

Transportation Committee

Meeting date: January 14, 2013,
For the Council Meeting of January 23, 2013

ADVISORY INFORMATION

Date:	January 7, 2013
Subject:	Accept Title VI Policies on Major Service Change, Disparate Impact and Disproportionate Burden for Public Review
District(s), Member(s):	All
Policy/Legal Reference:	Policy 1-3 Transportation Planning and Transit Services Policy; Policy 1-3a Transportation Service Changes and Restructuring Procedure; Policy 1-3b Public Involvement in the Transportation Planning Process Procedure; Policy 2-1 Accountability to the Public Policy; Policy 2-1a Public Participation Procedure; Policy 2-1b Public Hearings Procedure
Staff Prepared/Presented:	Brian Lamb, General Manager 612-349-7510 John Levin, Director Service Development, 612-349-7789 Adam Harrington, Assistant Director Route & System Planning, 612-349-7797 Cyndi Harper, Manager Route Planning, 612-349-7723
Division/Department:	Metro Transit

Proposed Action

That the Metropolitan Council accept the proposed policies to define draft Major Service Change, Disparate Impact, and Disproportionate Burden for the purpose of public review and input prior to final adoption.

Background

Federal Transit Administration (FTA) Title VI Circular 4702.1B requires that certain transit providers must establish policies defining the threshold for major service changes and the determination of disparate impact/disproportionate burden applied to Title VI equity analyses. In our region, this requirement applies to the Metropolitan Council, including services provided by Metro Transit and Metropolitan Transportation Services, and to Minnesota Valley Transit Authority (MVTA) and possibly SouthWest Transit.

The FTA requires that the public be engaged in the decision-making process to develop these policies and that the policies be approved by the board or other governing entity.

The Council currently has a major service change procedure (1-3a), which determines when a public hearing is required, but the public was not formally engaged in developing this policy and the policy does not explicitly apply to Title VI considerations. Similarly, we have been using a threshold to determine if the potential for disparate impact/disproportionate burden exists when performing Title VI Monitoring Studies and Service and Fare Equity reviews, but the public was not formally engaged in developing this standard, nor was it adopted by the Council.

Staff has reviewed the policies of several other transit agencies around the country and in December staff met with representatives from several social advocacy organizations to seek input on how these policies should be defined. Staff has worked with MVTA and SouthWest Transit to develop a common set of proposed policies. The intent is that the Metropolitan Council, MVTA Board and Southwest Metro Transit Commission will



individually approve the same or similar policies based on public feedback as appropriate for each provider.

Overview

Major Service Change Policy

The proposed definition of a major service change is modified from the existing definition to respond to FTA requirements and reflect review of other agencies' policies and input from stakeholders. The new FTA circular requires the definition to include both the addition and reduction of service. The threshold for a major service change remains at 25 percent of service, but is adjusted to refer to service hours instead of miles and is augmented with a minimum service change of 3,500 annual hours. The threshold of 3,500 in-service hours was selected because it represents the service level of one bus operating five days a week over a 16 hours span of service. In addition, a service day criterion was established to separate the impact of weekday, Saturday and Sunday changes. To ensure that the spirit of the policy outlining major service changes is maintained, the definition is adjusted to refer to cumulative changes over a 12 month period.

Disparate Impact/Disproportionate Burden Policy

The proposed use of the "four-fifth's" rule as Council policy matches practice that has been in use since 2009.

Rationale

Council policy 2-1b states that informational materials for public hearings must be approved by the Council and available to the public at least 10 days prior to the first hearing.

Next Steps

Five public hearings will be held between February 6-13, 2013. Public comments will be accepted through February 24, 2013. Revised policies will be brought to the Council for approval in March.

Funding

The outreach and public meetings will be funded through existing operating budgets.

Known Support / Opposition

None known at this time.

Public Hearings to set Major Service Change, Disparate Impact and Disproportionate Burden Title VI Policies

Wednesday, February 6

6-7:30 p.m.

Southwest Station
13500 Technology Drive
Eden Prairie, MN 55344

Thursday, February 7

6 p.m.-7:30 p.m.

Dakota County Library - Burnhaven Branch
1101 W County Road 42
Burnsville, MN 55306

Saturday, February 9

12:30-2 p.m.

Hennepin County Library - Augsburg Park Branch
7100 Nicollet Avenue
Richfield, MN 55423

Tuesday, February 12

11 a.m.-12:30 p.m.

Minneapolis Urban League
2100 Plymouth Avenue
Minneapolis, MN 55411

Wednesday, February 13

6 p.m.-7:30 p.m.

East Side YMCA
875 Arcade Street
Saint Paul, MN 55106

DRAFT
Metropolitan Council Major Service Change Policy
Effective March 2013

The Federal Transit Administration (FTA) requires that all transit providers in an urbanized area of more than 200,000 and operating at least 50 peak vehicles must establish a policy defining the threshold for major service change. The public must be engaged in the decision-making process to develop these policies, which must be approved by the policy board or other governing entity. This policy is then incorporated into the agency's Title VI program and will determine when a service equity analysis is required.

All increases or decreases in fixed route service meeting the threshold require a Title VI Equity Analysis prior to implementation. The equity analysis must be presented to the Metropolitan Council and a record included in the agency's Title VI Program.

Major service changes meet at least one of the following criteria:

- a) For an existing route or set of routes, one or more net increases or decreases within a 12 month period of more than a 25% change in the daily in-service hours and 3,500 annual in-service hours
- b) For a new route in a new coverage area, a net increase of more than 3,500 annual in-service hours
- c) Restructuring of transit service throughout a sector or sub-area of the region as defined by Metro Transit
- d) Elimination of a transit route without alternate service or a fixed route replacement

The following service changes are exempt:

- a) Seasonal service changes
- b) Route number or branch letter designation
- c) Any change or discontinuation of a demonstration route within the first 24 months of operation
- d) Changes on special service routes such as State Fair, sporting events and special events
- e) Route changes caused by an emergency. Emergencies include, but are not limited to, major construction, labor strikes and inadequate fuel supplies
- f) Any service change that does not meet the conditions of a major service change as defined above

DRAFT
Metropolitan Council Disparate Impact and Disproportionate Burden Policy
Effective March 2013

The Federal Transit Administration (FTA) requires that all transit providers in an urbanized area of more than 200,000 who receive federal funding and operate at least 50 peak vehicles must develop a policy for measuring disparate impact and disproportionate burden. A threshold must be established to determine when 1) adverse impacts are borne disproportionately by minority or low-income populations and 2) benefits are not equitably shared by minority or low-income populations.

The public must be engaged in the decision-making process to develop this policy, which must be approved by the policy board or other governing entity. This policy is then incorporated into the agency's Title VI program. It is used 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 disproportionate burden.

The Metropolitan Council proposes to use the "four-fifths" rule to determine evidence of disparate impact or disproportionate burden. This standard is also used in the Equal Employment Opportunity Commission's *Uniform Guidelines on Employee Selection*. The "four-fifths" rule states that there could be evidence of disparate impact or disproportionate burden if:

- Benefits are being provided to minority or low-income populations at a rate less than 80% (four-fifths) than the benefits being provided to non-minority or non-low-income populations
- Adverse effects are being borne by non-minority or non-low-income populations at a rate less than 80% (four-fifths) than the adverse effects being borne by minority or low-income populations

If a potential disparate impact for minority populations is found, the FTA requires recipients to analyze alternatives. A provider may modify the proposed change to avoid, minimize or mitigate potential disparate impacts. 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.

If potential disproportionate burden on low-income populations is found, the FTA requires recipients to take steps to avoid, minimize or mitigate impacts where practicable.