

**Massachusetts Bay
Transportation Authority**

Summary of Proposed Title VI Policy Changes and Recommendation for Board Approval

Presentation to MBTA Board of Directors
April 19, 2023

Updates Proposed to two Title VI Policies

1. **Service and Fare Change Equity Policy (aka DI/DB Policy)**
How the MBTA evaluates the equity impacts of proposed service and fare changes.
2. **Public Engagement Plan**
The principles and procedures that guide the MBTA's engagement with the public about projects and decisions in development.



Service and Fare Change Equity Policy (formerly known as DI/DB Policy)

How the MBTA evaluates the equity impacts of proposed service and fare changes.



Overview and Purpose of Policy Change

- As required by FTA through Title VI of the Civil Rights Act of 1964, MBTA maintains a disparate impact/disproportionate burden (“DI/DB”) policy to measure the equity impacts of fare and major service changes on protected populations, including defining “major service change.”
- DI/DB policy was last updated in 2017. Under current version, equity analyses often produce unreliable results, including:
 - Definition of major service change does not allow for consideration of network effects; does not clarify when equity analyses are *not* required.
 - Misplaced reliance on absolute change ratio when determining impacts of proposed changes. Methodology does not account for proportionality in populations being compared.



Preparation for Policy Update

- MBTA submitted comment in response to FTA for potential updates to Title VI Circular in December 2021.
- CTPS conducted a nine-month study of MBTA challenges and reviewed policies of 8 peer transit agencies to identify best practices.
- CTPS tested alternative service equity metrics; made recommendations to update major service change definition and equity analysis process within the bounds of the FTA circular.
- MBTA staff held internal working group of stakeholders including Service Planning, Office of Performance Management & Innovation (OPMI), and Office of Diversity & Civil Rights (ODCR).
- Conducted outreach to include voices from communities served, including:
 - 2 stakeholder meetings with external Policy Development Working Group representing diverse interests and communities (17 organizations invited, 10 participated)
 - 3 public meetings held in Boston, Quincy, and Chelsea (55 total attendees)



Proposed: Six Key Changes to the DI/DB Policy

Substantive Changes

1. Redefine “major service change” to account for network-wide effects and to clarify exemptions.
2. Adjust methodology of equity analyses to improve reliability.

Clarifying/Language Updates

3. Replacing references to “minority populations” with more inclusive language to reflect communities served.
4. Clearly stating circumstances that require a fare equity analysis.
5. Clearly describing the public engagement and board approval process for any major service change or fare change.
6. Rename the document “Service and Fare Change Equity Policy” to better convey its purpose. (Formerly titled “Disparate Impact/Disproportionate Burden Policy”)

1. Defining Major Service Change

Old Definition

Mode-level change: A change in Revenue Vehicle Hours (RVH) per week of at least 10% by mode

Route-level change:

- For all routes, a change in route length of at least 25% or 3 miles
- For routes with at least 80 RVH per week, a change in RVH per week of at least 25%

Complete elimination of an existing route or the addition of a new route is always a Major Service Change.

Proposed Definition

Any addition, reduction, suspension or change in service lasting longer than 12 months and meeting one or more of the following criteria:

- **Mode-level:** A change of at least 10% in Revenue Vehicle Hours (RVH) per week by mode; or
- **Route-level:** A change of at least 25% in RVH per week by route; or
- **Base coverage:** A change of at least 0.30% of the population covered by the entire network according to the base coverage standard established in the T's Service Delivery Policy

Proposed definition is in line with peer agencies reviewed by CTPS.



Defining Major Service Change: Exemptions

- Current policy does not address closures or diversions for construction, repairs, or emergencies.
- The peer agencies reviewed each approach exemptions differently. Examples for comparison:
 - LA Metro exempts experimental, demonstration or emergency service changes lasting more than a year if service is replaced by a different route, mode or operator providing service with the same headways, fare, transfer options, span of service and stops.
 - Metro Transit exempts elimination of a transit route with alternate fixed route replacement. Also exempts route changes caused by an emergency, including major construction, with no stated time limit.
- **MBTA's proposed new policy language:** Any service change lasting longer than 12 months that meets one or more of the criteria set forth above and that is necessary to complete **construction or repairs** for reasons of **safety, security or sustainability** shall not be considered a Major Service Change and shall not require a service equity analysis so long as the MBTA is providing **alternative service**, using fixed routes where practicable, or the MBTA is not providing alternative service, but can demonstrate that there are no comparably **effective alternatives** and **no mitigation measures** that are practicable.

