

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

Docket Number: FHWA-2013-0037
FHWA RIN 2125-AF52
FTA RIN 2132-AB10

Comments Submitted by PolicyLink on Proposed State and Metropolitan Planning Guidance

PolicyLink is pleased to offer the following comments on the proposed rulemaking on Statewide, Nonmetropolitan, and Metropolitan Transportation Planning to the U.S Department of Transportation's (U.S. DOT) Federal Highway Administration (FHWA) and Federal Transit Authority (FTA). As a leader in the movement to build more equitable infrastructures, PolicyLink is supportive of policies that foster investment in public transportation, bicycling and pedestrian projects that enable prosperity for all.

However, many people, particularly low-income communities, communities of color, and people with disabilities, lack access to transportation infrastructure that promote access to life's critical resources— jobs, schools, grocery stores and healthcare. Nearly 20 percent of African-American households, 14 percent of Latino households, and 13 percent of Asian households live without a car¹. Furthermore, people with disabilities are twice as likely as those without disabilities to have inadequate access to transportation (31 percent versus 13 percent)². Without equitable investment these communities miss out on the benefits of transportation.

PolicyLink is deeply invested in development of a planning guidance that prioritizes the equitable investments needed to make sure all communities thrive. As co-chair of the Transportation Equity Caucus³, we are supportive of transportation investments that accomplish the following: (1) create affordable transportation options for all people; (2) ensure fair access to quality jobs, workforce development, and contracting opportunities in the transportation industry; (3) promote healthy, safe, and inclusive communities; and (4) equitably focus on results.

We appreciate U.S. DOT's work to set clear, consistent and measurable rules regarding state and metropolitan planning. However, we believe the proposed guidance can be strengthened in the following ways. Here are six recommendations with additional specifics provided as follows.

Recommendation #1: U.S. DOT should incorporate environmental justice and civil rights guidance into self- and federal-certification requirements for state and metropolitan planning.

The planning process is an opportunity to ensure that investments are made in ways that help all communities to prosper. However, achieving equitable investments will require deliberate policy strategies and robust community engagement.

The proposed guidance outlines self-certification and federal-certification requirements that states and metropolitan planning organizations (MPOs) must achieve through the planning process. There is a strong statement about FTA and FHWA fund recipients incorporating environmental justice into planning processes. U.S. DOT has the opportunity to add teeth by including this type of process in the self- and

federal-certification processes. Specifically, state and MPO planning must outline how the proposed planning will advance several regulatory guidelines under the provision. This process for implementing the certification requirements must be illustrated in the planning and investments made by states and MPOs in order to ensure compliance with U.S. DOT's certification requirements.

Incorporating U.S. DOT's environmental justice strategy in the certification process provides further support to enable prioritization of investments that bring broad benefits to all communities— particularly low-income people and communities of color. Specifically, including Executive Order 12898⁴ among certification requirements would establish a framework through which states and metropolitan planning organizations (MPOs) would be required to prioritize planning and transportation projects that address the disproportionate barriers in access to transportation facing low-income communities and communities of color. Furthermore, state DOTs and MPOs should be required to demonstrate to U.S. DOT and the local community how they are incorporating the executive order into their planning process with the guidance one year after its enactment, and certifications should be conducted every three years thereafter, instead of every four.

Current certification requirements require compliance with Title VI of the Civil Rights Act through implementation of an equity analysis in order to assess the impact that investments may have on communities. However, this process must be strengthened. Recent analysis of the San Francisco Bay Area's Metropolitan Transportation Commission⁵, illustrate that equity analyses conducted without real or meaningful investigation of the conditions of low-income communities and communities of color further exacerbate equity gaps in access to and delivery of transportation⁶. To guard against this outcome, best practices from the academic research should be used in equity analysis design and recommended by U.S. DOT. Furthermore, to strengthen and illustrate compliance with Title VI certification, local and regional transportation commissions should be required to complete a comprehensive study and presentation of current conditions of targeted communities— low-income communities, people of color, and people with disabilities— and integrate findings into an equity analysis for submission and review by U.S. DOT. By requiring a targeted collection and analysis of information, planning agencies will be better equipped to set and reach goals to enhance access to transportation for all communities and compliance with Title VI.

