

**MUNICIPAL TRANSPORTATION AGENCY  
City and County of San Francisco**

**DIVISION:** Transit

**BRIEF DESCRIPTION:**

Requesting that the SFMTA Board of Directors approve the recommended Major Service Change Definition and the Disparate Impact and Disproportionate Burden policies that are required to be adopted by the Agency pursuant to the FTA's updated Circular 4702.1B issued on October 1, 2012.

**SUMMARY:**

- Title VI of the Civil Rights Act of 1964 applies to programs and services receiving federal funding and prohibits discrimination based on race, color, or national origin from federally funded programs such as transit.
- In order to remain compliant with Title VI requirements and ensure continued federal funding, the SFMTA Board of Directors must approve a Major Service Change Definition and Disparate Impact and Disproportionate Burden policies in response to the FTA's updated Circular 4702.1B.
- To inform these policies, SFMTA staff held two public workshops, contacted over 30 community organizations and met with the Agency's Citizen's Advisory Council, Muni Accessible Advisory Committee and the Policy and Governance Committee.
- SFMTA recommends a policy that defines a Major Service Change as a change in transit service that would be for more than a 12-month period where certain criteria are met.
- The SFMTA's proposed Disparate Impact Policy determines the point when adverse effects of fare or service changes are borne disparately by minority populations.
- The SFMTA's proposed Disproportionate Burden Policy determines the point when adverse effects of fare or service changes are borne disproportionately by low-income populations.

**ENCLOSURES:**

1. MTAB Resolution
2. Stakeholder Outreach summary
3. Title VI Powerpoint Presentation

**APPROVALS:**

**DATE**

DIRECTOR: \_\_\_\_\_

July 8, 2013

SECRETARY: \_\_\_\_\_

July 8, 2013

**ASSIGNED SFMTAB CALENDAR DATE:** July 16, 2013

**PURPOSE:**

The purpose of this calendar item is to request that the SFMTA Board of Directors approve the recommended Major Service Change Definition and Disparate Impact and Disproportionate Burden policies that are required to be adopted by the agency pursuant to the FTA's updated Circular 4702.1B issued on October 1, 2012.

**GOAL:**

This program supports the following SFMTA Strategic Plan objectives:

Goal 2: Make transit, walking, bicycling, taxi, ridesharing and carsharing the preferred means of travel

Objective 2.1: Improve customer service and communications

Objective 2.2: Improve transit performance

Goal 4: Create a workplace that delivers outstanding service

Objective 4.4: Improve relationships and partnerships with our stakeholders

**DESCRIPTION:**

Title VI of the Civil Rights Act of 1964 addresses discrimination in almost all aspects of public services and programs administered or funded by the federal government in the United States.

Title VI states that "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."

SFMTA receives federal funds through the Federal Transit Administration (FTA) and is required to have in place a Title VI program that achieves the following objectives:

- Ensure that the level and quality of public transportation service is provided in a nondiscriminatory manner;
- Promote full and fair participation in public transportation decision-making without regard to race, color, or national origin;
- Ensure meaningful access to transit-related programs and activities by persons with limited English proficiency.

SFMTA has an ongoing Title VI Program that complies with FTA requirements and is updated every three years. The FTA conducted a compliance review of the SFMTA's Title VI program in June 2012 and found the program to be in compliance with these requirements, with no deficiencies.

As part of FTA's Title VI Program requirements, SFMTA must perform a service equity analysis when it proposes major service changes to determine if the changes will adversely affect minority and low-income populations. SFMTA must also perform a fare equity analysis when it proposes any fare changes, including increases or decreases in fares, that will exceed six months. A fare equity analysis is an evaluation of a proposed fare change(s) to determine if it would adversely affect minority and low-income populations.

According to the 2010 U.S. Census, 58 percent of San Francisco residents are minority, making San Francisco a minority majority City. The minority population of each route is determined by evaluating the minority population as a percentage of the total population based on block groups that are all or partially contained within a quarter mile of each bus and surface rail stop along a route; a catchment area of a half mile is used for the downtown rail stations. Routes are considered to be minority routes if they exceed the citywide average.

For the purposes of Title VI, staff recommends defining low-income population as households at or below 200 percent of the federal poverty level, which is consistent with SFMTA's lifeline pass criteria. Based on this definition, 31 percent of San Francisco households are low-income according to the 2010 U.S. Census. The low-income population of each route is determined by evaluating the low-income households as a percentage of the total households based on census tracts that are all or partially within a quarter mile of each bus and surface rail stop along a route; a catchment area of a half mile is used for the downtown rail stations. Routes exceeding the citywide average are considered low-income routes.<sup>1</sup>

If the service or fare equity analysis identifies a disparate impact on minority populations or customers, SFMTA is required to consider alternative proposals and possible mitigation measures to avoid, minimize or mitigate the disparate impact. The service or fare changes can only be implemented if (1) a substantial legitimate justification for the service or fare change exists, (2) there are no comparably effective alternative practices that would result in a less disparate impact on minority populations, and (3) the justification for the service change is not a pretext for discrimination.

