analysis into their NEPA documentation of construction projects (subrecipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required.). Recipients preparing documentation for a categorical exclusion (CE) can meet this requirement by completing and submitting FTA's standard CE checklist, which includes a section on community disruption and environmental justice. FTA recommends~~

~~that recipients preparing an environmental assessment (EA) or EIS integrate into their documents the following components:~~

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

~~14.9 Guidance on Promoting Inclusive Public Participation~~

~~In order to integrate, into community outreach activities, considerations expressed in the DOT Order on Environmental Justice, and the DOT LEP Guidance, recipients and subrecipients 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.~~

~~14.9.1 Effective Practices for Fulfilling the Inclusive Public Participation Requirement~~

~~Recipients and subrecipients have wide latitude to determine how, when, and how often specific public involvement measures should take place, and what specific measures are most appropriate. Recipients should make these determinations based on the composition of the population affected by the recipient's action, the type of public involvement process planned by the recipient, and the resources available to the agency. Efforts to involve minority and low-income people in public involvement activities can include both comprehensive measures, such as placing public notices at all stations and in all vehicles, and measures targeted to overcome linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and low-income people and populations from effectively participating in a recipient's decision-making process. Effective practices include:~~

- ~~Coordinating with individuals, institutions, or organizations and implementing community-based public involvement strategies to reach out to members in the affected minority and/or low-income communities.~~
- ~~Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.~~
- ~~Using locations, facilities, and meeting times that are convenient and accessible to low-income and minority communities.~~
- ~~Using different meeting sizes or formats, or varying the type and number of news media used to announce public participation opportunities, so that communications are tailored to the particular community or population.~~

- ~~Implementing DOT's policy guidance concerning recipients' responsibilities to LEP persons to overcome barriers to public participation.~~

~~14.9.2 Minority and Low-Income Assistance~~

~~Caltrans DMT maintains a mailing list of all agencies which have shown an interest in their programs, including past and current recipients. Extensive outreach is conducted when a new application cycle is announced. MPOs and RTPA's provide further outreach and distribution in their areas. FTA provides a Training Overview for FTA Funding Recipients. For additional information, see the FTA Introduction to Title VI Civil Rights Act PowerPoint which discusses Title VI and LEP responsibilities.~~

~~14.10 Public Notification~~

~~Title VI public notification is provided in various ways. EEO posters are displayed statewide and are posted in public areas. The Title VI Program encourages Caltrans DMT Title VI Liaisons to distribute the Title VI brochure entitled, Caltrans DMT and You, Your Rights Under Title VI and Related Statutes, to its customers and at public meetings/events. The Standard Agreement Exhibit C, No. 28, requires compliance with all federal statutes and regulations, including Title VI. Title VI is discussed during workshops and is part of the application process and is in the Summary of General Certifications and Assurances. Subrecipients display Title VI posters in their offices and on their buses and many also participate in Title VI training, which is recommended, but not mandated.~~

~~14.11 Annual Reviews~~

~~Caltrans DMT Title VI Program conducts annual reviews of its divisions and program area activities, twelve district offices, and subrecipients. In addition, the Title VI Program participates in pre-grant approval reviews for compli*ance with Title VI compliance and pro*vides FTA with an annual report of Title VI accomplishments and goals including an annual update to the Title VI Program Plan. The Title VI Program Plan focuses on functional areas with significant public contact responsibilities and provides policy direction necessary to ensure compliance with Title VI. The Title VI Program meets quarterly with the Title VI Liaisons to discuss Title VI issues and provide updates. Additional information can be obtained at Caltrans DMT External Equal Opportunity web page.~~

Section 601 of Title VI of the Civil Rights Act of 1964 states the following:

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.

The Civil Rights Restoration Act of 1987 clarified the broad, institution-wide application of Title VI. Title VI covers all of the operations of covered entities without regard to whether specific portions of the covered program or activity are Federally funded. The term "program or activity" means all of the operations of a department, agency, special purpose district, or government; or the entity of such State or local government that distributes such assistance and each such department or agency to which the assistance is extended, in the case of assistance to a State or local government.