2. Improve Equity Analysis Methodologies

Improve equity analysis methodologies so that we may consider more riders with low-income and have more reliable results by:

- Increasing low-income threshold from 60% to 80% median household income in MBTA service area. 60% as of 2015 was \$43,415. 80% in 2021 is approx. \$77,600. Median income is subject to annual modification.
- Discontinuing reliance on calculations using the absolute change to compare differently sized populations.



Proposed: Clarifying Language

3. Replace federal term “minority populations” with more inclusive language to reflect communities served; substitute “populations protected on the basis of race or ethnicity” where applicable.
4. Clearly state the circumstances that require a fare equity analysis and those that do not.
 - Required: Any fare increase/decrease; any change to fare media or fare payment type if such change may result in a fare increase or decrease.
 - Not required: Temporary diversion mitigations, promotional fares lasting less than 6 months, and administrative process changes.
5. Describe the public engagement and board approval process followed for any major service change or fare change, and for any change to the policy.
6. Rename the document “Service and Fare Change Equity Policy” to more clearly state the policy’s purpose and enhance understanding.



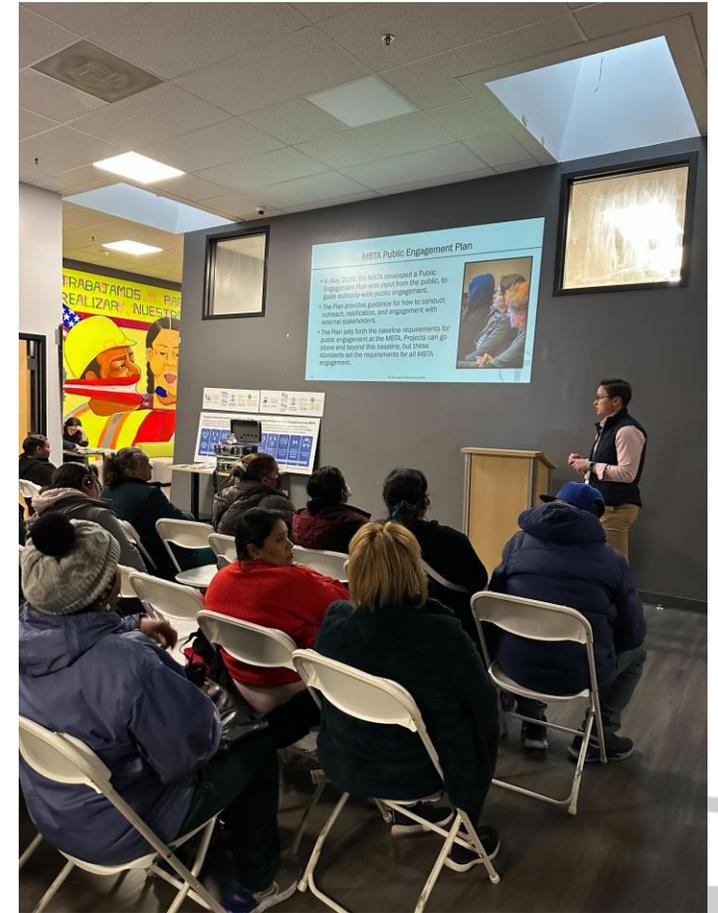
Public Engagement Plan

The principles and procedures that guide the MBTA's engagement with the public about projects and decisions in development.



What is Public Engagement?

- Public engagement is the opportunity for riders to influence what happens at the MBTA, from service and projects, to fares.
- Understanding the diverse wants and needs of MBTA riders will allow the MBTA to better serve its customers and deliver on critical projects.
- By soliciting and incorporating customer input early, projects are strengthened.
- Further, as part of our Title VI Program the MBTA is required to have a **Public Engagement Plan** that details outreach strategies designed to achieve diverse and inclusive public engagement.
- Public Engagement team is growing to facilitate opportunities for riders to provide feedback, etc.