To enforce more equitable development, U.S. DOT should prepare a quadrennial national report of non-discrimination that will include demographic data, inventory of complaints filed and compliance reviews conducted, and an assessment of impediments to non-discrimination, with recommendations for compliance. The information collected will aid U.S. DOT in monitoring states and MPOs progress in prioritizing investments that increase mobility and access to centers of employment.

Recommendation#2: U.S. DOT should require MPOs to establish governing bodies and engagement strategies that are inclusive of the communities that they serve.

We are pleased to see prioritization of inclusive governance and community engagement in the planning process⁷. Ensuring decision-making bodies and the planning process reflect the diversity of residents is supportive of efforts to prioritize plans and investments that benefit all communities. However, in order to strengthen support for inclusive governance within the guidance, U.S. DOT should require MPO boards to be representative of the economic and racial/ethnic composition of the communities served. Adjusting the composition in this way can increase the likelihood of transportation investments that reflect the needs of all residents in the community.

Low-income communities of color have less representation on critical decision-making bodies, or in the developing of plans, and as a result these communities often do not reap the benefits of infrastructure investments. Brookings Institution’s analysis of geographic and racial-ethnic patterns of less representative MPO boards revealed observations of, and tremendous risk for MPO decisions to be biased toward select residents and regions at the expense of others⁸. The self- and federal-certification process can provide a structure to enforce MPOs compliance with demographic representative standards and so that they are reflective of the communities that they serve. U.S. DOT can provide additional support to this effort through monitoring MPOs to ensure boards are representative of their encompassing communities.

U.S. DOT should also look to lessons learned from the Department of Housing and Urban Development’s Sustainable Communities Initiative to glean effective strategies for advancing inclusive governance and community engagement. Some lessons learned from the initiative include: (1) providing seed grants to help build capacity of non-traditionally represented organizations to ensure their robust engagement; (2) provision of consistent and ongoing reciprocal capacity building between planners and community organizations to support meaningful engagement; and (3) inclusion of leaders who represent low-income communities and communities of color in the governance of the consortium to embed equity at all levels of planning.

U.S. DOT should also share models from the local level to illustrate how inclusive governance and community engagement strategies can be implemented to prioritize equity in the planning process. For example:

- **Georgia:** Atlanta’s Regional Commission (ARC) has a Social Equity Advisory committee⁹ that is charged with providing guidance on the impact that proposed plans will have on low-income communities, communities of color, and people with disabilities. The advisory committee complements and informs the ARC’s regional community engagement plan¹⁰, and enhances the commission’s ability to develop and implement plans that address community needs and advance long-term sustainability.
- **Massachusetts:** in the Greater Boston Area, the Metro Area Planning Council (MAPC) is implementing an equity-focused regional plan that was developed through engagement of a diverse set of partners – representatives from the 101 communities across the region— on the framing and developing of regional planning priorities. In addition, training in framing and implementation of an equity-lens also equipped MAPC staff with the capacity necessary to support development and execution of the council’s inclusive engagement strategy during the planning process.

Recommendation # 3: U.S. DOT should collect and share data on travel behavior that is disaggregated by race and income.

Data serves a vital role in identification of infrastructure deficits facing communities, especially where persistent barriers in access to mobility may exist. Successful identification of infrastructure needs can aid states and metropolitan areas in targeting investments in ways that promote mobility and access to economic opportunity for all. In addition, data can also be used to foster accountability and monitor progress on the advancing of equitable planning and investment at the state and local level.