Moreover, if the service or fare equity analysis identifies a disproportionate burden on low-income populations, the service or fare changes may only be carried out if further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects on low-income populations or customers are not practicable. In determining whether a mitigation measure or an alternative is "practicable," the social, economic and environmental effects of avoiding or mitigating the adverse effects on low-income populations will be taken into account. The SFMTA must also describe the alternatives available to low-income populations affected by the service or fare changes.

On October 1, 2012, FTA issued updated Circular 4702.1B which requires a transit agency's governing board to adopt the following policies related to fare and service changes:

- **Major Service Change Definition** – establishes a definition for a major service change, which provides the basis for determining when a service equity analysis needs to be conducted.
- **Disparate Impact and Disproportionate Burden Policies** – establishes thresholds to determine when proposed major service changes or fare changes would adversely affect

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<sup>1</sup> SFMTA is in the process of evaluating data from a recent on-board survey which focused on capturing route specific demographic information about our customers. This analysis will supplement the Census information for service and fare equity analyses conducted after October 2013.

minority and/or low-income populations and when alternatives need to be considered or impacts mitigated.

**Recommended Major Service Change Policy:** SFMTA has developed a policy that defines a Major Service Change as a change in transit service that would be in effect for more than a 12-month period, and that would consist of any of the following criteria:

- A schedule change (or series of changes) resulting in a system-wide change in annual revenue hours of five percent or more proposed at one time or over a rolling 24 month period;
- A schedule change on a route with 25 or more one-way trips per day resulting in:
  - Adding or eliminating a route;
  - A change in annual revenue hours on the route of 25 percent or more;
  - A change in the daily span of service on the route of three hours or more; or
  - A change in route-miles of 25 percent or more, where the route moves more than a quarter mile.

Corridors served by multiple routes will be evaluated based on combined revenue hours, daily span of service, and/or route-miles.

- The implementation of a New Start, Small Start, or other new fixed guideway capital project, regardless of whether the proposed changes to existing service meet any of the criteria for a service change described above.

**Recommended Disparate Impact and Disproportionate Burden Policies:** As noted in FTA Circular 4702.1B, and in the context of conducting equity analyses for proposed fare and service changes, a “disparate impact” refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin. If the service or fare equity analysis identifies a disparate impact on minority populations or customers, SFMTA must consider alternative proposals and possible mitigation measures to avoid, minimize or mitigate the disparate impact.

A “disproportionate burden” refers to a neutral policy or practice that disproportionately affects low-income populations more than non-low-income populations. If the service or fare equity analysis identifies a disproportionate burden on low-income populations, the service or fare changes may only be implemented if further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects on low-income populations or customers are not practicable.

In response to Circular 4702.1B, SFMTA has developed the following recommended Disparate Impact and Disproportionate Burden Policies:

- Disparate Impact Policy determines the point (“threshold”) when adverse effects of fare or service changes are borne disparately by minority populations. Under this policy, a fare change, or package of changes, or major service change, or package of changes, will be deemed to have a disparate impact on minority populations if the difference between the percentage of the minority population impacted by the changes and the percentage of the minority population system-wide is eight percentage points or more.
- Disproportionate Burden Policy determines the point when adverse effects of fare or service changes are borne disproportionately by low-income populations. Under this policy, a fare change, or package of changes, or major service change, or package of changes, will be deemed to have a disproportionate burden on low-income populations if the difference between the percentage of the low-income population impacted by the changes and the percentage of the low-income population system-wide is eight percentage points or more.

After reviewing demographic data, characteristics of system ridership and conducting peer reviews/comparisons, SFMTA determined that a threshold of eight percent was the appropriate proposed threshold for both the Disparate Impact Policy and the Disproportionate Burden Policy. This means that based on the fact that 58 percent of the City’s population is minority, a disparate impact would be found if a proposed service reduction or fare increase impacted populations that were more than 66 percent minority (i.e., 58% plus 8%). Similarly, if a service reduction or fare increase impacted a population that was made up of households that were more than 39 percent low-income (i.e., 31% plus 8%), the change would create a disproportionate burden.

Title VI also requires that positive changes, such as fare reductions and major service improvements, be evaluated for their effect on minority and low-income communities. As such, a service increase or fare reduction that benefited populations that were less than 50 percent minority would also be considered a disproportionate burden and a similar change that benefited populations that were less than 23 percent low-income would be considered a disproportionate burden.