Therefore, compliance with the FTA Circular 4702.1B does not relieve a subrecipient from the requirements and responsibilities of the DOT Title VI regulation at 49 CFR Part 21, or any other requirements under other Federal agencies' Title VI regulations, as applicable. The FTA Circular 4702.1B only provides guidance on the **transit-related aspects of an entity's activities**. Subrecipients are responsible for ensuring that all of their activities are in compliance with Title VI. In other words, a

subrecipient may engage in activities not described in the Circular, such as ridesharing programs, roadway incident response programs, or other programs not funded by FTA, and **those programs must also be administered in a nondiscriminatory manner.**

The U.S. Department of Justice ("DOJ") Title VI regulations can be found at 28 CFR § 42.401 *et seq*., and 28 CFR § 50.3. The U.S. Department of Transportation ("DOT") Title VI implementing regulations can be found at 49 CFR Part 21.

All programs receiving financial assistance from FTA are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and DOT's implementing regulations. In addition, DOJ's regulations require agencies such as DOT to issue guidelines to recipients to provide detailed information on the requirements of Title VI. In order to assist recipients in carrying out the provisions of DOT's Title VI regulations, each of the requirements in the FTA Circular 4702.1B includes a reference to the corresponding provision of 49 CFR Part 21.

The Caltrans DMT Title VI Program was developed in response to federal nondiscrimination regulations issued by the United States Department of Transportation (DOT). As described in FTA Circular 4702.1B and the Caltrans Title VI Program Plan, successful grant applicants are responsible for providing annual Title VI compliance reporting and to include subrecipients serving significant minority populations. Additional details are provided to each successful applicant in their Standard Agreement at Exhibit C.

The following is required of applicants/subrecipients to ensure that their programs, policies, and activities comply with DOT's Title VI regulations:

14.1 Requirement to Provide Title VI Assurances

In accordance with 49 CFR Section 21.7(a), every application for financial assistance from FTA must be accompanied by an assurance that the applicant will carry out the program in compliance with DOT's Title VI regulations. This requirement shall be fulfilled when the applicant/subrecipient submits its annual certifications and assurances to Caltrans DMT. Caltrans DMT collects annual certifications and assurances from subrecipients prior to passing through FTA funds. The annual certifications and assurances is available on Caltrans DMT's website.

14.2 Requirements for First-Time Applicants

First-time applicants must submit a Title VI Program that is compliant with the FTA Circular 4702.1B, and submit an assurance (as noted in Section 14.1 above) that it will comply with Title VI. In addition, and consistent with 28 CFR §50.3, entities applying for FTA funding for the first time shall provide information regarding their Title VI compliance history if they have previously received funding from another Federal agency. This shall include a copy of any Title VI compliance review activities conducted in the previous three years. The summary shall include:

a. The purpose or reason for the review.
b. The name of the agency or organization that performed the review.
c. A summary of the findings and recommendations of the review.
d. A report on the status and/or disposition of such findings and recommendations. This information shall be relevant to the organizational entity actually submitting the application, not necessarily the larger agency or department of which the entity is a part.

In addition, first-time applicants shall submit a brief description of any pending application to other Federal agencies for assistance, and whether any Federal agency has found the applicant to be in noncompliance with any civil rights requirement.

14.3 Requirement to Prepare and Submit A Title VI Program

Title 49 CFR Section 21.9(b) requires recipients to "keep such records and submit to the Secretary timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this [rule]." FTA requires that all direct and primary recipients such as Caltrans DMT document their compliance with DOT's Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. For all subrecipients, the Title VI Program must be approved by Caltrans DMT prior to submission to FTA. For State DOTs, the appropriate governing entity is the State's Secretary of Transportation or equivalent. Recipients shall submit a copy of the board resolution, meeting minutes, or similar documentation with the Title VI Program as evidence that the board of directors or appropriate governing entity or official(s) has approved the Title VI Program. FTA will review and concur or request the recipient provide additional information. Subrecipients shall submit Title VI Programs to the primary recipient from whom they receive funding in order to assist the primary recipient in its compliance efforts. Such Programs may be submitted and stored electronically at the option of the primary recipient. Subrecipients may choose to adopt the primary recipient's notice to beneficiaries, complaint procedures and complaint form, public participation plan, and language assistance plan where appropriate. Operational differences between the primary recipient and subrecipient may require, in some instances, that the subrecipient tailor its language assistance plan. **Subrecipients shall develop and submit to the primary recipient a list of complaints, investigations, or lawsuits. Subrecipients that have transit-related non-elected planning boards, advisory councils, or committees, the membership of which is selected by the subrecipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees. Subrecipients must submit all the above information to the primary recipient on a schedule requested by the primary recipient. Collection and storage of subrecipient Title VI Programs may be electronic at the option of the primary recipient.**