The proposed guidance does not require the collection or use of data to identify transportation infrastructure deficits that may exist in a particular community. Moreover, data is not consistently disaggregated by race and income, making it difficult to recognize how investments can contribute to persistent transportation barriers for low-income communities, communities of color, and people with disabilities. Requiring the

collection and sharing of data on travel behavior by U.S. DOT will aid the Administration, state DOTs and MPOs in identifying where critical infrastructure investments are needed to enhance mobility and access to opportunity for all.

Currently demographic data and travel trends by race/ethnicity and income are made available through the American Community Survey (ACS) and the National Household Travel Survey (NHTS). While the ACS collects information on the travel behavior of people with disabilities, the NHTS does not. Thus, U.S. DOT should request such information be collected in order to illuminate additional data about how people with disabilities access transportation and to further aid efforts to ensure transportation is accessible to all¹¹.

Efforts to coordinate the dissemination of information between FHWA, FTA, the U.S. Census Bureau, and state DOTs should be executed to the fullest to ensure demographic and travel data is accessible, and to be incorporated in planning and monitoring of progress toward achieving short- and long-term goals identified by states and MPOs.

States and metropolitan planning organizations should use demographic and travel data to identify investment priorities with regard to impact on mobility and access to employment centers¹². Data and maps can be effective in illustrating disparities and barriers to opportunity, and allow monitoring of progress over time.

U.S. DOT should look to the local level for illustration of how data can be used to identify investment opportunities for transportation planning. For example:

- **Colorado:** the Denver Regional Equity Atlas was developed by the Denver Region Council of Governments and Mile High Connects – a local, broad coalition of public and private partners¹³. The Atlas is accessible through an interactive web-based platform that both decision-makers and community partners can utilize to engage in equity-focused planning and investment priorities.
- **Louisiana:** a survey of low-income riders conducted by the Regional Transit Authority in New Orleans revealed that transit-dependent workers with early-morning or late-night shifts were unable to access public transportation to get between work and home¹⁴. This data suggests a need for improved coordination between transit services and work-shifts of transit-dependent riders.

Recommendation #4: U.S. DOT should incentivize state DOTs and MPOs to set performance measures and prioritize projects that expand economic opportunity for underserved populations.

The guidance encourages state DOTs and MPOs to use the planning process to support accessibility, mobility, and economic vitality of communities¹⁵. Establishing performance measures and prioritizing projects that expand equity and access to economic opportunity can strengthen the capacity of the proposed guidance to ensure transportation investments benefit the most vulnerable. States, in order to enhance coordination of plans with MPOs, should be required to integrate performance measures and targets for short- as well as long-term planning.

Transportation projects must help to erase barriers to economic inclusion. To this end, plans should be evaluated by their potential to : (1) increase job access via public transportation; (2) decrease commute times for low-income people, communities of color, and people with disabilities; (3) increase proximity to high-frequency transit for neighborhoods with high proportions of people without cars; (4) decrease transportation costs for low-income people; (5) increase access to affordable housing in the vicinity of a new transit project

(preservation of existing or creation of new affordable housing)¹⁶; (6) decrease transportation costs for low-income people; and (7) decrease pedestrian injuries and fatalities, particularly for people of color and people in rural communities.

U.S. DOT should also look to the local level for good models of equity-focused performance measures for transportation planning. For example:

- **Illinois:** the Regional Equity Index developed by the Center for Neighborhood and Community Improvement and the Developing Community Project, includes 19 equity- and livability-based principles by which all transit projects are evaluated¹⁷. Some of the indicators for transit equity potential include: households with zero cars, population that is disabled, and travel time to work.
- **Washington:** King County Metro Transit's Strategic Plan for Public Transportation provides annual goals and assessment of 46 indicators that prioritize social equity¹⁸. Notable indicators for human potential include: wheel chair accessible bus stops, and low-income populations and communities of color within a quarter-mile walk of a transit stop or a two-mile drive to a park-and-ride.
- **California:** the state's Transportation Alternatives Program¹⁹ includes performance measures that prioritize mobility and safety for bicyclists and pedestrians, especially in disadvantaged communities. It also prioritizes resource allocation to ensure low-income and disadvantaged communities fully share in the program benefits, with a 25 percent set-aside of funding for them.