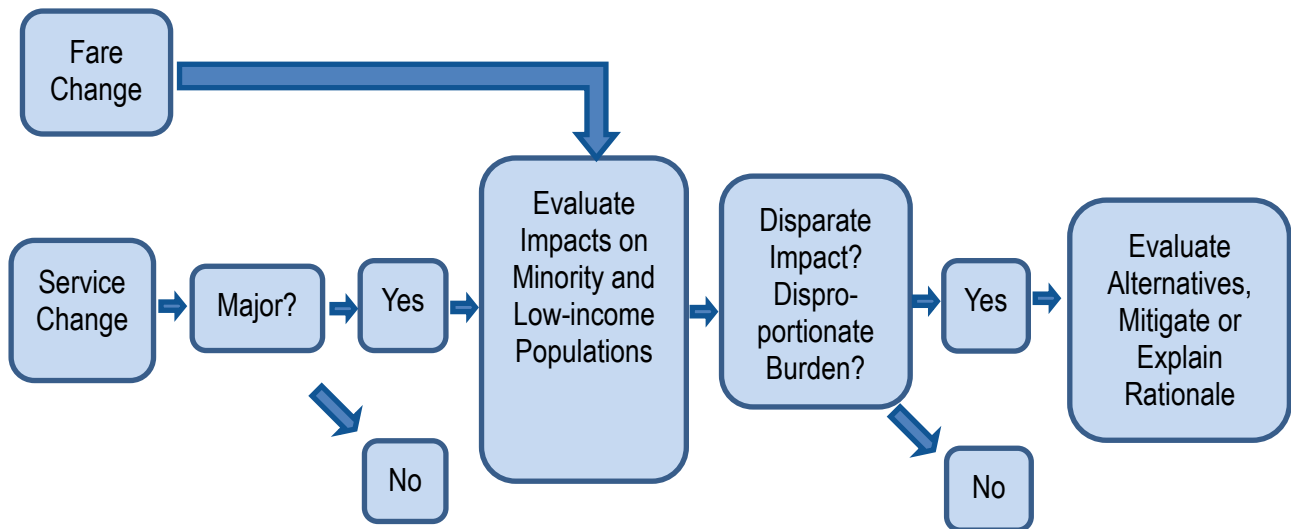
A package of major service changes across multiple routes would be evaluated cumulatively. For example, if routes A and B were both being reduced by 25 percent, the percentage of the minority population affected would be calculated based on the combined demographics of both routes. However, positive service changes and negative service changes would be evaluated separately.

Similarly, fare changes approved at the same time will be evaluated cumulatively. For example, if the SFMTA Board were to consider increases to the cash fare and youth pass for the FY15/16 and FY 16/17 budget, the impacted populations affected by the change would be evaluated cumulatively. Thus, if 250,000 riders use cash to pay fares, and 160,000 of them are minorities, and if 80,000 riders use the youth pass and 60,000 of them are minorities, the total population affected by the fare change would be 330,000 (250,000+80,000), of which 220,000 (160,000+60,000), or 66.7%, would be minority.<sup>2</sup> However, if the SFMTA Board were considering a reduction of one fare type and an increase of another fare type, the two proposed fare changes would be evaluated separately.

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<sup>2</sup> The data presented in this example is illustrative and not based on Muni ridership.

The diagram below illustrates the Title VI process to evaluate effects of fare and service changes on minority and low income populations.



### Stakeholder Outreach and Engagement

As part of the SFMTA’s process to develop the proposed policies, SFMTA conducted a multilingual stakeholder outreach campaign to receive input on the proposed policies and engage the public in the decision making process for adoption of these policies by the SFMTA Board. This effort included presentations to the SFMTA Citizens Advisory Council (CAC) and Muni Accessible Advisory Committee (MAAC), as well as two public workshops. The workshops were promoted through email, telephone calls to community groups and in nine languages on the SFMTA website. Outreach was also targeted to approximately 30 Community Based Organizations and transportation advocates with broad representation among low-income and minority communities. Staff also offered to meet with some community groups if they were unable to attend the public workshops.

These workshops and presentations were held at the following dates and times:

#### Public Workshops

- Saturday, June 22 from 10:30 AM to 12:00 PM at 1 South Van Ness Avenue
- Tuesday, June 25 from 6:30 PM to 8:00 PM at 1 South Van Ness Avenue

#### Presentations

- Citizen’s Advisory Council, Thursday, June 6 and Thursday, July 11
- Muni Accessible Advisory Committee, Thursday, June 20
- Policy and Governance Committee, Friday, June 21
- SFMTA Board of Directors, Tuesday, July 16

Public comments ranged from specific input on the proposed Major Service Definition and policy thresholds to related concerns about past service reductions and recent fare increases. A summary of public input is attached.

The proposed Major Service Change Definition was changed based on public input received. The SFMTA received comments requesting that system-wide and route specific changes be evaluated over a period of time, to prevent a scenario where small percentage changes added up over several years. In response to this change, staff expanded the definition of system-wide changes to include all changes made over a two-year period. However, staff does not recommend evaluating individual route changes over a multi-year scenario.

In addition, SFMTA received comments questioning what routes have less than 25 one-way trips, especially related to community routes. Staff explained that few Muni routes have less than 25 one-way trips and that all community routes have more than 25 one-way trips on weekdays, Saturdays, and Sundays.

SFMTA also received comments recommending that the initial proposal to evaluate span of service changes over a four-hour period was too large. One participant recommended that span of service be evaluated as a percentage of total route hours and other comments recommended a span of service of two hours. Staff changed the proposal from four to three hours based on this feedback. Having a specific policy regarding the span of service changes is a best practice, which most agencies do not include.

Other comments recommended that additional process be added, such as a 30-day review period of service and fare equity analyses, and that service changes in effect for more than six months should require an equity analysis, instead of 12 months. Staff does not recommend either of these changes. The first would add to the already lengthy process of implementing fare and major service changes and the six month window would capture a lot more construction projects, rather than long-term changes to the system.

