

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

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MEMORANDUM

TO: Chairwoman Marcelia Nicholson, Milwaukee County Board of Supervisors

FROM: Kevin Muhs, Executive Director, SEWRPC

DATE: April 1, 2021

SUBJECT: TITLE VI REQUIREMENTS AND FEDERAL TRANSPORTATION FUNDING

Title VI of the Civil Rights Act of 1964 is intended to prevent discrimination against any person based upon race, color, and national origin. More specifically, 42 USC 2000d includes protections against exclusion from participation in, denial of the benefits of, and being subjected to discrimination under any program or activity receiving Federal funding. Within the expertise of the Regional Planning Commission, regulations and guidance produced by the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) dictate how Title VI is applied and enforced. There are also statutes from other acts that are intended to prevent discrimination based on sex, age, and disability, and executive orders that are intended to ensure proportionate benefits and avoid disparate impacts on people of color, low-income populations, and limited English proficiency populations.

TITLE VI AND ENVIRONMENTAL JUSTICE IN REGIONAL PLANNING

There are numerous ways that the Commission ensures that it is meeting and exceeding Federal requirements related to discrimination. As with every entity that receives FTA funding, the Commission produces a Title VI program report that identifies the procedure for filing a Title VI complaint, includes analyses of its public participation efforts, a summary of how the needs of people of color in the Region are considered and addressed as part of the regional planning process, and a number of other elements. With respect to environmental justice, the Commission has an extensive public involvement effort (more information at sewrpc.org/ppp) that is focused on ensuring awareness of, participation in, and influence on regional planning and programming efforts by the Region's residents, with particular emphasis on people of color and low-income populations in the region.

In addition, all regional planning efforts are reviewed by the Commission's Environmental Justice Task Force (more information at sewrpc.org/ejtf), which has, since its creation in 2007, helped the Commission to:

- Ensure full and fair participation of environmental justice (EJ) populations in the regional planning process
- Address relevant issues related to the needs and circumstances of EJ populations
- Identify potential benefits and adverse effects on EJ populations of regional planning programming and activities

- Advise and recommend methods to prevent the denial of, reduction in, or significant delay in the receipt of benefits to EJ populations; and/or avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on EJ populations
- Enhance awareness, understanding, appreciation, support, and implementation of plan recommendations and benefits, with emphasis on the needs of EJ populations

Title VI, Environmental Justice, and Equity in VISION 2050

More specifically to the interests of Milwaukee County as the owner of the largest transit system in Southeastern Wisconsin, there are extensive equity analyses included in the Commission’s advisory long-range land use and transportation plan for the Region, VISION 2050.

As part of the development of VISION 2050, completed in 2016, and its most recent update, completed in 2020, extensive public involvement and outreach efforts were employed throughout the process (including the use of visioning and scenario planning techniques) to create a vision for land use and transportation system development in Southeastern Wisconsin that reflects how residents—including people of color and low-income populations—want their communities and the Region to develop. The visioning and scenario planning techniques used as part of the VISION 2050 effort were designed to obtain greater public input, particularly from people of color and low-income populations.

In addition, the Commission produced a report¹ comparing the Milwaukee metropolitan area to 28 peer metropolitan areas across the Nation. Although there are nearly 100 data tables comparing different metrics in the report, some of the key conclusions directly relate to the substantial gaps in equity in Southeastern Wisconsin, particularly along racial lines. There are gaps in educational attainment, income, and poverty levels along racial and ethnic lines in all of the 29 metropolitan areas included in the report. However, the disparities in the Milwaukee area are worse than most or all of the peer metro areas, depending on the specific statistic being considered. For instance:

- Per-capita income for white non-Hispanic people in the Milwaukee area is 2.1 times per-capita income for people of color, ranking the area worst among all 29 peers
- Incidence of poverty along racial and ethnic lines is worse in the Milwaukee area than all peer areas, with the poverty rate among people of color being 4.1 times the poverty rate of white non-Hispanic people
- Adults of color in the metro area are 4.5 times as likely to lack a high school diploma or equivalent, ranking the Milwaukee metro area as 6th worst out of 29 peers
- White non-Hispanic people in the metro area are twice as likely to have a bachelor’s degree than people of color, tying the Milwaukee area for worst among all peers