To incentivize implementation of equity-focused performance measures, U.S. DOT should, in its Transportation Investment Generating Economic Recovery (TIGER) competitive grant program, award additional points to applicants who meaningfully prioritize mobility for low-income communities, communities of color, and people with disabilities, and that preserve access to affordable-housing near transit for low-income residents. Currently, the Puget Sound Regional Council²⁰ and the Nashville Metropolitan Planning Organization²¹ award preferential points for projects that prioritize low-income communities in transportation planning. By implementing a preferential scoring method, staff and decision-makers are able to weigh project benefits for addressing unmet needs as well as facilitate the allocation of resources on transit, biking and pedestrian projects that strengthen existing communities and deliver environmental, economic and health benefits.

Recommendation #5: U.S. DOT should promote scenario planning that includes an analysis of how the preferred scenario maintains or improves mobility and outcomes for all.

The proposed guidance encourages MPOs to use scenario planning during the development of their transportation plans. Scenario planning is a tool that can be used by MPOs to analyze the impact of investments and policies on the transportation system. For too long, transportation planning has not prioritized the needs of low-income populations, communities of color, or people with disabilities. There are several examples²² of where this has happened in communities across the country. However, when scenario planning is driven by the needs of low-income people, communities of color, and transit-dependent populations, more equitable outcomes can be realized.

Between 2010 and 2013, the San Francisco Bay Area undertook a scenario planning and visioning process that would produce an integrated long-range transportation and land-use/housing plan for the San Francisco Bay Area. This process resulted in development of the Equity, Environment and Jobs (EEJ) scenario²³ which illustrated how leading with equity can yield better outcomes for a region. Specifically, the EEJ would result

in 83,500 fewer cars on the roads and 165,000 more people riding transit each day than the preferred alternative, and it would place 15,800 fewer families at risk of displacement. The final plan adopted some of the recommendations from the EEJ including: commitment to fund improved levels of transit service, integration of anti-displacement protections, and allocation of at least 25% of \$3 billion in anticipated revenue to be spent to benefit low-income communities and communities of color.

Recommendation #6: U.S. DOT should facilitate local and targeted hiring on transportation projects.

While transportation represents a significant sector of our workforce, women, communities of color, low-income people, and people with disabilities are significantly under-represented in the ranks of transportation sector employment. At the same time, transportation workforce training needs are significant. For example, during the next 10 years, the transit industry will need to hire and re-train more than three-fourths of the current workforce²⁴. Federal transportation investment should create conditions for all to participate and prosper in the economy.

By facilitating opportunities for targeted hiring, U.S. DOT can provide access to an important tool for communities that are struggling with high rates of unemployment among workers of color and low-income workers. Such a tool can be used to leverage transportation investments to employ these workers in quality, good-wage jobs in the transportation sector, including construction, operations, maintenance, and repair.

Under Federal Highway Administration's SEP-14 provision²⁵, hiring preferences are permitted on construction of highway projects that are jointly funded with the Department of Housing and Urban Development (HUD). Specifically, local hire can be leveraged in compliance with HUD's Section 3, which requires that preferential hiring be afforded to those individuals living in the project area. U.S. DOT can promote access to local hire by incorporating a provision similar to HUD's Section 3 for all transportation construction projects.

U.S. DOT should look to the UCLA Labor Center²⁶ for best practices on how to develop a targeted hire program that is unique and reflects the specific needs of stakeholders. In addition, analysis from the Labor Center reveal an assortment of targeted hire tools are available for public agencies to choose from when developing a target hire initiative that works best for them.