MBTA Public Engagement Plan

- In May 2020, the MBTA developed a Public Engagement Plan with input from the public, to guide authority-wide public engagement.
- The Plan provides guidance for how to conduct outreach, notification, and engagement with external stakeholders.
- The Plan sets forth the baseline requirements for public engagement at the MBTA. Projects can go above and beyond this baseline, but these standards set the requirements for all MBTA engagement.



Proposed Changes to the Public Engagement Plan

We are proposing a set of relatively minor edits to modernize and clarify, and to address one FTA finding. Changes include:

1. Updated references to MBTA Board of Directors, and not the FMCB.
2. Clarified "Guiding Principles" to name equity as a basis for strategies to reach diverse members of the community.
3. Added "Community Meetings" as a common type of engagement.
4. Expanded section on "Virtual Public Engagement" to reflect MBTA's increased use of virtual engagement strategies following the COVID-19 pandemic.
5. ~~Expanded "Accessibility and Public Engagement" section with updated information on accessible public meetings.~~
6. Added clearer language for soliciting and considering public comments prior to a fare increase or major service reduction. ***Requested by FTA in most recent Triennial Audit.***
7. Added link to MBTA's Service and Fare Change Equity Policy for definitions of major service change (including major service reduction).



2023 Public Engagement Processes for these Policies



Public Engagement Conducted

- Two stakeholder meetings with Policy Development Working Group representing diverse interests and communities.
 - 17 organizations invited, 10 participated
- MBTA webpage provided context, draft policies, and summary of changes, including translations into 6 total languages.
- Press release providing details for public comment, including the list of scheduled public meetings.
- Public meeting flyers emailed to 2,500 community/municipal contacts.
- Public meetings promoted on MBTA social media and 5 local newspapers.
- 3 public meetings held in Boston (hybrid), Quincy (in-person) and Chelsea (in-person).
 - 55 total attendees
- Brief presentation at virtual Riders' Transportation Access Group (R-TAG) general meeting on 3/30.
- Table and materials at in-person CIP Open House in Boston on 4/4.
- Public comments accepted through 4/14.



Summary of Public Comment & Responses

- A handful of relevant comments received.
- Acknowledge MBTA Advisory Board jurisdiction to review proposed changes after public comment
 - Response: Added language in PEP that says any proposed systemwide fare change or systemwide decrease in service of 10% is submitted to Advisory Board for review
- MSC should include shorter-term changes, use access-based metrics, and account for cumulative changes
 - Response: MBTA is exploring cumulative lookback approach and access-based metrics, and evaluating potential for conducting such analyses in the future. Evaluating service changes that are less than 12 months is inconsistent with the Circular.
- Proposed MSC exception that any alternative service must be of equal or better service and frequency
 - Response: Not practicable (e.g., shuttle buses for subway or Commuter Rail)
- Use alternative term for "minority"
 - Response: MBTA will refer to populations protected on the basis of race or ethnicity, and specify the particular population(s) where possible
- General appreciation for language access and equity goals



Vote (1 of 2)

WHEREAS, the Massachusetts Bay Transportation Authority (“MBTA”) maintains a disparate impact/disproportionate burden (“DI/DB”) policy as required by the FTA through Title VI of the Civil Rights Act of 1964; and

WHEREAS, equity analyses under the current DI/DB policy often produce unreliable results; and

WHEREAS, the MBTA submitted comment to the FTA for potential updates in December 2021; and

WHEREAS, CTPS conducted a nine-month study of MBTA challenges and reviewed policies of 8 peer transit agencies to identify best practices; and

WHEREAS, CTPS tested alternative service equity metrics and made recommendations to update major the service change definition and equity analysis process within the bounds of the FTA circular; and

WHEREAS, MBTA staff held an internal working group of stakeholders including Service Planning, Office of Performance Management & Innovation (OPMI), and Office of Diversity & Civil Rights (ODCR); and

WHEREAS, the MBTA conducted public outreach as required by Title VI regulations soliciting input from protected groups as it relates to the DI/DB policy; and

WHEREAS, MBTA staff have briefed the Board of Directors on the proposed changes to the DI/DB policy; it is hereby

RESOLVED, that the Board of Directors approves the Service and Fare Change Equity (Disparate Impact/Disproportionate Burden) Policy as presented during the April 19, 2023 meeting and authorizes the General Manager, or his designee, to take all necessary steps to implement said Policy, in the name and on behalf of the Massachusetts Bay Transportation Authority.



