

Federal Highway Administration Title VI Nondiscrimination Program: Implementation Plan & Goals and Accomplishments Report

ADOT Civil Rights Office

June 23, 2021 & June 24, 2021

Agenda

- Welcome/Introductions
- Section 1
- Section 2
- Section 3

**Chit Chats moderator*

Jesse Zaragoza, ADOT Title VI Program Manager

Joanna Lucero, ADOT Title VI Specialist

Felicia Beltran, ADOT Civil Rights Compliance Manager

FHWA Title VI Implementation Plan Program Elements required under 23 CFR 200.9

Section 1	Section 2	Section 3
Policy Statement	Data Collection and Analysis	Limited English Proficiency (LEP)
USDOT Title VI Assurances	Program Area Reviews	Environmental Justice (EJ)
Organization and Staffing	Subrecipient Review Procedures	Dissemination of Title VI Information
Title VI Training	Compliance & Enforcement Procedures	
Complaint Procedures	Review Agency Directives	

Webinar Housekeeping

- Today's webinar is scheduled to last the allotted time 9 a.m.-noon.
- All participants are asked to stay muted throughout the presentation, unless prompted to unmute by the facilitator.
- Questions should be submitted via the chat or Q&A area .
- You will be prompted for feedback throughout the training, please utilize the chat feature to respond.
- This webinar will be recorded.

Jesse Intro

Civil Rights opened the windows.
When you open the windows it does
not mean everybody will get
through. We must create our own
opportunities - Mary Frances Berry

Jesse Zaragoza
Title VI Program Manager



ADOT Civil Rights Office Title VI Team

Felicia Beltran
Civil Rights Compliance Manager



Joanna Lucero
Civil Rights Specialist



Federal Funding Requirements

Recipients of federal funds must comply with:

- ▶ Title VI of the Civil Rights Act of 1964
- ▶ Civil Rights Restoration Act of 1987



Follow the Federal Dollar

Civil Rights Restoration Act of 1987

- Institution-wide scope and coverage of the nondiscrimination statutes
- Include all programs and activities of Federal-aid recipients, subrecipients, and contractors
- Regardless if the program is federally assisted or not



Follow the Federal Dollar

Title VI of the Civil Rights Act of 1964 (Title VI)

“No **person** in the United States shall, on the grounds of **race, color, or national origin**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any **program or activity** receiving Federal Financial assistance.”

Title VI Ensures Recipients may not:

- Deny a service, benefit on the grounds of race, color, or national origin
- Provide a service or benefit that is different from that which is provided to others
- Restrict an individual in the enjoyment of any advantage or privilege enjoyed by others

Requirement of subrecipient Title VI oversight...

“Each state agency administering a continuing program which receives federal financial assistance shall be required to establish a Title VI compliance program for itself and other recipients which obtain federal assistance through it.”

Subrecipient Reviews. 23 CFR 200.9(b)(7). Also required for Title VI per 28 C.F.R § 42.410



Follow the Federal Dollar

**US Dept. Of
Transportation**

FHWA

ADOT

CA, MPO, COG

**Agency Subrecipients,
Contractors, Consultants**

Federal

State

ADOT
Subrecipients

CA's, COG's, MPO's
Subrecipients

**Follow
the
Federal
dollar**



Title VI Compliance Oversight

ADOT CRO's Title VI compliance oversight for all their FHWA subrecipients is ensured through:

- Title VI Implementation Plan
- Goals and Accomplishments Report
- On-site Compliance Review

Title VI Implementation Plan

Title VI Implementation Plan represents the standard operating procedures for implementation of your Agency's Title VI program.