14.3.1 Contents

Every Title VI Program must include the following information:

1. A copy of the subrecipient's Title VI notice to the public that indicates the subrecipient complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI. Include a list of locations where the notice is posted. A sample Title VI notice is in Appendix 49.
2. A copy of the subrecipient's instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form. Sample complaint procedures are in Appendix 50, and a sample Title VI complaint form is in Appendix 51.
3. A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the subrecipient since the time of the last submission. See Appendix 52 for an example of how to report this information. This list should include only those investigations, complaints, or lawsuits that pertain to allegations of discrimination on the basis of **race, color, and/or national origin in transit-related activities and programs and that pertain to the subrecipient submitting the report,** not necessarily the larger agency or department of which the subrecipient is a part.
4. A public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program submission. A subrecipient's targeted public participation plan for minority populations may be part of efforts that extend more broadly to include other constituencies that are traditionally underserved, such as people with disabilities, low-income populations, and others.

5. A copy of the subrecipient's plan for providing language assistance to persons with limited English proficiency, based on the DOT LEP Guidance.
6. Subrecipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or councils.
7. Caltrans DMT must include a narrative or description of efforts the DMT uses to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI program submissions.
8. If the subrecipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., the subrecipient shall include a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility.
9. Additional information as specified in chapters IV, V, and VI of the FTA Circular 4702.1B, depending on whether the recipient is a fixed route transit provider, a State, or an MPO.

14.4 Requirement to Notify Beneficiaries of Protection under Title VI

Title 49 CFR Section 21.9(d) requires subrecipients to provide information to the public regarding the subrecipient's obligations under DOT's Title VI regulations and apprise members of the public of the protections against discrimination afforded to them by Title VI. **At a minimum, subrecipients shall disseminate this information to the public by posting a Title VI notice on the agency's website and in public areas of the agency's office(s), including the reception desk, meeting rooms, etc. Subrecipients should also post Title VI notices at stations or stops, and/or on transit vehicles.** A sample Title VI notice to the public is provided in Appendix 49.

14.4.1 Contents

The Title VI notice shall include:

1. A statement that the agency operates programs without regard to **race, color, or national origin**.
2. A description of the procedures that members of the public should follow in order to request additional information on the subrecipient's Title VI obligations.
3. A description of the procedures that members of the public shall follow in order to file a Title VI discrimination complaint against the subrecipient.

14.4.2 Effective Practices for Fulfilling the Notification Requirement

1. Dissemination - Agencies shall inform the public of their rights under Title VI through such measures as posting the Title VI notice on posters, comment cards, or flyers placed at stations, bus shelters, and in transit vehicles. The type, timing, and frequency of these measures are at the recipient's discretion, as long as the type, timing, and frequency are sufficient to notify passengers and other interested persons of their rights under DOT's Title VI regulations with regard to the recipient's program.
2. Document translation - Notices detailing a recipient's Title VI obligations and complaint procedures shall be translated into languages other than English, as needed and consistent with the DOT LEP Guidance and the recipient's language assistance plan.
3. Subrecipients - In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI Notice developed by the primary recipient; however, subrecipients shall notify passengers and other interested persons that they may file discrimination complaints directly with the subrecipient.

14.5 Requirement to Develop Title VI Complaint Procedures and Complaint Form

In order to comply with the reporting requirements established in 49 CFR Section 21.9(b), all subrecipients 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. Subrecipients must also develop a Title VI complaint form, and the form and procedure for filing a complaint shall be available on the subrecipient's website. FTA requires direct and primary recipients to report information regarding their complaint procedures in their Title VI Programs in order for FTA to determine compliance with DOT's Title VI regulations. In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI complaint investigation and tracking procedures and complaint form developed by the primary recipient. Sample complaint procedure and complaint forms are located in Appendices 50 and 51.

