

Disparate Impact/Disproportionate Burden Policy

Recommendation for FMCB Approval

January 23, 2017

- Review of Federal Transit Administration (FTA) requirements and purpose of Disparate Impact/Disproportionate Burden (DI/DB) policy
- Recommendations for key definitions and standards for a revised MBTA DI/DB policy
- Report on public outreach, public participation, input received and responses to questions
- Next steps, including request for FMCB review and vote to approve DI/DB policy

- Under FTA Title VI guidance, public transit providers must create a DI/DB policy in order to assess and identify equity risks in Major Service or Fare Change proposals
- A DI/DB policy establishes a process for staff to evaluate the equity of proposed Major Service Changes and all Fare Changes
- FTA provided technical assistance to MBTA on draft policy, finding no compliance problem with our proposed DI/DB policy

Current Status: MBTA staff has completed a revised DI/DB policy to propose to the FMCB, which is ready for Board consideration

Steps Taken:

1. Internal review of current MBTA DI/DB policy confirmed problems of multiple standards to study fare increases, weak public process in 2014 and stale ridership data
2. Policy was explained to FMCB and new draft elements were presented, resulting in FMCB approval to seek public input
3. Staff led a multifaceted public engagement campaign of stakeholder workshops, public meetings and considered public comments

FTA Title VI Circular 4702.1B – Service and Fare Equity Analysis Requirement

- Large transit providers are required to conduct service and fare equity analyses, and submit with triennial Title VI program. Key policy features include:
 1. a definition of Major Service Change;
 2. a definition of Adverse Effects; and
 3. Disparate Impact and Disproportionate Burden thresholds.
- FTA requires public participation in the decision making process to establish a DI/DB Policy
- Note: FTA recognizes that the complex nature of service changes do not always allow for simple application of DI/DB standards and consults with transit providers to determine appropriate strategies.

- A transit provider's DI/DB Policy sets that standard and guidelines for:
 1. determining when “equity analyses” are required by defining “major service change”;
 2. performing “equity analyses,” including how a proposed change will be evaluated and what data (population or ridership) will be considered;
 3. evaluating the results of the analysis; and
 4. identifying when a significant disparity is found that could risk discrimination.

1. Major Service Change Definition

Goal: Identify proposed service changes significant enough to require an equity analysis.

Recommended Major Service Change Definition:

➤ **Modal Level:**

- A change in Revenue Vehicle Hours (RVH) per week of 10% or more.
- RVH refers to the total number of hours per week transit vehicles operate service that receive fares from customers

➤ **Route Level:**

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

Note: When multiple service changes are proposed to more than one route, the changes will be evaluated in the aggregate, by mode.

2. Adverse Effects

Objective: Set a definition for the specific risk of harm to be avoided.

Recommended Adverse Effect definition:

- Changes in the amount of service scheduled (revenue vehicle hours)
- Changes in service coverage (route miles)

Adverse effects of service changes are measured in terms of the anticipated benefits (increases in service) and burdens (decreases in service) among minority and nonminority populations and among low-income and non-low-income populations.

3. DI/DB Threshold

Objective: Establish a statistical metric to identify meaningful differences in the impact of service and fare change proposals on minority and low-income populations.

Recommended DI/DB Threshold:

- 20% for service equity analyses
 - Any service change proposal with more than a 20% difference in impacts will be considered disparate.

- 10% for fare equity analyses
 - Any fare change proposal with more than a 10% difference in impacts will be considered disparate.

NOTE: If there is a finding of a disparity, FTA regulations prescribe steps a transit provider must take to modify the proposal, avoid or mitigate the harm, or to justify the change based on legitimate nondiscriminatory justification

- **Engagement Strategy Included:**
 - 2 stakeholder workshops representing diverse interests and communities served by the MBTA
 - 37 organizations invited, 16 participated
 - 4 public meetings held in Roxbury, Lynn, Downtown Boston, and Mattapan
 - 101 attendees, 55 individual comments (in-person, written, and online)
 - MBTA webpage provided draft policy text, background information, and online comment opportunity
 - Public meeting flyers e-mailed to 3,600+ contacts via GovDelivery
 - Flyers distributed by hand to organizations and posted on community boards in Dudley Square, Codman Square, Fields Corner, and Mattapan

Summary of key takeaways:

- Several commenters noted the inequities of historical MBTA service decisions that continue to adversely affect poor and minority communities.
- In Roxbury and Mattapan venues, several requests were made for greater presence of MBTA Civil Rights staff and Senior Leaders in the community, to build trust and share information
- During all meeting sessions, there were public comments that acknowledged and appreciated an effort to establish equity goals for the MBTA
- There is great desire for prompt implementation of strategies under the proposed Service Delivery Policy to improve service

- **Community input was carefully considered:**
 - Stakeholder workshops led to a lower threshold for fare changes
 - An additional meeting date was added and comment period was extended to ensure robust input
 - Feedback validated the draft adverse effects definition proposal
 - Comments have been addressed, and FAQ's posted online and sent to attendees via e-mail

- Board review and approval of policy
- Training for key departments and staff to ensure timely identification of need to conduct equity analyses
- Coordinate with Title VI Working Group to incorporate lessons learned from DI/DB public engagement process into Title VI Program and MBTA Public Participation Plan.