Goals and Accomplishments Report

Annual report to document progress toward Title VI compliance in programs and activities

- Title VI Accomplishments achieved
- Title VI Goals the Agency plans to accomplish in the upcoming year

Title VI On-site Compliance Review

An in person review of the Title VI processes and procedures

- effectiveness of processes
- identify gaps in processes and procedures

Title VI Implementation Plan

Process to submit

- August 1st-Agency submits Plan to **ADOT** for review and acceptance
- Once accepted, ADOT sends an **approval letter, within 90 days**

**Preliminary reviews are offered*

Policy Statement

- An **express commitment** to the Title VI Program
- Specific **programs and activities** covered by the Title VI Program
- The **Agency Title VI Program Coordinator**
- A **delegation of authority and responsibilities** to appropriate Bureau/Division Managers
- The Policy should be **signed by the Chief Executive Officer** and **circulated** throughout the organization and made available to the public

Signed Assurances

- Assurances
 - Signed by Agency Director
 - Dated within the current year
 - Include appendices A, B, C, D, & E
- Process
 - How will the Coordinator ensure that all FHWA funded contracts, solicitations for bids, and Requests For Proposals for work include the required Assurance language

Signed Assurances

- Attach Appendix [A](#) and [E](#) to all contracts that are federally funded
- Attach Appendix [B](#), [C](#), & [D](#) to contracts that correspond to property or property rights
- “Specific Assurances” paragraph should be included in all:
 - Solicitations for bids
 - Requests For Proposals (RFP) for work

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its *Federal Aid Highway Program*.

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all *Federal Aid Highway Program* and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The **(Title of Recipient)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.

Signed Assurances –

ADOT Subrecipient On-site Review

- Required Assurance language in FHWA funded contracts
- Process the Coordinator uses to ensure the Assurance language is always included

Organization & Staffing of Civil Rights Unit

- Relationship between the Title VI Coordinator and the head of the Agency
- Organizational chart
 - description of the Title VI Coordinator's Unit
- Outline the roles and responsibilities of the various positions that assist with Title VI responsibilities
 - Title VI Coordinator
 - Title VI Specialist/Manager *if applicable*
 - Title VI Liaisons *if applicable*

Title VI Training

- Describe **how** and **when** Agency employees will be **trained** on Title VI Program requirements and responsibilities
- Include procedures as to **how** and **when** training will be conducted for **subrecipients, contractors, and consultants**



Title VI Training

ADOT Subrecipient On-site Review

- Sign in sheets
 - Training logs
- Title VI training topic on agenda
- Standardized trainings

Complaint Procedures

- Describe the Agency's procedures for prompt processing of Title VI complaints (race, color, and national origin) received by the Agency.
- Procedures must include:
 - A description of the complaint process identifying how and where a complaint would be filed, with which department or person, and all applicable timeframes.
 - A description of the process by which the Agency will track the complaints and keep the required data for each complaint received.
 - Title VI complaints related to an FHWA funded program or activity received by the Agency, must immediately be forwarded to ADOT Civil Rights Office within 72 hours.

Complaint Procedures

ADOT Subrecipient On-site Review

- Personnel interviews
 - front line staff member
 - Agency Title VI steward
- Topics:
 - Non-discrimination program
 - language services requests
 - complaint process
 - Notice to the Public
 - Title VI Training

Chit Chat: Title VI Training

What are some of the FAQs you receive in Title VI training conducted?



BREAK



Data Collection & Analysis

- Develop a process for Title VI data collection and analysis of all FHWA funded programs/projects/activities.
- Process should include:
 - What program area, project, or activity will the data be collected from?
 - What specific data will be collected? (race, sex)
 - How will this data be collected from the public?
 - How will the Title VI data be analyzed for disparate impact?
 - How often will the Title VI Coordinator analyze the Title VI data?
 - What additional data will be used in the analysis of the disparate impact?
 - What will be used to compare your collected data? (ex. US Census, EJ Screen, school districts etc.)