In general, SFMTA received fewer comments on the minority and low-income thresholds. One participant recommended reducing the low-income threshold to 4.5 percent because the distribution is smaller. SFMTA also received comments that recommended re-evaluating the thresholds every three years as part of the Title VI program update, which staff agrees is a sound practice.

**ALTERNATIVES CONSIDERED:**

None. Approval of these proposed policies is required by the FTA.

**FUNDING IMPACT:**

The proposed policies have no funding impact since these analyses are built into regular staff time. Service and fare equity analyses take approximately 50-100 hours of staff time, depending on the complexity of the changes, and are currently performed for major service changes and fare changes.

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**OTHER APPROVALS RECEIVED OR STILL REQUIRED:**

None.

The City Attorney's Office has reviewed this report.

**RECOMMENDATION:**

Staff recommends that the SFMTA Board approve the proposed Major Service Change Definition and Disparate Impact and Disproportionate Burden policies that are required to be adopted by the agency pursuant to the FTA's updated Circular 4702.1B issued on October 1, 2012.



SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, Title VI of the Civil Rights Act of 1964 addresses discrimination in almost all aspects of public services and programs administered or funded by the federal government in the United States, such as SFMTA's public transit service; and

WHEREAS, The SFMTA receives federal funds through the Federal Transit Administration (FTA) and is required to have in place a Title VI program that ensures that the level and quality of public transportation service is provided in a nondiscriminatory manner, promotes full and fair participation in public transportation decision-making without regard to race, color, or national origin, and ensures meaningful access to transit-related programs and activities by persons with limited English proficiency; and

WHEREAS, The FTA's updated Title VI Circular (FTA C 4702.1B), issued on October 1, 2012, requires that the governing board of a transit agency approve a Major Service Change Definition and Disparate Impact and Disproportionate Burden policies; and

WHEREAS, As part of FTA's Title VI Program requirements, SFMTA must perform a service equity analysis when a major service change is proposed or any fare change that will exceed six months to determine if the change will adversely affect minority and low-income populations; and

WHEREAS, Based on data from the 2010 U.S. Census, 58 percent of San Francisco residents are minority and 31 percent of San Francisco households are at or below 200 percent of the federal poverty level; and

WHEREAS, If a disparate impact is found, SFMTA is required to consider alternative proposals and possible mitigation measures to avoid or lessen these negative impacts, and the service or fare change(s) can only be carried out if (1) a substantial legitimate justification for the service or fare change exists, (2) there are no comparably effective alternative practices that would result in a less disparate impact on minority populations, and (3) the justification for the service change is not a pretext for discrimination; and

WHEREAS, If a disproportionate burden is found, the service or fare change may only be carried out if further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects on low-income populations are not practicable; and

WHEREAS, SFMTA has performed multilingual community and peer outreach during the development of these policies; and

WHEREAS, After reviewing demographic data, characteristics of system ridership and conducting peer reviews/comparisons, a threshold of eight percent was determined to be the appropriate proposed threshold for both the Disparate Impact Policy and Disproportionate Burden Policy; and

WHEREAS, SFMTA staff recommend the following Major Service Change Definition be

adopted by the SFMTA Board of Directors:

Major Service Change - A change in transit service that would be in effect for more than a 12-month period and that would consist of any of the following criteria:

- A schedule change (or series of changes) resulting in a system-wide change in annual revenue hours of five percent or more implemented at one time or over a rolling 24 month period;
- A schedule change on a route with 25 or more one-way trips per day resulting in:
  - Adding or eliminating a route;
  - A change in annual revenue hours on the route of 25 percent or more;
  - A change in the daily span of service on the route of three hours or more; or
  - A change in route-miles of 25 percent or more, where the route moves more than a quarter mile.

Corridors served by multiple routes will be evaluated based on combined revenue hours, daily span of service, and/or route-miles.

- The implementation of a New Start, Small Start, or other new fixed guideway capital project, regardless of whether the proposed changes to existing service meet any of the criteria for a service change described above; and

WHEREAS, SFMTA staff recommends that the following Disparate Impact Policy be adopted by the SFMTA Board of Directors:

Disparate Impact Policy - a fare change, or package of changes, or major service change, or package of changes, will be deemed to have a disparate impact on minority populations if the difference between the percentage of the minority population impacted by the changes and the percentage of the minority population system-wide is eight percentage points or more; and

WHEREAS, SFMTA staff recommends that the following Disproportionate Burden Policy be adopted by the SFMTA Board of Directors:

Disproportionate Burden Policy - A fare change, or package of changes, or major service change, or package of changes, will be deemed to have a disproportionate burden on low-income populations if the difference between the percentage of the low-income population impacted by the changes and the percentage of low-income population system-wide is eight percentage points or more; now, therefore, be it;

RESOLVED, That the SFMTA Board of Directors approves the Major Service Change Definition and Disparate Impact and Disproportionate Burden policies that are required to be adopted pursuant to the FTA's updated Circular 4702.1B issued on October 1, 2012.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of July 16, 2013.