Vote (2 of 2)

WHEREAS, the MBTA is required by the FTA through Title VI of the Civil rights Act of 1964 to have a Public Engagement Plan detailing outreach strategies designed to achieve diverse and inclusive public engagement; and

WHEREAS, the MBTA Public Engagement Plan developed in May 2020 requires modernization and clarification of several elements; and

WHEREAS, the FTA requested clearer language for soliciting and considering public comments prior to a fare increase or major service reduction in the most recent Triennial Audit; and

WHEREAS, the MBTA conducted extensive public outreach regarding the proposed updates to the Public Engagement Plan; and

WHEREAS, MBTA staff have briefed the Board of Directors on the proposed changes to the Public Engagement Plan, it is hereby

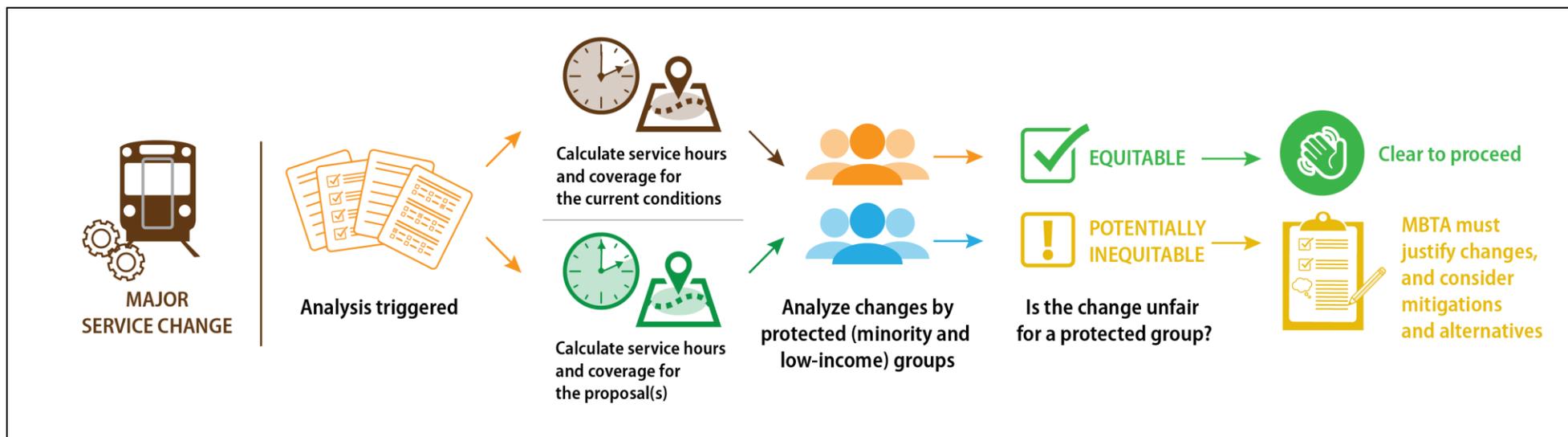
RESOLVED, that the Board of Directors approves the Public Engagement Plan as presented during the April 19, 2023 meeting and authorizes the General Manager, or his designee, to take all necessary steps to implement said Plan, in the name and on behalf of the Massachusetts Bay Transportation Authority.



