

The Oakland Airport Connector:

A Case Study on Title VI Administrative Enforcement

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Federal Transit Administration

- **FTA Circular 4702.1A**
 - Provides guidance and instructions to FTA grantees on how to comply with Title VI.
 - Covers:
 - State Departments of Transportation
 - Metropolitan Planning Organizations
 - Transit Agencies
 - Other Grantees

Federal Transit Administration

- **FTA Circular 4702.1A**

- Incorporates the DOT Regulations on Title VI and DOT Order on Environmental Justice.
 - Covers discrimination against **low-income populations** in addition to “**race, color, and national origin.**”
- Outlines process for filing Title VI complaints.



U.S. Department
of Transportation

Federal Transit
Administration

CIRCULAR

FTA C 4702.1A

May 13, 2007

**Subject: TITLE VI AND TITLE VI-DEPENDENT GUIDELINES FOR FEDERAL
TRANSIT ADMINISTRATION RECIPIENTS**

1. PURPOSE. The purpose of this circular is to provide recipients and subrecipients of Federal Transit Administration (FTA) financial assistance with guidance and instructions necessary to carry out the U.S. Department of Transportation's ("DOT" or the "Department") Title VI regulations (49 CFR part 21) and to integrate into their programs and activities considerations expressed in the Department's Order on Environmental Justice (Order 5610.2), and Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient ("LEP") Persons (70 FR 74087, December 14, 2005).
2. CANCELLATION. This circular supersedes FTA Circular 4702.1 "Title VI Program Guidelines for Federal Transit Administration Recipients," dated May 26, 1988.
3. SCOPE. This circular applies to all recipients of financial assistance from the Federal Transit Administration.
4. REFERENCES.
 - a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d).
 - b. Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.).
 - c. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.).
 - d. Department of Justice regulation, 28 CFR part 42, Subpart F, "Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs" (December 1, 1976, unless otherwise noted).
 - e. DOT regulation, 49 CFR part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964" (June 18, 1970, unless otherwise noted).

Equity Analysis Requirement

Transit agencies serving geographic areas with a population of 200,000 people or greater must:

“evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact” on minority and low income populations.

Chapter V, FTA C 4702.1A

Oakland Airport Connector (OAC)