Within this context, the equity analyses of the transportation component² of VISION 2050 consider whether the recommended transportation component (more information can be found at vision2050sewis.org/elements) of the plan would help or hurt the Region’s ability to meet the transportation needs of people of color and low-income populations in the region and help address the identified disparities. Specific to Federal requirements, the equity analyses focus on whether people of color or low-

¹ *Southeastern Wisconsin Regional Planning Commission, Memorandum Report No. 221, Second Edition: A Comparison of the Milwaukee Metropolitan Area to Its Peers, March 2020.*

<https://www.sewrpc.org/SEWRPCFiles/Publications/mr/mr-221-2nd-ed-comparison-milwaukee-area-to-peers.pdf>

² *Southeastern Wisconsin Regional Planning Commission, Planning Report No. 55, VISION 2050: A Regional Land Use and Transportation Plan for Southeastern Wisconsin; Volume III, Second Edition: Recommended Regional Land Use and Transportation Plan, “Appendix N: Equity Analysis of the VISION 2050 Transportation Component, June 2020. <https://www.sewrpc.org/SEWRPCFiles/LUTranSysPlanning/pr-55-vol-3-2nd-Ed-app-n-final.pdf>*

income populations would receive a proportionate share of the benefits and/or would experience a disparate (negative) impact from the full implementation of the plan. To measure this, the equity analyses performed measured 1) accessibility for people of color, low-income populations, and people with disabilities by transit and automobile to jobs and various types of activity center; 2) the number and percent of people of color, low-income populations, and people with disabilities served by transit; 3) transit service quality for people of color, low-income populations, and people with disabilities; 4) benefits and impacts of new and widened arterial streets and highways on people of color and low-income populations; and 5) transportation-related air quality impacts on people of color and low-income populations. Some of these analyses include people with disabilities based on public input during the plan development process. Based on all of the analyses, it was determined that the transportation component of VISION 2050 fairly distributed both benefits and negative impacts associated with the plan's transportation recommendations and would help to remedy the portion of the disparities mentioned previously caused by limited or restricted access to opportunity.

However, Federal regulations for metropolitan planning organizations and long-range regional transportation plans require that such plans only include transportation projects that can be funded with existing and reasonably expected revenues, given existing and reasonably expected restrictions on the use of those revenues for specific types of projects or services.³ The subset of transportation projects and services that fit within this definition is called the "Fiscally Constrained Transportation System" (FCTS). Based on the current structure and amount of funding available for the parts of the Region's transportation network from all levels of government, the FCTS includes substantially less freeway reconstruction than the recommended plan, and an expected 35 percent reduction in transit service between now and 2050. The five previously listed categories of equity analyses were also performed for the FCTS.

Based on comparisons of the location of the freeway and surface arterial street and highway capacity improvements under VISION 2050 and the FCTS to areas of the Region with concentrations of people of color and low-income populations, it was concluded that no population groups in the Region would disproportionately bear the impact of the planned freeway and surface arterial capacity improvements. As the segments of freeway to be widened under either VISION 2050 or the FCTS would directly serve areas with concentrations of people of color and low-income populations, these populations would benefit from the expected modest improvement in highway accessibility to employment and other destinations associated with the freeway widenings, with the improvement under VISION 2050 being greater than the FCTS. Similarly, the anticipated improved safety that would potentially occur from a reduction in congestion would directly benefit people of color and low-income populations that would be served by the widened freeway segments under VISION 2050 and the FCTS.

With respect to public transit, implementing the more than doubling of transit service recommended under VISION 2050 would significantly improve the transit access of people of color, low-income populations, and people with disabilities to jobs, healthcare, education, and other activities. While the number of additional members of people of color and low-income populations and of people with disabilities with access to transit service would only modestly increase under VISION 2050, the number of such populations with access to higher-quality transit, including fixed-guideway transit service, would significantly increase.