14.6 Requirement to Record and Report Transit-Related Title VI Investigations, Complains, and Lawsuits

In order to comply with the reporting requirements of 49 CFR Section 21.9(b), FTA requires all recipients to prepare and maintain a list of any of the following that allege discrimination on the basis of race, color, or national origin: active investigations conducted by entities other than FTA; lawsuits; and complaints naming the subrecipient. 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 subrecipient in response, or final findings related to, the investigation, lawsuit, or complaint. This list shall be included in the Title VI Program submitted to FTA every three years. See Appendix 52 for an example of how to report this information.

14.7 Promoting Inclusive Public Participation

The content and considerations of Title VI, the Executive Order on LEP, and the DOT LEP Guidance shall be integrated into each subrecipient's established public participation plan or process (i.e., the document that explicitly describes the proactive strategies, procedures, and desired outcomes that underpin the subrecipient's public participation activities). Subrecipients have wide latitude to determine how, when, and how often specific public participation activities should take place, and which specific measures are most appropriate. Subrecipients should make these determinations based on a demographic analysis of the population(s) affected, the type of plan, program, and/or service under consideration, and the resources available. Efforts to involve minority and LEP populations in public participation activities can include both comprehensive measures, such as placing public notices at all transit stations, stops, and vehicles, as well as targeted measures to address linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and LEP persons from effectively participating in a subrecipient's decision-making process. FTA has developed a Circular, 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," that includes many examples of effective strategies for engaging minority and low-income populations. FTA encourages subrecipients to review that Circular for ideas when developing their public engagement strategy. Some of those effective practices include:

a. Scheduling meetings at times and locations that are convenient and accessible for minority and LEP communities.
b. Employing different meeting sizes and formats.
c. Coordinating with community- and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach out specifically to members of affected minority and/or LEP communities.
d. Considering radio, television, or newspaper ads on stations and in publications that serve LEP populations. Outreach to LEP populations could also include audio programming available on podcasts.

e. Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.

Grant recipients are required to comply with the public participation requirements of 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). FTA/FHWA (Federal Highway Administration) joint planning regulations (23 CFR part 450) require States and MPOs engaged in planning activities to seek out and consider the needs and input of the general public, including interested parties and those traditionally underserved by existing transportation systems, such as minority and LEP persons, who may face challenges accessing employment and other services, as States and MPOs develop and conduct their public involvement activities. Subrecipients engaged in planning and other decision-making activities at the local level should consider the principles embodied in the planning regulations, and develop and use a documented public participation plan or process that provides adequate notice of public participation activities, as well as early and continuous opportunities for public review and comment at key decision points.

14.8 Requirement to Provide Meaningful Access to LEP Persons

Consistent with Title VI of the Civil Rights Act of 1964, DOT's implementing regulations, and Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency" (65 FR 50121, Aug. 11, 2000), subrecipients shall take reasonable steps to ensure meaningful access to benefits, services, information, and other important portions of their programs and activities for individuals who are limited-English proficient (LEP). The FTA Circular 4702.1B contains only a summary of the LEP requirements as they apply to FTA subrecipients; subrecipients are encouraged to review DOT's LEP guidance for additional information (70 FR 74087, Dec. 14, 2005) http://www.gpo.gov/fdsys/pkg/FR-2005-12-14/pdf/05-23972.pdf. Subrecipients are also encouraged to review DOJ's guidelines on self-assessment, Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs (May 2011), as well as other materials, available at www.lep.gov.

14.8.1 Four Factor Analysis

In order to ensure meaningful access to programs and activities, subrecipients shall use the information obtained in the Four Factor Analysis to determine the specific language services that are appropriate to provide. A careful analysis can help a subrecipient determine if it communicates effectively with LEP persons and will inform language access planning. The Four Factor Analysis is an individualized assessment that balances the following four factors:

1. **The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient.** This population will be program-specific. In addition to the number or proportion of LEP persons served, the subrecipient's analysis should, at a minimum, identify:
   a. How LEP persons interact with the subrecipient agency;
   b. Identification of LEP communities, and assessing the number or proportion of LEP persons from each language group to determine the appropriate language services for each language group;
   c. The literacy skills of LEP populations in their native languages, in order to determine whether translation of documents will be an effective practice; and
   d. Whether LEP persons are underserved by the subrecipient due to language barriers.
2. **The frequency with which LEP persons come into contact with the program.** Subrecipients should survey key program areas and assess major points of contact with the public, such as:
   a. Use of bus and rail service;
   b. Purchase of passes and tickets through vending machines, outlets, websites, and over the phone;
   c. Participation in public meetings;

d. Customer service interactions;
e. Ridership surveys;
f. Operator surveys.