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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency



## **TITLE VI TRANSIT POLICIES STAKEHOLDER OUTREACH SUMMARY**

In October 2012, the Federal Transit Administration (FTA) issued a new circular that requires the SFMTA Board of Directors to adopt the following Title VI policies related to fare and service changes:

- **Major Service Change Definition** – establishes a definition for a major service change, which provides the basis for determining when a service equity analysis needs to be conducted.
- **Disparate Impact and Disproportionate Burden Policies** – establishes thresholds to determine when proposed major service changes or fare changes would adversely affect minority and/or low-income populations and when alternatives need to be considered or impacts mitigated.

To meet these requirements, SFMTA developed a proposed a set of Title VI Transit Policies for public review. SFMTA conducted a multilingual stakeholder outreach campaign to receive input on the proposed policies, and to engage the public in the decision making process for adoption of these policies by the SFMTA Board of Directors. The multilingual public outreach efforts were designed to provide complete information, public notice, public access to key decisions, and to encourage and support public input through a variety of forums.

Public outreach included presentations to the SFMTA Citizens Advisory Council (CAC) and Muni Accessible Advisory Committee (MAAC), as well as two public workshops. The workshops were promoted through email, telephone calls to community groups and in nine languages on the SFMTA website. Outreach was also targeted to approximately 30 transportation advocates and Community Based Organizations with broad representation among low-income and minority communities and that reflect the City's diversity. Staff also offered to meet with and make presentations to some community groups if they were unable to attend the public workshops.

These workshops and presentations were held on the following dates:

### **Public Workshops**

- Saturday, June 22 from 10:30 AM to 12:00 PM at 1 South Van Ness Avenue
- Tuesday, June 25 from 6:30 PM to 8:00 PM at 1 South Van Ness Avenue

### **Presentations**

- Citizen's Advisory Council, Thursday, June 6 and Thursday, July 11
- Muni Accessible Advisory Committee, Thursday, June 20

- Policy and Governance Committee, Friday, June 21
- SFMTA Board of Directors, Tuesday, July 16

Outreach materials included a Power Point presentation that was provided at the Citizen's Advisory Council and Muni Accessible Advisory Committee meetings, and two public workshops; the presentation was also made available on-line. The Power Point outlined the Title VI policy requirements and evaluation process, presented the proposed draft policies, and provided examples of how the policies would be applied. In addition, multilingual comment cards and a multilingual Title VI Draft Transit Policies FAQ were provided at both public workshops.

A total of 17 people attended the workshops: 11 on Saturday morning and 6 on Tuesday evening. A summary of the public comments made at the June 6 CAC and June 20 MAAC meetings, and June 22 and 25 public workshops are presented in the following comment summary table. One set of written comments was received from a group of CBOs and is presented at the end of this document in its entirety.

Public comments ranged from specific input on the proposed Major Service Definition and Disparate Impact and Disproportionate Burden policy thresholds, to related concerns about past service reductions, recent fare increases, and accessibility issues. The definition of a major service change was modified based on the input received.

## TITLE VI DRAFT TRANSIT POLICIES COMMENT SUMMARY

*(SFMTA Staff Clarifications/Responses shown in italics with parenthesis)*

**Topic:** SFMTA considers a change in transit service to be a Major Service Change when it is in effect for more than a 12 month period and any of the following criteria are met.

### **Comments:**

- Consider changing the 12-month period to a 6-month period.
- Would stop consolidation be considered a major service change? *(Only if a continuous set of stops were removed equal to 25% of the route.)*
- Were service changes evaluate previously? *(We have always been required to conduct service equity analyses for major service changes, but the recent circular requires that definition to have Board and public input.)*
- How are current service levels evaluated? There were service changes on the 14 Mission and 5 Fulton; yet these lines are still very overcrowded. *(SFMTA monitors service on an ongoing basis. Factors such as crowding, service span, and on-time performance are reviewed to identify unfair patterns in current service delivery as part of our Title VI program update. If inequities are found, SFMTA is required to implement corrections.)*
- What are the differences between the Draft Major Service Change Policy and SFMTA's current evaluation criteria? *(Changes include: 1) Added 12-month time period; 2) Added New Starts, Small Starts and fixed guideway criteria 3) changed 1/3 of a mile to 25% or more of route miles); 4) Added introduction of a route, previously only elimination of a routes was used.)*

**Topic:** Schedule change resulting in the introduction or elimination of a route.

### **Comments:**

- Introduction or elimination of a route needs analysis regardless of number of trips.
- Does introduction of a route mean adding a route? "Adding" may be a better word choice.
- Except when the route is on a corridor, will adding or eliminating a route trigger a Major Service Change equity analysis no matter what? *(Only if it has more than 25 one-way trips per day.)*
- Would eliminating service on a peak-hour or express route be considered a Major Service Change? *(Yes, except for a few very small routes like the 88 that has fewer than 25 one-way trips.)*