Conclusions of the Impacts of Current Funding Programs and Amounts

The 35 percent reduction in transit service and minimal addition of higher quality transit service expected under the FCTS would result in significantly less access to jobs, healthcare, education, and other daily

³ Federal regulations regarding fiscal constraint of a regional transportation plan can be found in 23 CFR 450.324(f)(11), most recently published in the Federal Register on May 27, 2016. Additional information on fiscal constraint can be found at: www.fhwa.dot.gov/planning/guidfinconstr_qa.cfm and www.transit.dot.gov/regulations-and-guidance/transportation-planning/financial-planning-fiscal-constraint.

needs, and an overall reduction in transit service quality when compared to both VISION 2050 and the transit system that exists today. For the 1 in 10 households in the Region without access to an automobile—households that are more likely to be of color or low income than their overall proportion of the Region’s population—mobility and access to jobs and activities within the Region would be limited. In addition, a large number of the Region’s jobs would be inaccessible to those households without an automobile due to excessive transit travel times and reductions in the times of day that service would be available. This inaccessibility to jobs via transit particularly impacts people of color, low-income populations, and people with disabilities, who utilize public transit at a rate proportionately higher than other population groups.

Therefore, should the reasonably available and expected funding for implementing the public transit element of VISION 2050 continue as estimated under the FCTS, which represents the Commission’s best estimate of our current funding programs and amounts, **a disparate impact on the Region’s people of color, low-income populations, and people with disabilities is likely to occur.** Given current limitations at the State level on both local government revenue generation and on the Wisconsin Department of Transportation’s ability to allocate funds between different programs, the ability for the Region to avoid such a disparate impact is dependent on the State Legislature and Governor providing additional State funding for transit services and/or allowing local units of government and transit operators to generate such funds on their own.

TITLE VI AND ENVIRONMENTAL JUSTICE FOR THE MILWAUKEE COUNTY TRANSIT SYSTEM (MCTS)

The previous sections of this memorandum provide a detailed overview of how the Commission has implemented Federal Title VI and EJ requirements within its regional transportation planning efforts, the context of which is important to understanding the Title VI and EJ environment within which the County, and by extension MCTS, is operating in. Because of the demographics of who uses transit in Southeastern Wisconsin (in Milwaukee County, Commission data indicate that approximately 60 percent of riders are people of color and 68 percent of riders’ household incomes are below \$30,000 annually), any reduction of service, or even a lack of expansion of service, disproportionately negatively impacts people of color, low-income populations, and people with disabilities. Within the funding limitations imposed by the State, the County and MCTS ensuring that they meet the Federal requirements associated with Title VI and the EJ Executive Order largely involves ensuring that any service reductions or fare increases do not particularly and disproportionately impact the neighborhoods with concentrations of people of color or low-income populations. MCTS’ robust Title VI program⁴ discusses how they determine if such service changes would have a disproportionate benefit or disparate impact on people of color and low-income populations, using the best practices provided within FTA guidance and regulations to perform service and fare equity analyses.

However, within this challenging context, the County and MCTS are implementing and exploring investments that will make the best use of available resources to improve access to the Region’s resources for those without an automobile. MCTS NEXT is increasing the speed of the entire system by increasing stop spacing and by providing high frequency routes particularly in areas with concentrations of people of color and low-income populations, which combine to improve overall travel times for the overwhelming majority of riders. The East-West BRT will connect north-south high frequency routes serving the highest concentrations of people of color and low-income populations to the more than 125,000 jobs and many educational opportunities found within the Wisconsin Avenue and Bluemound Road corridor. And the Commission is assisting the County Department of Transportation with identifying an appropriate transit

⁴ *Milwaukee County Transit System, 2020 Title VI Program, August 2020.*
<https://www.ridemcts.com/getattachment/About-MCTS/DRAFT-2020-MCTS-Title-VI-Program-Update-V3.pdf?lang=en-US>

investment that would improve travel times by transit in the 27th Street/Layton Boulevard corridor, where 75% of residents are people of color.

As made clear by the conclusions in the previous section of this memorandum, building an equitable transportation system in Southeastern Wisconsin is not solely within Milwaukee County's control. In particular, the State Legislature and the Governor would need to act to substantially increase State funding for transit and allow local governments or transit operators to raise additional revenue locally to avoid a transportation-related disparate impact on people of color, low-income populations, and people with disabilities in the County. Because MCTS works as a network, with many riders traveling some distance from their residence, service increases or reductions need to not only account for the demographics of the neighborhoods adjacent to the impacted routes but also the types and amount of destinations served by the impacted routes, such as concentrations of jobs, educational institutions, community centers, and services. Understanding impacts on travel time and access to destinations are the key measures to focus on when considering whether a change in service would result in proportionate benefits or disparate impacts on people of color, low-income populations, or people with disabilities.

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