Disparate Impact Analysis

- Disparate impact (also called adverse impact) discrimination happens when a recipient of federal funds adopts a procedure or engages in a practice that:
 - Disparately excludes from benefits or services based on race, color, or national origin
 - Inflicts disproportionate share of harm based on race, color, or national origin

Title VI analysis involves pairing two things:

Demographics + Impact or Benefit

Disparate Impact Analysis

- All applicants take the same test
 - using results from that test will unintentionally eliminate certain minority applicants disproportionately
- Only English will be spoken in a place of business
 - this may unintentionally eliminate non proficient English speaker from receiving the services of the business, disproportionately

Title VI – Sample Data Sources Assessment

<https://www.fhwa.dot.gov/civilrights/programs/docs/Title%20VI%20-%20Sample%20Data%20Sources%20Assessment.pdf>

Environment					
Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Public Involvement - Project Area Demographics	[Environmental Specialist]	Communications Data Team	[Internal Database] - Communications	U.S. Census - 5 Year ACS, 2010 Census	Data is used to compare meeting attendee demographics with the demography surrounding the project.
Public Involvement - Meeting Attendee Demographics	[Communications Specialist]	Communications Data Team	[Internal Database] - Communications	Form 1234: completed by attendees	Data is used to compare meeting attendee demographics with the demography surrounding the project.
Public Involvement - Text of Formal Comments	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Email, website submissions	Information used to assess nondiscrimination in public participation process.
Public Involvement - Text of Informal Comments	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Oral comments noted by Communications staff at meeting.	Information used to assess nondiscrimination in public participation process.
Public Involvement - Civil Rights Personnel Meeting Attendance	[Title VI Coordinator]	[Title VI Coordinator]	[Internal spreadsheet] on [internal shared drive]	None.	Information used to assess the number of public meetings civil rights personnel attend.

Data Collection & Analysis



- Coordinator should ensure that all FHWA funded programs/projects/activities have Title VI data collected
 - If the process has any interaction with the Public, Title VI data can be collected.

Data Collection & Analysis

– *ADOT Subrecipient On-site Review*

- Findings from Title VI demographic data analysis
 - Is an analysis being conducted on all FHWA funded programs/projects/activities?
- What steps can be standardized?
 - Forms/checklists that can be implemented

Program Area Review

- Describe the Title VI responsibilities of each FHWA funded program, project, or activity
- Include the program area review process for each FHWA funded program area, project or activity. The process should define:
 - Program area review's objective(s)
 - How Title VI data will be incorporated into the Program Area Review
 - How will the Title VI Coordinator determine effectiveness
 - Risk assessment to determine program area review schedule

Program Area Reviews and Title VI Data Collection & Analysis

The data collected can assist the Coordinator in choosing a program area for a Title VI Internal Program Area Review.

- Data analysis trends may trigger program area reviews
- Lack of data being collected may trigger program area reviews
- Opportunity to measure/review effectiveness of public participation activities

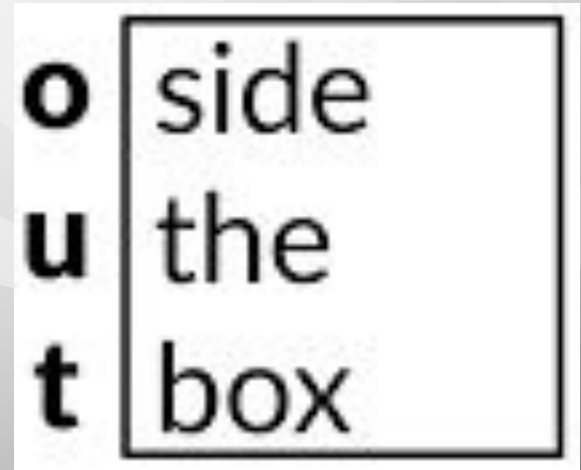
Title VI Program Area Reviews

– *ADOT Subrecipient On-site Review*

- Findings from Program Area Reviews
 - Is a review being conducted on all FHWA funded programs/projects/activities?
- What steps can be standardized?
 - Forms/checklists that can be implemented

Chit Chat: Program Area Review

- *Who do you invite to program area reviews?*



Subrecipient Review Procedures

- Describe the process for conducting reviews of the sub-recipients. The process should define:
 - A **schedule** or **amount** of reviews anticipated per year,
 - The **types** of reviews and their objectives,
 - Where and when the **outcome** of the reviews will be reported,
 - What **activities** will be reviewed, and
 - How will the review determine **effectiveness**.