3. **The nature and importance of the program, activity, or service provided by the program to people's lives**. Generally speaking, the more important the program, the more frequent the contact and the likelihood that language services will be needed. The provision of public transportation is a vital service, especially for people without access to personal vehicles. An MPO's regional planning activities will impact every person in a region. Development of a coordinated plan to meet the specific transportation needs of seniors and people with disabilities will often also meet the needs of LEP persons. A person who is LEP may have a disability that prevents the person from using fixed route service, thus making the person eligible for ADA complementary paratransit. Transit providers, States, and MPOs must assess their programs, activities and services to ensure they are providing meaningful access to LEP persons. Facilitated meetings with LEP persons are one method to inform the recipient on what the local LEP population considers to be an essential service, as well as the most effective means to provide language assistance.
4. **The resources available to the subrecipient for LEP outreach, as well as the costs associated with that outreach**. Resource and cost issues can often be reduced by technological advances, reasonable business practices, and the sharing of language assistance materials and services among and between subrecipients, advocacy groups, LEP populations and Federal agencies. Large entities and those entities serving a significant number of LEP persons should ensure that their resource limitations are well substantiated before using this factor as a reason to limit language assistance.

14.8.2 Developing a Language Assistance Plan

After completing the Four Factor Analysis, the subrecipient shall use the results of the analyses to determine which language assistance services are appropriate. Additionally, the subrecipient shall develop an assistance plan to address the identified needs of the LEP population(s) it serves. The DOT LEP Guidance recognizes that certain subrecipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written plan. However, FTA has determined it is necessary to require its subrecipients to develop an assistance plan in order to ensure compliance. A subrecipient may formally request an exemption from this requirement if it believes it fits within the exception described.

Subrecipients have considerable flexibility in developing a Language Assistance Plan, or LEP Plan. An LEP Plan shall, at a minimum:

a. Include the results of the Four Factor Analysis, including a description of the LEP population(s) served;
b. Describe how the subrecipient provides language assistance services by language;
c. Describe how the subrecipient provides notice to LEP persons about the availability of language assistance;
d. Describe how the subrecipient monitors, evaluates and updates the language access plan; and
e. Describe how the subrecipient trains employees to provide timely and reasonable language assistance to LEP populations.

After completing the Four Factor Analysis, a subrecipient may determine that an effective LEP plan for its community includes the translation of vital documents into the language of each frequently encountered LEP group eligible to be served and/or likely to be affected by the subrecipient's programs and services. 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. Failure to translate these vital documents could result in a subrecipient denying an eligible LEP person access to services and discrimination on the basis of national origin.

14.8.3 Safe Harbor Provision

DOT has adopted DOJ's Safe Harbor Provision, which outlines circumstances that can provide a "safe harbor" for recipients regarding translation of written materials for LEP populations. The Safe Harbor Provision stipulates that, if a subrecipient provides written translation of vital documents for each eligible 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, then such action will be considered strong evidence of compliance with the subrecipient's written translation obligations. Translation of non-vital documents, if needed, can be provided orally. If there are fewer than 50 persons in a language group that reaches the five percent (5%) trigger, the subrecipient is not required to translate vital written materials but 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.

These safe harbor provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable. A subrecipient may determine, based on the Four Factor Analysis, that even though a language group meets the threshold specified by the Safe Harbor Provision, written translation may not be an effective means to provide language assistance measures. For example, a subrecipient may determine that a large number of persons in that language group have low literacy skills in their native language and therefore require oral interpretation. In such cases, background documentation regarding the determination shall be provided to FTA in the Title VI Program.

14.9 Minority Representation on Planning and Advisory Bodies

Title 49 CFR Section 21.5(b)(1)(vii) states that a subrecipient may not, on the grounds of race, color, or national origin, "deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program." Subrecipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar committees, the membership of which is selected by the subrecipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees.

