Federal Civil Rights Requirements

Monica McCallum, FTA
Shoshanah Oppenheim, Portland Bureau of Transportation
Jeremy Ferguson, TriMet
Welcome!

*Agenda:*

1. Civil Rights in Transit
2. Overview of FTA Civil Rights Requirements
   - DBE
   - Title VI
   - ADA
3. Putting It Together
What is Civil Rights for transit?

- Passengers segregated by race
- 75% of Montgomery bus riders were black
- December 1, 1955, Rosa Parks refused to give up her seat
- Boycott lasted 381 days
- Civil Rights act of 1964 – July 2, 1964
Civil Rights Act of 1964

Signed into law by President Johnson on July 2, 1964

- Barred discrimination in:
  - Voter registration (Title I)
  - Public Accomodations (Title II)
  - State and Municipal Public Facilities (Title III)
  - Schools (Title IV)
  - Programs & Activities Receiving Federal Funding (Title VI)
  - Employment (Title VII)
Civil Rights Applies to Recipients & Subrecipients

• **Recipient:**
  • State DOT
  • Transit Agency
  • Any public or private agency, institution, department or other organizational unit receiving funding from FTA

• **Subrecipient:**
  • Any entity that receives FTA financial assistance as a pass-through from another entity
Title VI

“No person in the United States shall, on the grounds 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.”

42 U.S.C § 2000d, et seq
Title VI - Requirements and Guidelines

“The Circular”

FTA Title VI Circular 4702.1A

General Title VI Requirements

1. Public Outreach
2. LEP plan
3. Procedures for Title VI complaints
4. Title VI investigations, complaints, or lawsuits
5. Title VI notice to the public
   • instructions on how to file a complaint
   • How to request further information
Guidelines included in the circular

• Title VI Circular describes:
  • Procedures for:
    • Investigating complaints
    • Recording complaints, investigations, and lawsuits
    • Notifying the public of their rights
    • Conducting EJ analysis in NEPA
    • Strategies for including Minority, Low-Income and LEP (Limited English Proficiency) persons in public transportation decisionmaking processes
    • Ensuring meaningful (language) access for LEP persons
www.fta.dot.gov/civil_rights.html

“Guidance”
Public Involvement

• **Early, often and continuous**
• Provide opportunities for public to get involved in proposed transportation decisions
• Promote **inclusive public participation**, including low-income, minority and LEP populations
  
  o Refer to list of Interested Parties
    [SAFETEA-LU, 23 U.S.C. 134(i-j) and 135(f-g)]
Some Public Involvement Tips

• Accessible meeting times, locations
• Consider providing childcare or food
• Use social media to complement
• Use other non-traditional methods

Read: How to Engage Low-Literacy and Limited English Proficiency Populations in Transportation Decisionmaking available online at www.fhwa.dot.gov/hep/lowlim
U.S. DOT’s Disadvantaged Business Enterprise Program

DBE
DBE

Small business (as defined by SBA) owned and controlled by a socially and economically disadvantaged individual
DBE Program: 4 Key Elements

- Program Document
- Goal Setting Methodology
- Monitoring and Oversight
- Semi-Annual Reporting
FTA recipients receiving planning, capital, or operating assistance who will award prime contracts exceeding $250,000 in FTA funds in a Federal fiscal year

49 C.F.R. Part 26
DBE

• Program is a one-time submission
• DBE Goals are due Triennially
• Reports are due June 1 and December 1

• Large projects may require a DBE Project-Specific goal
1\textsuperscript{st} FTA Streetcar & Bus Circulator Roundtable

Electronic Code of Federal Regulations (e-CFR)

http://ecfr.gpoaccess.gov/

e-CFR Data is current as of January 4, 2012

Title 49: Transportation

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PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

Section Contents

Subpart A—General

§ 26.1 What are the objectives of this part?
§ 26.3 To whom does this part apply?
§ 26.5 What do the terms used in this part mean?
§ 26.7 What discriminatory actions are forbidden?
§ 26.9 How does the Department issue guidance and interpretations under this part?
§ 26.11 What records do recipients keep and report?
§ 26.13 What assurances must recipients and contractors make?
§ 26.15 How can recipients apply for exemptions or waivers?
ADA

Americans with Disabilities Act

• The ADA of 1990, as amended, prohibits discrimination on the basis of mental or physical disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications.
ADA (continuation)

Titles under ADA

- The ADA has several Titles as follows:
  - Title I – Employment
  - Title II – Public Transportation
  - Title III – Public Accommodations
  - Title IV – Telecommunications Relay Services
  - Title V – Miscellaneous (ADAAG) – Americans Disability Act Accessibility Guidelines
ADA (continuation)

Title II

• Public transit authorities may not discriminate against people with mental or physical disabilities in the provision of their service.