Compliance and Enforcement

- How are trends/patterns of discrimination:
 - Identified
 - Eliminated
- How are Title VI Program Area Reviews and Data Collection Analysis
 - Conducted
 - Determined compliant
 - Enforced

Compliance and Enforcement & Review of Agency Directives

Coordinator should have a process to ensure Title VI compliance throughout all FHWA funded programs

- Reporting process to Title VI Coordinator
- Liaison program

Process of reviewing directives for potential Title VI implications

Compliance and Enforcement

ADOT Subrecipient On-site Review

- Corrective actions the agency has taken:
 - Process updates
 - Training
 - Program area review

Chit Chat: Compliance and Enforcement

- *What process improvements has your Agency made to address Title VI noncompliance?*

BREAK



Limited English Proficiency (LEP)

- **Limited English Proficiency (LEP)** – an individual who has limited ability to read, speak, write, or understand English
- **Executive Order 13166** – states that people who are LEP should have meaningful access to federally conducted and federally funded programs and activities

Limited English Proficiency

- Describe how the Agency provides meaningful access to LEP individuals to the transportation planning process.
 - Engage
 - Outreach
- The process should include:
 - Identifying LEP individuals who need language assistance
 - Agency wide
 - Project by project basis
 - Language assistance measures (how will language be provided)
 - Training staff
 - Providing notice to LEP Persons of language services provided-free of charge
 - Monitoring and updating the LEP process



Four Factor Analysis

1. **Demography** – Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population
2. **Frequency** - Frequency With Which LEP Individuals Come in Contact With the Program
3. **Importance** - Nature and Importance of the Program, Activity, or Service Provided by the Program
4. **Resources** – Resources Available to the Recipient and Costs

Safe Harbor Threshold

- **Safe Harbor Threshold** – written translation must be provided for vital documents for each eligible LEP language group that constitutes five percent (5%) or 1,000 persons, **whichever is less**, of the total population of persons eligible to be served or likely to be affected or encountered, by the program/activity.
 - failure to provide written translations under these cited circumstances does not mean that the recipient is in noncompliance
- the "safe harbors" provide a starting point for recipients to consider

Census Table B16001

Pinal County, Arizona		
	Estimate	Margin of Error
Russian:	150	+/-127
Speak English "very well"	99	+/-99
Speak English less than "very well"	51	+/-52
Polish:	339	+/-150
Speak English "very well"	224	+/-104
Speak English less than "very well"	115	+/-89
Serbo-Croatian:	63	+/-71
Speak English "very well"	63	+/-71

U.S. Census Bureau

AMERICAN FactFinder

B16001 LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER
Universe: Population 5 years and over
2011-2015 American Community Survey 5-Year Estimates

Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the Data and Documentation section.

Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the Methodology section.

Tell us what you think. Provide feedback to help make American Community Survey data more useful for you.

Pinal County, Arizona		
	Estimate	Margin of Error
Total	364,260	+/-148
Speak only English	287,724	+/-2,262
Spanish or Spanish Creole	63,070	+/-2,122
Speak English "very well"	43,331	+/-1,860
Speak English less than "very well"	19,739	+/-1,479
French (incl. Patois, Cajun)	1,172	+/-451
Speak English "very well"	1,050	+/-390
Speak English less than "very well"	122	+/-96
French Creole	4	+/-7
Speak English "very well"	4	+/-7
Speak English less than "very well"	0	+/-29
Italian	367	+/-364
Speak English "very well"	367	+/-364
Speak English less than "very well"	0	+/-29
Portuguese or Portuguese Creole	263	+/-200
Speak English "very well"	243	+/-198
Speak English less than "very well"	20	+/-26
German	1,100	+/-268
Speak English "very well"	999	+/-246
Speak English less than "very well"	101	+/-77
Yiddish	0	+/-29
Speak English "very well"	0	+/-29
Speak English less than "very well"	0	+/-29
Other West Germanic languages:	85	+/-71
Speak English "very well"	44	+/-41
Speak English less than "very well"	41	+/-54
Scandinavian languages:	77	+/-106
Speak English "very well"	77	+/-106
Speak English less than "very well"	0	+/-29
Greek	90	+/-79
Speak English "very well"	76	+/-78
Speak English less than "very well"	15	+/-28