14.10 Providing Assistance to Subrecipients

Title 49 CFR Section 21.9(b) states that if "a primary recipient extends Federal financial assistance to any other recipient, such subrecipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part." Primary recipients should assist their subrecipients in complying with DOT's Title VI regulations, including the general reporting requirements. Assistance shall be provided to the subrecipient as necessary and appropriate by the primary recipient. Primary recipients should provide the following information to subrecipients; such information, forms, and data may be kept in a central repository and available for all subrecipients:

a. Sample notices to the public informing beneficiaries of their rights under DOT's Title VI regulations, procedures on how to file a Title VI complaint, and the recipient's Title VI complaint form.
b. Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient, and when the primary recipient expects the subrecipient to notify the primary recipient of complaints received by the subrecipient.

c. Demographic information on the race and English proficiency of residents served by the subrecipient. This information will assist the subrecipient in assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.
d. Any other recipient-generated or obtained data, such as travel patterns, surveys, etc., that will assist subrecipients in complying with Title VI.

14.11 Monitoring Subrecipients

In accordance with 49 CFR 21.9(b), and to ensure that subrecipients are complying with the DOT Title VI regulations, primary recipients must monitor their subrecipients for compliance with the regulations. Importantly, if a subrecipient is not in compliance with Title VI requirements, then the primary recipient is also not in compliance.

a. In order to ensure the primary and subrecipient are in compliance with Title VI requirements, the primary recipient shall undertake the following activities:
    1) Document its process for ensuring that all subrecipients are complying with the general reporting requirements of this circular, as well as other requirements that apply to the subrecipient based on the type of entity and the number of fixed route vehicles it operates in peak service if a transit provider.
    2) Collect Title VI Programs from subrecipients and review programs for compliance. Collection and storage of subrecipient Title VI Programs may be electronic at the option of the primary recipient.
    3) At the request of FTA, in response to a complaint of discrimination, or as otherwise deemed necessary by the primary recipient, the primary recipient shall request that subrecipients who provide transportation services verify that their level and quality of service is provided on an equitable basis. Subrecipients that are fixed route transit providers are responsible for reporting as outlined in Chapter IV of the FTA Circular 4702.1B.

b. When a subrecipient is also a direct recipient of FTA funds, that is, applies for funds directly from FTA in addition to receiving funds from a primary recipient, the subrecipient/direct recipient reports directly to FTA and the primary recipient/designated recipient is not responsible for monitoring compliance of that subrecipient. The supplemental agreement signed by both entities in their roles as designated recipient and direct recipient relieves the primary recipient/designated recipient of this oversight responsibility.

14.12 Determination of Site or Location of Facilities

Title 49 CFR Section 21.9(b)(3) states, "In determining the site or location of facilities, a subrecipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part." Title 49 CFR part 21, Appendix C, Section (3)(iv) provides, "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." For purposes of this requirement, "facilities" does not include bus shelters, nor does it include transit stations, power substations, etc., as those are evaluated during project development and the NEPA process. Facilities included in this provision include, but are not limited to, storage facilities, maintenance facilities, operations centers, etc. In order to comply with the regulations:

a. The subrecipient shall complete a Title VI equity analysis during the planning stage with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin. Subrecipients shall engage in outreach to persons potentially impacted by the siting

of facilities. The Title VI equity analysis must compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site.

b. When evaluating locations of facilities, recipients should give attention to other facilities with similar impacts in the area to determine if any cumulative adverse impacts might result. Analysis should be done at the Census tract or block group where appropriate to ensure that proper perspective is given to localized impacts.

c. If the subrecipient determines that the location of the project will result in a disparate impact on the basis of race, color, or national origin, the subrecipient may only locate the project in that location if there is a substantial legitimate justification for locating the project there, and where there are no alternative locations that would have a less disparate impact on the basis of race, color, or national origin. The recipient must show how both tests are met; it is important to understand that in order to make this showing, the recipient must consider and analyze alternatives to determine whether those alternatives would have less of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative.

14.13 Requirement to Provide Additional Information upon Request

FTA may request, at its discretion, information other than that required by the FTA Circular 4702.1B from a recipient/subrecipient in order for FTA to investigate complaints of discrimination or to resolve concerns about possible noncompliance with DOT's Title VI regulations.