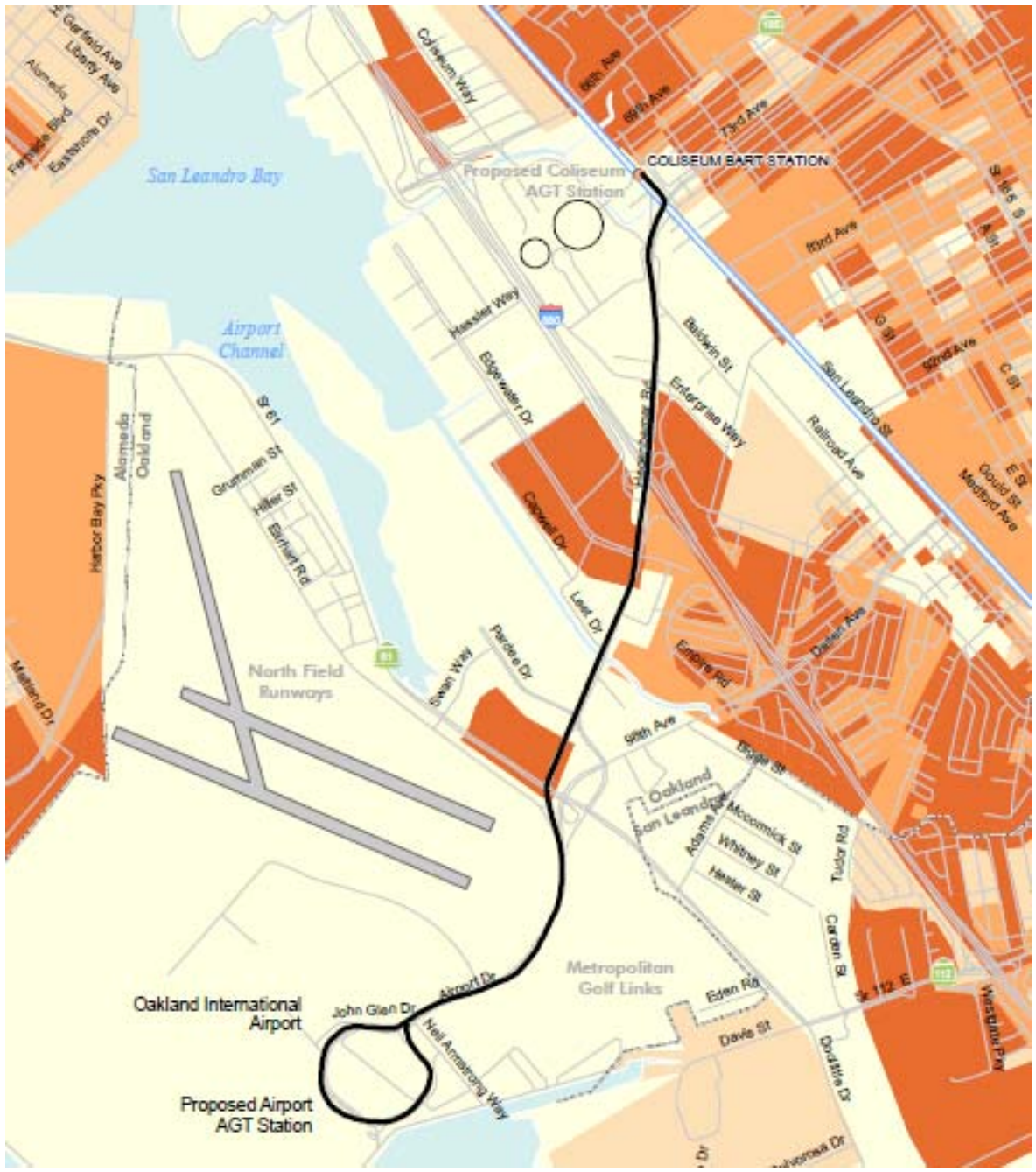


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MAKING RIGHTS REAL



The Oakland Airport Connector

Then vs. Now

Then (2000)

Cost: \$130 million

(\$42M per mile)

13,540 riders (2020)

6 minute trip

2 intermediate stops

\$4 roundtrip fare

Now (2009)

Cost: \$492 million

(\$159M per mile)

4,350 riders (2020)

16-19 minute trip

No intermediate stops



\$12 roundtrip fare



Millions for Airport Travelers

Service Cuts for Bus Riders

Oakland Airport Connector

\$492 million

(including \$70M in ARRA funds)

AC Transit

\$57 million deficit

(8% service already cut;

7% more cuts planned)



We Pushed for a Better Alternative



\$492 million

vs.



\$60 - \$100 million

Airport Bus Rapid Transit Connector
Hegenberger and Pardee



Coalition Members



Urban Habitat (Oakland)

Genesis (East Bay)

TransForm (Oakland)

Public Advocates (CA)



Title VI Administrative Complaint

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12 BEFORE THE UNITED STATES DEPARTMENT OF TRANSPORTATION
13 FEDERAL TRANSIT ADMINISTRATION

14 URBAN HABITAT PROGRAM, a nonprofit
corporation; TRANSFORM, a nonprofit
corporation; GENESIS, an unincorporated
association,

15 Complainants,

16 v.

17 BAY AREA RAPID TRANSIT DISTRICT,

18 Respondent.

COMPLAINT UNDER TITLE VI OF
THE CIVIL RIGHTS ACT OF 1964
AND EXECUTIVE ORDER 12898

September 2009:

Coalition files complaint with the
FTA

December 2009:

FTA Office of Civil Rights
conducts on-site investigation of
BART

February 2010:

FTA issues decision

FTA Findings

- BART failed to conduct a service and fare equity analysis for the OAC project
- **Other Title VI deficiencies:**
 - No Public Participation Plan
 - No Limited English Proficient (LEP) Plan
 - Failed to analyze prior fare increases for discriminatory impacts
 - Key policies and procedures missing

Outcome

- **\$70M in ARRA funds pulled** from the OAC and redirected to other SF Bay Area transit agencies for deficit relief (maintenance and operations).
- BART required to implement a **Corrective Action Plan** to remedy Title VI deficiencies.
- **OAC project is not dead**, but cannot receive federal funding (TIFIA loan, Small Starts, etc.) until full compliance achieved.

Lessons

- A New Day for Title VI Enforcement at FTA?
Or was the OAC example just a “perfect storm?”
- Several factors were critical:
 - A willing federal agency
 - Violation of a clear Title VI requirement
 - Time-restricted funds; rapidly approaching ARRA deadlines
 - Coalition with multi-faceted expertise