Conclusion

An equitable transportation system is critical to creating thriving communities of opportunity. More importantly, where and how we decide to make transportation investments is critical to communities' access to economic opportunity. Currently low-income communities, communities of color, and people with disabilities face tremendous barriers in access to transportation that can get them to critical places – school, work, and grocery stores. But, reducing barriers in access to transportation for these communities will require targeted investments. Furthermore, by developing a state and metropolitan planning guidance that prioritizes enhanced mobility and opportunity for the most vulnerable populations, transit investments can go a long way to supporting improved social and economic outcomes in these communities. Thus, we urge U.S. DOT to develop a state and metro planning guidance that prioritizes access to opportunity in ways that allow all communities to thrive.

¹ Brookings Institution and UC-Berkeley (2006), “*Socioeconomic Differences in Household Automobile Ownership Rates.*”

² Centers for Disease Control and Prevention. “*Promoting the Health of People with Disabilities.*” Available at <http://www.cdc.gov/ncbddd/disabilityandhealth/pdf/aboutdhprogram508.pdf> (Accessed on August 21, 2014)

⁴ Summary of Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. United States Environmental Protection Agency. <http://www2.epa.gov/laws-regulations/summary-executive-order-12898-federal-actions-address-environmental-justice> (Accessed on August 22, 2014)

⁵ Joint Planning Certification Review of San Francisco Metropolitan Transportation Commission (MTC). Public Advocates, Inc. (2012) http://www.publicadvocates.org/sites/default/files/library/1-31-12_comment_letter_re_joint_planning_certification_review_of_mtc.pdf (Accessed August 22, 2014)

⁶ In addition, recent academic research has shown that commonly-employed methods may obscure rather than illuminate equity impacts and that MPOs have very little specific guidance to follow when assessing equity. This means that an MPO analysis showing a particular project or plan is equitable or nondiscriminatory could merely be an artifact of the methods employed rather than a reflection of actual or potential conditions in disadvantaged communities.

Karner, A. and D. Niemeier (2013). "Civil rights guidance and equity analysis methods for regional transportation plans: a critical review of literature and practice." *Journal of Transport Geography* 33: 126-134.

Rowangould, D., A. Karner and J. London (2014). Identifying environmental justice communities for transportation analysis. Paper submitted for presentation at the 94th Annual Meeting of the Transportation Research Board. Washington, DC.

⁷This is described in section 450.210 and 450.316 of the guidance

⁸Thomas W. Sanchez. “*An Inherent Bias? Geographic and Racial-Ethnic Patterns of Metropolitan Planning Organization Boards*” http://www.brookings.edu/~media/research/files/reports/2006/6/01transportation%20sanchez/20060124_mpos.pdf (Accessed August 22, 2014)

In addition, academic researchers conducted an Equity Analysis of the Boston MPO that illustrated representation and voting power of decision-making boards is typically inequitably distributed with regard to population and race.

Marcus Luna. “*Equity Analysis of Boston MPO: An Analysis of Representation and Voting Structure.*” http://www.academia.edu/2109617/Equity_Analysis_of_Boston_MPO_An_Analysis_of_Representation_and_Voting_Structure (Accessed August 22, 2014)

⁹ Social Equity Advisory Committee at Atlanta Regional Commission. <http://www.atlantaregional.com/transportation/community-engagement/social-equity-advisory-committee>

¹⁰Community Engagement Strategy by Atlanta Regional Commission <http://www.atlantaregional.com/transportation/community-engagement> (Accessed on August 22, 2014)

¹¹This information is critical to local transit agencies compliance with the Americans with Disabilities Act. Specifically, local transit authorities are required to provide accessible public transit, and use data on the number of individuals with functional limitations within their service area to ensure that they receive public transportation services that are comparable to those provided to individuals without disabilities

Consortium for Citizens with Disabilities & Partnership to Improve Patient Care. <http://dredf.org/wp-content/uploads/2012/08/ACS-disability-questions-7-16-14-final.pdf>