14.14 Requirements and Guidelines for Fixed Route Transit Providers

The requirements described in this section apply to all providers of fixed route public transportation (also referred to as transit providers) that receive Federal financial assistance, inclusive of States, local and regional entities, and public and private entities. Contractors are responsible for following the Title VI Program(s) of the transit provider(s) with whom they contract. Transit providers that are subrecipients will submit the information required in this chapter to their primary recipient (the entity from whom they directly receive transit funds) every three years on a schedule determined by the primary recipient. Direct and primary recipients will submit the information required in this chapter to FTA every three years

All transit providers—whether direct recipients, primary recipients or subrecipients—that receive financial assistance from FTA are also responsible for following the general requirements in Chapter III of the FTA circular 4702.1B. The requirements in this section are scaled based on the size of the fixed route transit provider.

Providers of public transportation that only operate demand response service are responsible only for the requirements in Chapter III of the FTA circular 4702.1B. Demand response includes general public paratransit, Americans with Disabilities Act complementary paratransit, vanpools, and Section 5310 non-profits that serve only their own clientele (closed door service). Providers of public transportation that operate fixed route and demand response service, or only fixed route service, are responsible for the reporting requirements in this chapter, but these requirements only apply to fixed route service.

14.14.1 Requirement to Set System-Wide Service Standard and Policies

These requirements apply to all fixed route providers of public transportation service. Title 49 CFR Section 21.5 states the general prohibition of discrimination on the grounds of race, color, or national origin. Section 21.5(b)(2) specifies that a recipient shall not "utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin." Section 21.5(b)(7) requires recipients to "take affirmative action to assure that no person is excluded from participation in or denied the benefits of the program or activity on the grounds of race, color, or national origin." Finally,

Appendix C to 49 CFR part 21 provides in Section (3)(iii) that "[n]o person or group of persons shall be discriminated against with regard to the routing, scheduling, or quality of service of transportation service furnished as a part of the project on the basis of race, color, or national origin. Frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and location of routes may not be determined on the basis of race, color, or national origin."

All fixed route transit providers shall set service standards and policies for each specific fixed route mode of service they provide. Fixed route modes of service include but are not limited to, local bus, express bus, commuter bus, bus rapid transit, light rail, subway, commuter rail, passenger ferry, etc. These standards and policies must address how service is distributed across the transit system, and must ensure that the manner of the distribution affords users access to these assets.

These system-wide service standards differ from any standards set by the APTA Standards Development Program and other standards development organizations (SDOs), in that they will be set by individual transit providers and will apply agency-wide rather than industry-wide. Providers of fixed route public transportation shall also adopt system-wide service policies to ensure service design and operations practices do not result in discrimination on the basis of race, color, or national origin. Service policies differ from service standards in that they are not necessarily based on a quantitative threshold.

14.14.2 Effective Practices to Fulfill the Service Standard Requirement.

FTA requires all fixed route transit providers to develop quantitative standards for all fixed route modes of operation for the indicators listed below. Providers of public transportation may set additional standards as appropriate or applicable to the type of service they provide. See Appendix 53 for an example of how to report this information.

1. Vehicle load for each mode. Vehicle load can be expressed as the ratio of passengers to the total number of seats on a vehicle. For example, on a 40-seat bus, a vehicle load of 1.3 means all seats are filled and there are approximately 12 standees. A vehicle load standard is generally expressed in terms of peak and off-peak times. Transit providers that operate multiple modes of transit must describe the specific vehicle load standards for peak and off-peak times for each mode of fixed route transit service (i.e., bus, express bus, bus rapid transit, light rail, heavy rail, commuter rail, passenger ferry, etc., as applicable), as the standard may differ by mode.
2. Vehicle headway for each mode. Vehicle headway is the amount of time between two vehicles traveling in the same direction on a given line or combination of lines. A shorter headway corresponds to more frequent service. Vehicle headways are measured in minutes (e.g., every 15 minutes); service frequency is measured in vehicles per hour (e.g., 4 buses per hour). Headways and frequency of service are general indications of the level of service provided along a route. Vehicle headway is one component of the amount of travel time expended by a passenger to reach his/her destination. A vehicle headway standard is generally expressed for peak and off-peak service as an increment of time (e.g., peak: every 15 minutes; and off peak: every 30 minutes). Transit providers may set different vehicle headway standards for different modes of transit service. A vehicle headway standard might establish a minimum frequency of service by area based on population density. For example, service at 15- minute peak headways and 30-minute off-peak headways might be the standard for routes serving the most densely populated portions of the service area, whereas 30- minute peak headways and 45-minute off-peak headways might be the standard in less densely populated areas. Headway standards are also typically related to vehicle load. For 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 measure of runs completed as scheduled. This criterion first must define what is considered to be "on time." For example, a transit provider may consider it acceptable if a vehicle completes a scheduled run between zero and five