• Public transit providers must comply with requirements for accessibility in newly purchased vehicles, make good efforts to purchase of lease accessible used buses, manufacture buses in accessible manner, and provide complementary paratransit service where they operate fixed route bus or rail systems.
49 CFR Part 37 – Transportation Services for ADA
- Transportation Facilities
- Accessible Vehicles
- Paratransit
- Provision of Service

49 CFR Part 38 – ADA Accessibility Specifications
- Buses, Vans and Systems
- Light Rail Vehicles and Systems
  - “Street Running”
United States Access Board
A Federal Agency Committed to Accessible Design

ICT Hearing The Board will hold a public ICT rule on January 11. (January 4)

ICT Draft Rule The Board has released a revised draft of updated requirements for telecommunications. (December 22)

Rights-of-Way Rule The Board has extended the comment period for its proposed rights-of-way rule. (December 5)
ADA Standards govern the construction and alteration of places of public accommodation, commercial facilities, and state and local government facilities. The Department of Justice (DOJ) maintains ADA standards that apply to all ADA facilities except transportation facilities, which are subject to similar standards issued by the Federal Transit Administration. ADA facilities are covered by standards consistent with those of the ADA issued under a different law, the Architectural Barriers Act.

**ADA STANDARDS**

- [DOJ’s 2010 ADA Standards](#) (effective March 15, 2012, but can be used now instead of the 1991 standards)
- [DOJ’s 1991 ADA Standards](#) (usable until March 15, 2012)
- [DOT’s ADA Standards for Transportation Facilities](#) (2006)
- [Which Standard to Follow](#)
- [Guide to the Standards](#)

**Regulations**

ADA regulations issued by DOJ and DOT provide important information on using the standards:

- [DOJ’s ADA regulations](#) (updated on September 15, 2010)
- [DOT’s ADA regulations](#) and notice implementing the 2006 standards
http://www.access-board.gov/ada-aba/ada-standards-dot.cfm

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Figure 403.5.1 Clear Width of an Accessible Route

Figure 406.6 Diagonal or Corner Type Curb Ramps
What is “Level Boarding?”

- Coordination of station platforms and railcars to provide full accessibility to all cars in the train directly from the platform.
- Platform to railcar gap should be minimized:
  - Small enough to be easily crossed by most passengers unaided.
  - Easily spanned by short bridgeplate when needed.
DOT Regulations

• DOT Regulations require level boarding
  – Standards specify 3” horizontal gap and ± 5/8” vertical gap
  – Exceptions permit use of mini-high platforms, lifts, ramps, or bridgeplates in cases of “structural or operational infeasibility”

• At some point, the exception became the “rule”
Level Boarding Benefits

- Mobility devices, bicycles, strollers and luggage roll on
- Passengers with disabilities gain new independence
- Boarding is faster and dwell time is reduced
- Each rail car holds more passengers
What is “Equivalent Facilitation?”

49 CFR Part 38.2

“Departures from particular technical and scoping requirements... are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the vehicle...”
Equivalent Facilitation

Departures are considered on a case-by-case basis

• Applies to vehicles and vehicle components only

• Determinations of equivalent facilitation pertain only to the specific situation concerning which the determination is made

• Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitations in other situations
Equivalent Facilitation

Procedures set forth in Part 37.7

- Submit to Administrator
- Specific provision of part 38 for which alternative method of compliance is sought
- Demonstrates how alternative meets or exceeds the level of accessibility/usability is part 38
- Documents public participation in development of alternative
Equivalent Facilitation
Equivalent Facilitation
Civil rights ensures equal access to the benefits of public transportation investments
www.fta.dot.gov/civil_rights.html
Questions?