

PRRAC

Poverty & Race Research Action Council

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October 2, 2014

U.S. Department of Transportation Docket Operations
M-30, West Building Ground Floor, Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Docket No. FHWA-2013 – 0037; FHWA RIN 2125 – AF52; FTA RIN 2132– AB10,
Proposed Rule on Statewide and Nonmetropolitan Transportation Planning and Metropolitan
Transportation Planning

To Whom It May Concern:

Civil rights practitioners have long advocated for transparent, outcome-driven policies in federally-supported programs, including transit programs. A performance-based approach grounded in clear, meaningful standards is central to ensuring that our federal resources are well leveraged to promote economic and other opportunities for all.

We are pleased that the FTA's proposed rulemaking on transportation programs takes important steps in this direction. We strongly support the FTA's implementation of MAP-21's performance management framework as a method of steering transportation investments toward concrete policy goals as defined by clear performance measures. In particular, the following general elements of the proposed rule will be crucial in ensuring equitable, effective use of federal transit resources in the future: the draft rule's robust focus on the collection, coordination, and use of data; its related reporting requirements; and its emphasis on coordination and cooperation among responsible parties (including states, MPOs, and transit providers).

While we welcome these changes to the planning process, substantive aspects of the proposed rule have severe shortcomings. The draft regulation fails to adequately implement key civil rights legal obligations that attach to federal programs, or to promote the important policy goal of equitably serving all communities. In particular, the draft rule is missing both guidance that reflects environmental justice obligations and guidance that implements the Fair Housing Act's obligation that all agencies and recipients of community development funds affirmatively further fair housing ("AFFH"), 42 U.S.C. §3608, including the promotion of residential choice and integration.

We recommend that U.S. DOT make several concrete changes to the proposed rule in order to meet these important obligations and serve all communities, in particular the low-income and

minority communities that are frequently highly transit-reliant. Our specific recommendations are as follows:

- Explicitly incorporate U.S. DOT's environmental justice strategy into the planning process. Planning entities must comply fully with existing Title VI and environmental justice requirements (including those included in the relevant FTA Circulars) for evaluation of the impact of significant decisions and actions on environmental justice populations. However, a more concrete and comprehensive framework specific to the planning process should be developed (and should correct for current shortfalls in the existing applicable guidance, as in the scoping process and the evaluation of cumulative burdens or inequitable benefits). This EJ evaluative framework should stand as an explicit, concrete element of the planning process and should be reflected in the certification requirements.
- Disaggregation of data. As noted, we welcome the draft regulation's emphasis on the use of data to shape transit policy. However, we urge U.S. DOT to require the analysis of disaggregated data that indicates race and income. Such disaggregation is fundamental to transparency in transit and related planning; without clear analyses of which communities are being served and how, it will be impossible for agencies, recipients, or the public to evaluate compliance with civil rights mandates or sound public policy ensuring the equitable use of federal funds.
- The obligation to affirmatively further fair housing extends to all federal agencies and recipients in the administration of housing or development programs, including those of U.S. DOT. AFFH requires that such programs not only refrain from discrimination, but actively promote fair housing choice and residential integration. The draft guidance fails to reflect this obligation. We recommend that all transportation planning include an evaluation of programmatic impacts on segregation and other aspects of AFFH and the designation of clear, performance-driven goals that actively further fair housing. Guidance should also make explicit that transportation planning must be coordinated with that of federal funding streams as relevant to AFFH, including those of the Department of Housing and Urban Development. The setting of AFFH goals should be required, with progress toward those goals to be strongly incentivized throughout the planning process.

Thank you for the opportunity to submit our recommendations on this important rule. We hope that U.S.DOT will take the targeted steps that we describe above, and ensure that MAP-21 achieves its full potential to promote opportunity across all communities.

Best regards,

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