

Committee Report

Transportation Committee



Committee Meeting Date: October 10, 2022

For the Metropolitan Council: October 26, 2022

Business Item: 2022-234

Title VI Disparate Impact and Disproportionate Burden Policy Update

Proposed Action

That the Metropolitan Council shall approve the DIDB Policy update, including the new threshold.

Summary of Transportation Committee Discussion/Questions

Metropolitan Council's ADA & Title VI Administrator, Guthrie Byard, presented this item. Pacheco asked if analyses are done when there are service reductions because of lack of operators. Metro Transit Service Development Director Adam Harrington responded that in that scenario we are technically exempt from completing the equity analysis but that we still do it anyway. Chamblis stated we are often limited by statues and ridership projections but how could we use the equity analyses to service the populations that have disparate impact. Harrington presented an example where with Orange Line some of the service was within the suburban city of Bloomington – which the initial analysis didn't showed disparate burden based on the customers who live there but that the analysis doesn't show where people want to go. Cummings asked what's the process for doing an alternate analysis and what's the timing on that. Byard responded that the alternate analysis would be done as soon as we able to do it and most of the work that is done through a contracted vendor. Chamblis asked how often we would collect data that lets us know we've hit a threshold. Harrington responded that we use the census data to do the service equity analysis, but we collect the TBI on an alternating schedule – not fresh year to year, more like a 5 to 10 year cycle – unless there is a particular development where we know there is a particular demographic we are serving/not serving. Pacheco asked if this has gone before the Equity Advisory Committee. Byard stated this will be before that committee next Tuesday.

Motion by Sterner, seconded by Zeran. Motion carried.

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Title VI Disparate Impact and Disproportionate Burden Policy Update

District(s), Member(s): All
Policy/Legal Reference: 49 CFR Part 21; FTA C 4702.1B
Staff Prepared/Presented: Guthrie Byard, ADA & Title VI Administrator, 612-349-7762
Division/Department: Regional Administration/Office of Equity and Equal Opportunity

Proposed Action

That the Metropolitan Council shall approve the DIDB Policy update, including the new threshold.

Background

In accordance with 49 CFR Part 21 barring discrimination by governmental agencies receiving federal funding effectuating Title VI of the 1964 Civil Rights Act, and as outlined in the Federal Transit Administration FTA Circular 4702.1B, The Metropolitan Council must have a DIDB Policy in place.

The DIDB Policy sets parameters for when there could be discrimination in the increase or decrease in service or fare based on race or income. This policy is enacted whenever there is an identified public transit project that meets the threshold for a Major Service Change per the Metropolitan Council's Major Service Change Policy. If there is evidence of either Disparate Impact (DI) or Disproportionate Burden (DB), the FTA requires recipients to analyze alternatives. A provider may modify the proposed change to avoid, minimize or mitigate potential impacts or burdens. A transit provider may proceed with the proposed change if there is substantial legitimate justification, and no legitimate alternatives exist with a less disparate impact that still accomplish the provider's legitimate program goals

The current policy allows for a 20% threshold in difference for BIPOC (DI) and/or low-income populations (DB). Currently, if benefits are being provided to BIPOC or low-income populations at a rate less than 80% than the benefits being provided to white or non-low-income populations OR if adverse effects are being borne by white or non-low-income populations at a rate less than 80% than the adverse effects being borne by BIPOC or low-income populations there could be evidence of either DI or DB.

The new policy, in line with more equitable and direct language used by the Council, minority is replaced with BIPOC, and non-minority is replaced with white. Additionally, the threshold has been reduced to a 10% difference. Therefore, If the effects borne by the BIPOC population, both adverse and beneficial, are not within 10 percent of the effects borne by the white population, then the proposed change would pose a potential disparate impact.

If the effects of a major service change borne by those of low-income, both adverse and beneficial, are not within 10 percent of the effects borne by the those not of low-income, then the proposed change would pose a potential disproportionate burden

Rationale

The DIDB Policy was last updated in 2013. Much work has been done by Metro Transit and the Metropolitan Council to improve transit equity planning and analysis of potential transit infrastructure. Therefore, now is a good time to ensure that transit infrastructure efforts are held to a high standard than what has been in place.

