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PUBLIC  
TRANSPORTATION  
ASSOCIATION**

December 28, 2021

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**APTA.COM**

Department of Transportation  
Docket Operations  
M-30, West Building Ground Floor, Room W12-140  
1200 New Jersey Avenue S.E.  
Washington, DC 20590

Subject: Docket No. FTA-2021-0014

Dear Docket Clerk:

On behalf of the more than 1,300 member organizations of the American Public Transportation Association (APTA), we respectfully submit comments on behalf of our members for the request for information notice regarding Title VI implementation published in the *Federal Register* November 3, 2021, at 86 FR 60735.

**About APTA**

The American Public Transportation Association is a nonprofit international association of 1,300 public and private sector organizations which represent a \$71 billion industry that directly employs 430,000 people and supports millions of private sector jobs. APTA members are engaged in the areas of bus, paratransit, light rail, commuter rail, subways, waterborne services, and intercity and high-speed passenger rail. This includes transit systems; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA is the only association in North America that represents all modes of public transportation. APTA members serve the public interest by providing safe, efficient, and economical transit services and products.

APTA members applaud the Federal Transit Administration's (FTA) effort to collect information regarding Title VI implementation and looking for information and best practices that the transit industry has developed over the last ten years since the circular was first revised. APTA sponsored a webinar December 15<sup>th</sup> to collect comments from its members including comments from its EJ/Title VI subcommittee that included representatives from small, medium, and large agencies.

The responses collected are summarized below according to the categories in the Request for Information (RFI).

### **Public Participation**

The RFI asks about the public participation practices in the DOT order 1000.12C. APTA members believe incorporating that order as part of its guidance on promoting inclusive public participation would be helpful. The ten practices provided in the Order are all effective in ensuring proactive public engagement and FTA should consider providing guidance on how transit systems should measure the effectiveness of virtual communication and best practices when promoting inclusive public participation to ensure there are no limitations imposed on communities without access to the internet and/or technology. Furthermore, APTA members warn against incorporating public participation requirements that are overly prescriptive. Transit systems should have flexibility in how they engage their communities. In addition, the impact of the pandemic has shown that virtual avenues of outreach tend to result in more diverse participation and any requirement that relies on in-person meetings only would result in less representative meetings.

Effective public participation practices include ensuring that participation is not limited to the same attendees, which could create a potential bias; evaluating virtual meeting attendance to ensure attendance by Title VI protected groups; ensuring LEP populations with language or other communication impairments are considered. LA Metro includes Spanish only meetings with live interpretation via telephone; and utilizing community-based organizations and previously planned meetings.

Effectiveness can be defined and measured by how many people joined or participated in relation to how many were invited. Reaching the right groups of people is more important than just having a large turnout.

Finally, while we have already cited a benefit to virtual outreach being more diverse, our members would like to point out that an important element of gathering the most diverse and inclusive participation is to make such outreach efforts *accessible* since disability often overlap with multiple Title VI protected classes.

### **Service and Fare Equity Analysis**

APTA members are very concerned about a new requirement to receive review and/or approval of their service and fare equity (SAFE) analysis before Board approval. The additional time would impact projects and undermine a transit system's ability to move forward expeditiously. Further, many members pointed out that their systems already post equity analysis on the web as part of the Board agenda process. Because there is built in transparency into the process, there is no need for FTA to review and/or approve an agency's SAFE analysis.

Also, it is unclear from the RFI whether FTA is asking about a SAFE analysis that is route specific or system-wide. Changes can washout at the system-wide, so FTA should provide guidance about which one is required. That being said, any updates to the circular that provides such guidance should have more than one example, so the guidance does not become the de facto rule. Providing guidance about what the recipient should look for and beware of would be helpful. If FTA must set a value, it should set a minimum value, but FTA should note that setting a minimum threshold value or limit may not be beneficial to transit agencies that are working to bring back ridership through service changes because every region or service area is different in terms of demographic and population and setting specific limits might prevent agencies from creating meaningful service changes that would benefit their local communities.

APTA members do not believe additional public participation should be required as part of disparate impact or disproportionate burden policies. Approval timeframes are usually very tight and additional public participation would not be helpful.

APTA members suggest using a combination of both population and ridership as an option for Service Equity. Assessing equity based on ridership is a circular analysis because everyone is entitled to equity. Examples in the guidance are helpful, but there are situations where one or the other are a better fit. Sometimes you do not have the data for one and will need to use the other.

Overall, recipients may use whatever is acceptable and useful. Using population data, however, is tricky for fare equity and likely ridership data would be more useful.

Requiring access to destination analysis is preferred over access to transit. The quality of the service access is arguably more important than the service itself and we need more ways of assessing transit services. FTA should be very clear about recommended data sources and how transit systems can access those data sources. In addition, access to transit has to be a frequency-weighted measurement, several members noted that a SAFE analysis does not measure access to transit. This has become a critical issue for transit planners and the trend is to move away from access to transit and more toward access to a stop or destinations traveled by riders.

Requiring an analysis may put up barriers for innovative ideas for fare/service changes on a temporary basis. Allowing more time for fare changes gives riders time acclimate to the change especially a fare reduction. APTA members suggest temporary changes (service and fare) should be increased to 18 months.

### **Facility Equity Analysis**

FTA should provide additional guidance on facility equity analysis as it does for SAFE. It would be helpful for FTA to publish a sample (preferably more than one) facility analysis in the Appendix to the Circular. Recipients can post the facility analysis on the website upon completion and prior to Board approval as part of the Board approval process. Until FTA provides clear guidance on what is expected as part of the facility equity analysis, members could not comment on whether additional analysis or public participation would be helpful or harmful.

### **Rider Conduct Policies**

APTA members were united in their opposition to a Federal standard for rider conduct policies. Members believe this is an intensely local decision that should not be subject to a Federal standard.

### **Additional Comments**

APTA members suggest FTA provide minimum Federal standards such as equity analysis for micro-transit zones (use revenue hours?). Members would also appreciate more guidance about LEP and how best to develop LEP plan and have language assistance requirements that are meaningful. Members also warn against combining public participation with language assistance plans because it would dilute the language assistance plan. Furthermore, the four-factor analysis is a little hard to follow and could use some clarity and simplification. Also, it would be greatly appreciated if FTA could dedicate funding for ridership surveys.

Thank you for considering these comments and we look forward to working with FTA as it revised the Title VI Circular. Should you wish to discuss any of the comments in this letter, please contact Linda Ford, APTA's General Counsel at [lford@apta.com](mailto:lford@apta.com) or 202-496-4808.

Sincerely,



Paul P. Skoutelas  
President and CEO