**Topic:** Schedule change resulting in system wide change in annual revenue hours of five percent or more.

**Comments:**

- When looking at the 5 percent or more change in revenue hours, I'm wondering about little changes on routes and their cumulative effects.
- A system wide change of 5 percent or more seems okay.
- Schedule changes such as a 4 percent service reduction in January, and a 2.5 percent reduction in May of the same fiscal year would not meet the 5 percent criteria individually; however, cumulatively would these changes fit the Major Service Change definition? *(No, not under this definition.)*
- Clarify if individual changes (for example, a 3 percent change in February and a 3 percent change in June) in a year would aggregately trigger the percent criteria for a Major Service Change. *(It would depend on how the service change was approved for implementation. If there was a 6 percent change that the Board approved for implementation in two percent increments, this would fit the definition of a Major Service Change.)*
- Changes of plus or minus 5 percent over a 12-month period (not fiscal year) seems like a reasonable trigger for an equity analysis for cumulative changes, but not for individual service changes.
- In discussions with other transit agencies, there have been questions about whether a fiscal year or a one-year period is the best temporal measure for evaluating cumulative impacts of service changes. Not sure of the best approach, but some type of cumulative aggregation of changes should be considered. Is a 3-year period or some other period more appropriate?

**Topic:** Schedule change resulting in a change in annual revenue hours on route of 25 percent or more.

**Comments:**

- Change annual revenue hours of 25 percent or more to a lower number. *(25 percent is a standard FTA definition of Major Service Change and the only definition used by many transit agencies).*

**Topic:** Schedule change resulting in a change in daily span of service on the route of four hours or more.

**Comments:**

- Does span of service include weekend service, too? (yes)
- Why does SFMTA use combined 7-day week for service hours; this overshadows weekend ridership which is critical for some routes.
- Dislike the four hour or more criteria for a change in the daily span of service; perhaps change to percent of existing span of service so that changes to routes such as the Richmond Express would be included in evaluation.

**Topic:** Schedule change resulting in a change in route miles on a route of 25 percent or more where the route-miles move more than a quarter mile.

**Comments:**

- A change in route-miles on a route of 25 percent or more seems okay to trigger analysis, however, will wait to see the effects when the policy is implemented.
- Route changes consider a quarter-mile distance whereas ADA covers service within three-fourths of a mile.
- Not sure if the quarter-mile change on a route is appropriate; perhaps a one-eighth mile change would be better.

**Topic:** Schedule change on route defined as having at least 25 one-way trips.

**Comments:**

- Concerned that some routes that operate only in the peak hours, such as the 88 between Balboa Park BART and the Outer Mission, have less than 25 one-way trips and would never trigger an evaluation. (*Very few routes with less than 25 one-way trips; the smaller community routes such as the 56 and 35 have at least 25 one-way trips a day, the 88 does not.*)
- Take out the clause "at least 25 one-way trips per day" for route definition.



**Topic:** Schedule change on corridors served by multiple routes will be evaluated based on combined revenue hours, daily span of service, and/or route-miles.

**Comments:**

- When evaluating corridors served by multiple routes, are these annual vehicle hours? What about weekday versus weekend hours? (*Analysis is based on 7-day-a-week schedule; i.e., weekly hours of service*)
- Does change in ratio of limited and local service routes trigger a major service change? (*Shifts in multiple routes on corridor would be evaluated collectively.*)
- Mixed feelings about using combined factors (e.g., revenue hours) to evaluate corridors served by multiple route changes.

**Topic:** Implementation of a New Start, Small Start, or other new fixed guideway is a Major Service Change regardless if it fits the other criteria.

**Comments:**

- For a new project that is under construction, such as the Central Subway, would a Title VI analysis be needed prior to start of service? If the analysis found there were disproportionate impacts, would further project refinements or mitigation need to be proposed?
- What if a project was already earmarked for funding and prior to start of service, the Title VI analysis found there would be an impact. What policy choice do we have? Not operating the project is not an alternative. (*FTA Circular requires that the analysis be conducted at least 6 months prior to the start of service. If an impact was found, FTA requires agencies to evaluate alternatives, mitigate impacts if possible, and explain rationale for policy decision.*)

**Topic:** General Topics Related to Draft Major Service Change Policy.

**Comments:**

- Could these policies also consider the impacts to people with disabilities? Accessibility is not being addressed in service changes. (*Impacts to people with disabilities are covered by the American's with Disabilities Act*)
- Do these policies consider if capital investments are being made equitably?
- Was there an equity analysis for the 83X? Was the opportunity cost to other lines considered? (*There was an equity analysis conducted for the 83X.*)

- Are there any impacts of the Draft Major Service Plan Policy on TEP? *(TEP will have a service equity analysis and meets the definition of a major service change.)*
- Do you look at service needs of new housing developments, such as on Jamestown near the 29?
- Show concrete examples, show what each change looks like.
- Would a change to the 108 on Treasure Island fit the definition of a Major Service Change and trigger the process for an equity analysis? *(The 108 is a minority and low-income route. Whether or not an equity analysis would be triggered would depend on the scale of the change being evaluated.)*
- Does the fare change analysis consider a minimum span of time between fare changes? *(Span of time between changes is not explicitly part of the equity analysis.)*
- All fare changes should have an equity analysis.
- Concerned about how factors used to define Major Service Changes affect paratransit definitions.
- Once the Major Service Change Policy is adopted, will there be a public review/comment period on the proposed change after the equity analysis is conducted? Will the public be notified before the change? Consider a 30 day review period.