minutes late in comparison to the established schedule. 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. Some transit providers set an on-time performance standard that prohibits vehicles from running early (i.e., ahead of schedule) while others allow vehicles to run early within a specified window of time (e.g., up to five minutes ahead of schedule). An acceptable level of performance must be defined (expressed as a percentage). The percentage of runs completed system-wide or on a particular route or line within the standard must be calculated and measured against the level of performance for the system. For example, a transit provider might define on-time performance as 95 percent of all runs system-wide or on a particular route or line completed within the allowed "on-time" window.

4. Service availability for each mode. Service availability is a general measure of the distribution of routes within a transit provider's service area. For example, a transit provider might set a service standard to distribute routes such that a specified percentage of all residents in the service area are within a one-quarter mile walk of bus service or a one-half mile walk of rail service. A standard might also indicate the maximum distance between stops or stations. These measures related to coverage and stop/station distances might also vary by population density. For example, in more densely populated areas, the standard for bus stop distance might be a shorter distance than it would be in less densely populated areas, and the percentage of the total population within a one-quarter mile walk of routes or lines might be higher in more densely populated areas than it would be in less densely populated areas. Commuter rail service or passenger ferry service availability standards might include a threshold of residents within a certain driving distance as well as within walking distance of the stations or access to the terminal.

14.14.3 Effective Practices to Fulfill Service Policy Requirement

FTA requires fixed route transit providers to develop a policy for each of the following service indicators. Transit providers may set policies for additional indicators as appropriate. See Appendix 54 for an example of how to report this information.

1. Distribution of transit amenities for each mode. Transit amenities refer to items of comfort, convenience, and safety that are available to the general riding public. Fixed route transit providers must set a policy to ensure equitable distribution of transit amenities across the system. Transit providers may have different policies for the different modes of service that they provide. Policies in this area address how these amenities are distributed within a transit system, and the manner of their distribution determines whether transit users have equal access to these amenities. This subparagraph is not intended to impact funding decisions for transit amenities. Rather, this subparagraph applies after a transit provider has decided to fund an amenity.

   This policy does not apply to transit providers that do not have decision-making authority over the siting of transit amenities. Transit providers are not responsible for setting a policy for transit amenities that are solely sited by a separate jurisdiction (e.g., a city, town, or county) unless the transit provider has the authority to set policies to determine the siting of these amenities. Transit providers are responsible for setting a policy for transit amenities that are installed under a contract between the transit provider and a private entity. In these cases, the transit provider shall communicate its service policy to the private entity.

   Transit providers shall submit their siting policy where the definition of transit amenities includes but is not limited to:
   a. Seating (i.e., benches, seats at stops/stations)
   b. Bus and rail shelters and rail platform canopies
   c. Provision of information:

i. Printed signs, system maps, route maps, and schedules.
ii. Digital equipment such as next vehicle arrival time signs along bus routes and at fixed guideway stations (i.e., electronic signage that depicts when a transit vehicle will next arrive at the station or stop).

d. Escalators
e. Elevators
f. Waste receptacles (including trash and recycling)

2. Vehicle assignment for each mode. Vehicle assignment refers to the process by which transit vehicles are placed into service in depots and on routes throughout the transit provider's system. Policies for vehicle assignment may be based on the age of the vehicle, where age would be a proxy for condition. For example, a transit provider could set a policy to assign vehicles to depots so that the age of the vehicles at each depot does not exceed the system-wide average. The policy could also be based on the type of vehicle. For example, a transit provider may set a policy to assign vehicles with more capacity to routes with higher ridership and/or during peak periods. The policy could also be based on the type of service offered. For example, a transit provider may set a policy to assign specific types of vehicles to express or commuter service. Transit providers deploying vehicles equipped with technology designed to reduce emissions could choose to set a policy for how these vehicles will be deployed throughout the service area.