Example:
Flagstaff, AZ

Pop: 64,361

5% is: 3,218

1,000 or 3,218

Miami, AZ

Pop: 1,920

5% is: 96

1,000 or 96

LEP

ADOT Subrecipient On-site Review

- Actions taken based on the Four Factor Analysis
- Is the process being followed for all FHWA funded projects
 - Identifying LEP Individuals Who Need Language Assistance
 - Language Assistance Measures (how will language services be provided)
 - Providing Notice to LEP Persons of services available (free of charge)
- Accessibility of Language Assistance services during public meetings.
- Has a program area review been conducted for this process?
- High LEP language - Title VI Complaint Form phone number

Chit Chat: Limited English Proficiency

- *What methods has your Agency used to identify the language needs of a project area?*

Environmental Justice (EJ)

Fundamental principles of Executive Order 12898 from US DOT

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including interrelated social and economic effects, on **minority populations** and **low-income populations**.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by **minority populations** and **low-income populations**.

Environmental Justice Cont.

- Equitable distributions of benefits and burdens
- FHWA EJ Directive 6640.23A
- Applies to FHWA recipients of funding
- Promote Public information and Participation in minority and low-income communities



Environmental Justice & Public Involvement

- Meaningful engagement methods for minority and low income populations.
 - identification of low-income and minority groups within the project area
 - multiple outreach methods
- Provide more than one method to participate
- Considering potential barriers that may exist for low income and minority groups to participate

Virtual Public Involvement

- How can LEP individuals participate during the meeting?
- Are you providing more than one method to access your virtual meeting?
- Before Public Meeting
 - How are you disseminating the information to EJ & LEP populations
- During Public Meeting
 - How are you disseminating the Title VI Notice to the Public during the meeting?
 - How is data collected?
- After Public Meeting
 - What does the Data collection analysis show about your EJ efforts?
 - What program area reviews have been conducted on the Public Involvement process?

Public Involvement

– *ADOT On-site Review*

- Public meeting dissemination efforts
 - advertisements
 - project webpages
 - checklists/templates
 - specific efforts made to engage LEP, low-income, and minority populations

Disseminate Title VI Information

ADOT Subrecipient On-site Review



- Notice to the Public poster locations
- Title VI Nondiscrimination brochures
- Approved FHWA Title VI Nondiscrimination Implementation Plan posted on website
- Notification of Title VI complaint form

Goals and Accomplishments

Process to submit

- August 1st
 - Agency submits Report to **ADOT** for review
- Once accepted, ADOT sends an **acceptance letter, within 30 days**

Accomplishments should include:

1. **Program Area Reviews** - Number of reviews, findings, and actions taken
2. **Subrecipient Reviews** - Number of reviews, results, and actions taken
3. **Training** - Number of trainings, topics covered, audience, number of attendees, and follow up (if any)
4. **Title VI Complaints** - Summary for each complaint, disposition, and current status

Goals should include:

5. Number of reviews planned for the next year

- Program Area Reviews
- Sub-recipient Reviews

6. Number and description of sessions planned for FHWA Title VI training

- Internal (to Agency staff)
- External (has the Title VI Coordinator attended any trainings)

7. Any other Title VI related goals the Agency anticipates for the upcoming year

Goals and Accomplishments

- Monitor progress
 - have previous year's goals been met
- ADOT Subrecipient On-site Review
 - previous year's goals

Important Dates

- August 1, 2021
 - Title VI Implementation Plan due date
 - Goals and Accomplishments Report
- July 1, 2021 - June 30, 2022
 - Plan is effective for one year
- February 1, 2022 - May 31, 2022
 - Preliminary Reviews

Thank you, please take our survey



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