**Topic:** Threshold Development.

**Comments:**

- Can we separate changes for different thresholds?
- Show other property's work on thresholds.
- Need to develop appropriate thresholds. If the threshold band is too wide there are no differences among changes; if too narrow, all changes would have an impact and no changes could be made.
- The 8 percent threshold may not be appropriate for both categories; does the percentage spread have to be the same for minority and low-income populations? Recommend taking 15 percent of each percentage or roughly a 9 percent threshold for minorities and 4.5 percent for low-income.
- Doesn't FTA Circular say that thresholds need to be statistically significant? *(FTA Circular states that purpose of thresholds is to determine when an impact is statistically significant.)*
- Show hypothetical or past changes.

**Topic:** Examples from Power Point.

**Comments:**

- In the example of fare change analysis, how did you determine the percentage of minority users? *(Hypothetical example; real data wasn't used. Fare changes are best analyzed with respect to ridership, not population data. Ridership surveys are conducted every 5 years. The most recent was conducted this year; data will be available in the fall. Ridership surveys obtain information such as method of payment, income, and household size.)*
- If fare impact analysis will be based on current ridership data, will the evaluation still be accurate if incomes and financial circumstances change? Can ridership surveys be conducted more frequently?
- How does fare analysis account for higher income riders and occasional riders such as tourists?
- Can ridership surveys be conducted more frequently (now conducted every five years) to ensure that analysis is based on current demographic information?
- Can we obtain copy of blank survey to understand the data that is being collected?
- Does the impact analysis weigh the types of service changes on lines? *(No; the severity of the change is not part of the analysis, per the guidelines in the FTA circular.)*
- So there is no weight for types or amount of change. Is it based solely on the population of lines served? *(FTA Circular examples do not consider the intensity of the change; based solely on the total minority population affected.)*
- In the example, would changes on Routes A and B result in increased transfers? *(Routes A and B in slide example are not geographically related; FTA's intent is to have a balanced approach - you can't have changes that affect only a minority parts of the city.)*

**Topic:** Affected Minority and Low Income Populations.

**Comments:**

- Is there an analysis of who rides the on the route besides who lives around the route? *(Yes, the on-board survey will consider this.)*
- What about burden of fare increases on seniors and the disabled? Examples only discuss low-income minorities.
- How are benefits/impacts balanced between low-income and minority populations? You have minorities that are not low-income.

- What are mitigations for disproportionate impacts? (*Example of fare mitigation is the Lifeline Pass, delaying a fare change increase, or extending the span of time between fare change increases. A service reduction mitigation might be to increase frequency on nearby routes.*)
- Map showing minorities appears to show larger light blue areas covering the map than the dark blue area. Don't understand if dark blue is supposed to show that minorities are 58 percent of City's total population. (*Density is the key reason; low-density areas in the City have larger census block groups.*)

## COMMENTS NOT DIRECTLY RELATED TO TITLE VI DRAFT POLICIES

**Topic:** Service-Related.

### Comments:

- Restore 26 Valencia service; low income and elderly were dependent on the 26 for their primary trip needs. Huge impact to the community, especially in Valencia Gardens.
- Expand capacity on cross town service (28, 24, 28L) during rush hours; use articulated buses.

**Topic:** Fare-Related.

### Comments:

- No more fare increases to yearly passes; even a one dollar increase is a financial hardship and strain on those with a limited income.
- Fare increases are coming too frequently. Thinking of Central Subway which will not be completed until 2019 – will there be increases to cover those costs? (*The Central Subway construction project is not funded with operating dollars, including fare increases.*)

**Topic:** Accessibility.

### Comments:

- American Sign Language should be considered an LEP.
- The 311 system is a barrier for people with hearing impairments. The 311 Info Center is not state-of-the art for sign language users. The 311 Center uses TTY which is an antiquated technology. Many other options now available; American Sign Language (ASL) based language is the most used and recognized system. To use the 311 system, I am forced to pay out-of-pocket for an interpreter to make the

call for me. 311 does not have video relay for people with hearing impairments, but has a wide variety of spoken languages available. These are simple requests that have been continuously ignored.

July 2, 2013

Julie B. Kirschbaum  
Project Manager, SFMTA  
One South Van Ness Avenue  
San Francisco, CA 94103

Dear Ms. Kirschbaum,

The comments below are submitted on behalf on The City Project, Public Advocates Inc., TransForm and Urban Habitat in response to SFMTA's proposed changes to its Title VI policies and procedures. We appreciate the opportunity to give input to SFMTA staff and members of the board. We share your goal of ensuring that SFMTA's Title VI policies and procedures not only reflect the recent changes in the FTA Title VI Circular but provide additional safeguards to ensure that the benefits and burdens of SFMTA's transportation policy, planning and investment decisions do not disproportionately impact minority or low income communities. What follows is a summary of questions and recommendations raised in a recent SFMTA public workshop and during a call with staff.