Appendix



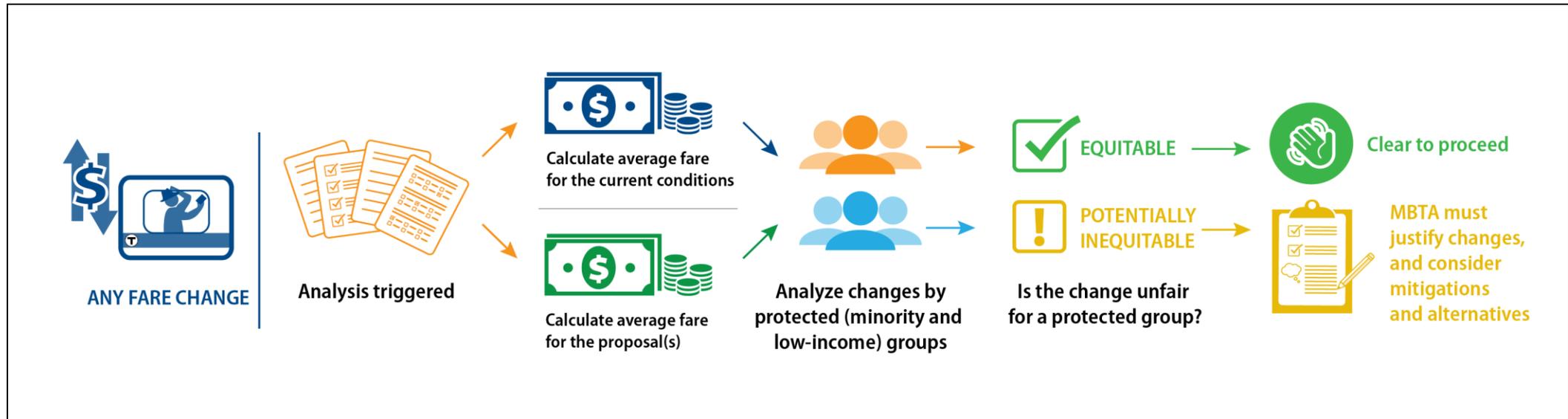
Overview: Service Equity Analysis



- A service equity analysis is required for any “major service change” as defined in the policy.
- The right data to analyze depends on the proposed change. For example, the MBTA may use its rider census to compare the ridership of the affected route(s) with the ridership of the system. Or we may use U.S. Census data when considering adding new service, such as GLX.
- The analysis is published in a report that states the data used, how the data was collected, and the methods and calculations used in the analysis itself.



Overview: Fare Equity Analysis



- A fare equity analysis compares the percentage change in the average fare for riders of color and overall riders and for low-income and overall riders. For fare-type changes and mode-shift induced changes across all modes, the MBTA will assess whether persons of color and low-income riders are more likely to use the affected fare type, media, or mode than overall riders and what the potential cost impact would be to these riders.
- The MBTA conducts an equity analysis before making any change that would increase or decrease individual or system-wide fares, or fares by mode, fare payment type or fare media.



Overview: Equity Analysis Results

- **Finding of disparate impact:** If a proposed change will have a disparate impact on **POC/minority populations**¹, the MBTA may only adopt the change upon demonstrating: (1) a **substantial legitimate justification for the change**; (2) there are no **comparably effective alternatives** that would result in less-disparate impacts; and (3) the justification for the change is not a pretext for discrimination.
- **Finding of disproportionate burden:** If the proposed change will disproportionately affect **low-income populations**², whether by benefit or burden, the MBTA may only adopt the change if further **mitigation measures** or alternatives that would reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or alternative is practicable, the social, economic and environmental effects of avoiding or mitigating the adverse effects shall be taken into account.

¹ Federal law uses the term “minority”, defined as one who identifies as belonging in one or more of the following US census categories: American Indian and Alaska Native; Asian; Black or African American; Hispanic or Latino (of any race); Native Hawaiian or other Pacific Islander.

² MBTA defines low-income populations as those in which the median household income is less than 80% of the median household income for the MBTA service area (approximately \$77,660 in 2021 and subject to annual modification).



Defining “Major Service Change”: Peer-comparison

CTPS performed a peer review of 8 U.S. transit agencies:

1. CTA (Chicago)
2. LA Metro (Los Angeles)
3. WMATA (Washington D.C.)
4. King County Metro (Seattle)
5. Regional Transportation District (Denver)
6. Metro Transit (Minneapolis-Saint Paul)
7. TriMet (Portland, OR)
8. SFMTA (San Francisco)