¹²More than half of riders use transit to get to and from work, while 11 percent use it to get to school. Data helps state and local planning agencies identify investments that enhance connections to work and opportunity. http://www.apta.com/resources/statistics/Documents/FactBook/APTA_2007_Fact_Book.pdf (Accessed August 22, 2014)

¹³ Denver Regional Equity Atlas. <http://www.milehighconnects.org/main.html> (Accessed August 22, 2014)

¹⁴ Kalima Rose, Senior Director, PolicyLink Center for Infrastructure Equity, interview on August 21, 2014 with Judith Williams Dangerfield, Principal, MetroSource, Consultant to the New Orleans RTA on equity and inclusion strategies.

¹⁵ This is described in section 450.306 of the guidance

¹⁶ In order to mitigate displacement, equity-advocates in California suggest investing 10% of revenue generated by California's cap-and-trade program over three years into the state TOD Housing Program for development of affordable housing units. This investment is projected to yield 15,000 units of affordable housing and would remove 105 million miles of vehicle travel per year from California's roads while also significantly reducing greenhouse gas (GHG) emissions. See report here: <http://www.transformca.org/transform-report/why-creating-and-preserving-affordable-homes-near-transit-highly-effective-climate> (Accessed on August 21, 2014)

¹⁷ University of Illinois, Chicago. "*Transit Equity Matters: An Equity Index and Regional Analysis of the Red Line and Two Other Proposed CTA Transit Extensions.*" (2009) (Accessed August 22, 2014) <http://www.uic.edu/cuppa/voorheesctr/Publications/Transit%20Equity%20Matters%2012.09.pdf> (Accessed August 22, 2014)

¹⁸King County Metro Transit 2012 Strategic Plan Progress Report. <http://metro.kingcounty.gov/am/reports/2012/metro-2012-strategic-plan-progress-report.pdf> (Accessed August 22, 2014)

¹⁹Caltrans Transportation Alternatives Program: Guidance. <http://www.dot.ca.gov/hq/TransEnhAct/files/ta-draft-construction-2012-11-26.pdf> (Accessed August 22, 2014)

²⁰ Policies and Procedures: Project Selection Approval. Puget Sound Regional Council http://www.psrc.org/assets/2823/Appendix_C.pdf Puget Sound Regional Council (Accessed on August 21, 2014)

²¹ Monitoring Performance and Impact: Title VI Environmental Justice and Social Equity by Nashville MPO. http://www.nashvillempo.org/docs/lrtp/2035rtp/Docs/2035_Doc/2035_Chapter9.pdf (Accessed on August 22, 2014)

²² "Transportation Equity: A 21st Century Civil Rights Issue" <http://equitycaucus.org/node/5371> (Accessed on August 22, 2014)

²³ Richard A. Marcantonio & Alex Karner, "Disadvantaged Communities Teach Regional Planners a Lesson in Equitable and Sustainable Development." *Poverty & Race* Vol. 23, No. 1. 2014 http://www.prrac.org/pdf/JanFeb2014PRRAC_Marcantonio-Karner.pdf (Accessed August 22, 2014)

²⁴ According to data from the Transportation Learning Center, which tracks worker demand due to expected transit system expansion and worker retirements.

²⁵ U.S. DOT, Federal Highway Administration. Construction Program Guide: Special Experimental Project No. 14 - FHWA/HUD Livability Initiative. <http://www.fhwa.dot.gov/construction/cqit/sep14livability.cfm> (Accessed August 26, 2014)

²⁶UCLA Labor Center. Exploring Targeted Hire: An Assessment of Best Practices In The Construction Industry. (2014). <http://ccacla-laborcenter.electriceaders.net/wp-content/uploads/downloads/2014/04/Exploring-Targeted-Hire.pdf> (Accessed August 22, 2014)