### **A. Major Service Change Policy**

1. The Major Service Change Policy should account for cumulative service changes within a three-year period. Evaluating cumulative service changes over multiple years allows SFMTA to identify disparities that might not be readily apparent from individual service changes that occur in isolation, particularly when such changes fall under the major service change threshold and are not evaluated.<sup>1</sup> The definition of a major service change should be modified to include:
  - a. A system wide change in revenue hours of five percent or more within a three-year period.
  - b. A change in revenue hours on a route of 25 percent or more within a three year period.
  - c. A change in the daily span of service on a route of 2 hours or more within a three-year period.
  - d. d. A change in route-miles on a route of 25 percent or more within a three-year period, where the route moves more than a quarter mile.
2. A change in the daily span of service of a route of two hours or more (as opposed to four hours) should trigger the definition of a major service change. The proposed 4- hour threshold is too high as minority and low-income riders can be significantly affected by a change in the daily span of service of a route of as little as an hour. As discussed in 1 above,

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<sup>1</sup> For an example of a transit provider that accounts for cumulative service changes over a 3-year period, see BART's Major Service Change Policy.

the major service change definition should also account for changes in span of service of a route over a three-year period.

3. The recent decision to adopt “seasonal” service changes would not trigger an analysis under the proposed SFMTA Major Service Change policy. However, a number of community-based organizations have raised concerns about both the process for selecting these routes and their impact on low income and communities of color. Therefore, more information should be made public on how this process was conducted, which communities will be impacted and what, if any, analysis was used to inform this policy.
4. How, if at all, will SFMTA analyze the impact of service “turn arounds” and stop removals? Certain service changes, such as when a stop is removed at the end of the line or moved more than a quarter mile away can have an adverse impact even if the change does not amount to a 25% change to that route. Riders and organizations with members in the Bayview-Hunters Point communities have raised the issue of frequent route terminations or “turn arounds” in the T - Third Street line that appear to have a disproportionate impact on low income and communities of color.

## **B. Disparate Impact/Disproportionate Burden**

1. Cumulative impacts of fare and service changes.

SFMTA should analyze the cumulative/multi-year impacts of service and fare changes occurring during each 3-year period preceding the submission of its Title VI Program to the FTA. A cumulative impact analysis combines the incremental impact of an action with the impacts caused by past and present actions.

While one-time fare and service changes may not reach the proposed 8 percent threshold in any given year, the effects of multiple changes over several years can meet or exceed the 8 percent threshold and result in a disparate impact or disproportionate burden on minority and/or low-income populations. For example, a system wide service change in 2014 that has a 5 percent greater adverse impact on minority riders compared to non-minority riders would meet the 8 percent threshold if system wide changes in 2012 and 2013 resulted in a 3 percent or greater adverse impact on minority riders. Evaluating cumulative changes over a 3-year period allows SFMTA to identify and avoid or mitigate disparities that might not be readily apparent from evaluation of each service or fare change in isolation.

2. Impacts should be compared and disaggregated by race, ethnicity and income levels.

FTA guidelines require transit providers to compare impacts between minority and nonminority groups and between low-income and non low-income riders. Because low-income minority riders may be particularly sensitive to the impacts of fare and service changes, we recommend that SFMTA also identify and analyze impacts on low-income minorities as compared to impacts on non low-income minorities and the overall population.

Further, because Title VI protects individual racial and ethnic groups from discrimination, SFMTA should disaggregate for analysis, the impacts of service and fare changes by race and

ethnicity. Similarly, we would like to see SFMTA disaggregate the findings of its disproportionate burden analyses by income levels.

### 3. Setting thresholds and reporting disparities.

The results of SFMTA's service and fare equity analyses should be reported not only by percentage differences between the compared populations but also by standard deviations from the expected mean for each group. Courts generally recognize a disparity to be statistically significant where the observed outcome is two or more standard deviations from the expected rates.<sup>2</sup> *See Hazelwood School District v. United States*, 433 U.S. 299 (1977); *see also Castaneda v. Partida*, 430 U.S. 482, 496 n.17 (1997). The Circular gives transit providers the option to present the disparity threshold as a statistical percentage, and we recognize that setting an 8% threshold may be helpful as a general rule of thumb. However, we recommend reassessing the threshold every three years in order to ensure it is sufficiently sensitive to protect minority and low-income populations from adverse impacts.

## C. Collection of Ridership Data

1. How will SFMTA incorporate passenger survey data into this new policy since currently proposed analyses seem only to involve census block data? SFMTA should calculate percentage minority/percent low-income route ridership in order to analyze and show whether the census block demographics match up with the ridership demographics at each stop.
2. Where possible SFMTA should conduct an analysis of how low-income and minority riders use the system in terms of trip patterns and how these may differ in frequency and by time of day. This data could be used to compare ridership patterns to riders who use MUNI only during regular commute periods.

Please feel free to contact any of the organizations below with additional questions or comments. Thank you.

Sincerely,

Guillermo Mayer  
Senior Staff Attorney  
Public Advocates Inc.

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<sup>2</sup> In the Title VII context, tests for determining whether a disparity establishes a prima facie case of disparate impact include the statistical significance test and the four-fifths rule adopted by the Equal Opportunity Employment Commission. We do not take a position here as to which test should be used, nor do we take a position on whether the statistical significance test provides an accurate framework for measuring disparities in the transit and Title VI context. However, we recommend that staff explore how their application can be useful in measuring disparities.



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