Thrive Lens Analysis

This effort promotes the Council's Equity Thrive outcome by attempting to connect all residents with viable transportation.

Funding

N/A

Small Business Inclusion

N/A





Disparate Impact and Disproportionate Burden (DIDB) Policy Change

Guthrie Byard
ADA & Title VI Administrator

October 10, 2022
Transportation Committee



Definitions

Disparate Impact

Policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the recipient's policy or practice lacks a substantial legitimate justification and where there exists one or more alternatives that would serve the same legitimate objectives but with less disproportionate effect on the basis of race, color, or national origin.

Disproportionate Burden

Policy or practice that disproportionately affects low-income populations more than non-low-income populations.

Current DIDB Policy

The Metropolitan Council uses the 80% rule as the threshold to determine if a proposed fare change, major service change, or triennial monitoring review of system-wide standards and policies shows evidence of potential for disparate impact or disproportional burden.

The rule states that there could be evidence of disparate impact or disproportional burden if:

- Benefits are being provided to BIPOC or low-income populations at a rate less than 80% than the benefits being provided to white or non-low-income populations.
- Adverse effects are being borne by white or non-low-income populations at a rate less than 80% than the adverse effects being borne by BIPOC or low-income populations.

Proposed DIDB Policy

The Metropolitan Council will use a 10% difference as the threshold to determine if the effects of a proposed fare change, major service change, or triennial monitoring review of systemwide standards and policies shows evidence of a potential disparate impact of disproportionate burden.

Note: The policy does not consider a beneficial effect beyond 10% difference to BIPOC and low-income populations as evidence of DI/DB. The intent of Title VI is to ensure non-discrimination against BIPOC and low-income communities. Therefore, analysis that finds a beneficial effect for BIPOC and/or low-income communities would be documented as such and will not require the agency to analyze alternatives.

Why Change?

- The current policy is nearly a decade old; we have better data available to us (TBI)
- Greater emphasis has been placed on aligning Metro Transit policies with agency equity and inclusion practices
- This is an opportunity to further explain our Title VI requirements and transit equity efforts in plain language.
- In line with our peer agencies that are conducting similar reviews of their DIDB policies

Service Equity Analysis – 10% Difference

Increase number of trips

- measure increased trips provided, per capita by population group
- e.g., 600 more weekly trips/person in BIPOC areas, 580 more weekly trips/person in white areas
- *calculation*: $[600 \div 580] = 1.035$ or **3.5% relative benefit** to BIPOC areas
- *decision*: no basis for disparate impact

Service reduction

- measure percent change in per-capita access by group
- e.g., 7% fewer weekly trips/person in BIPOC areas, 3% fewer weekly trips/person in white areas
- *calculation*: $[-0.07 - -0.03] = -0.04 = \mathbf{4\% \text{ negative impact}}$ to BIPOC areas
- *decision*: no basis for disparate impact

Fare Equity Analysis – 10% Difference

Extending the \$1.00 fare throughout the service day, both during non-rush hour and rush-hour

- Proposed fare change results in a decrease in average fares
- The average low-income rider would experience a \$0.10 decrease in transit fare
- The average non-low-income rider would experience a \$0.30 decrease in transit fare
- Decrease difference is greater than 10% (200%)
- **Potential for disproportionate burden to low-income riders.** Recipients must take actions to avoid, minimize or mitigate impacts and document those actions.

Public Engagement

Requirements

- The public is engaged in providing feedback on the proposed policy
- Policy approved by board/governing body
- Community engagement occurred during August
 - Metro Transit and METC Websites promoted policy change and requested feedback
 - Targeted engagement to several community agencies
 - 17 responses
 - Those who responded were in favor. Several additional concerns about the transit system overall.
 - Table with findings in the Title VI Program

Action Requested

- That the Metropolitan Council shall approve the DIDB Policy update, including the new threshold.