

# **Title VI Nondiscrimination Program for CAs with Federal Highway Administration**

Presentation by ADOT Civil Rights Office  
June 25, 2024

# WiFi Access

Guest Wifi: Guest

Password: GreatSt@te48!

# Agenda

- Introductions
- ADOT Compliance Oversight
- FHWA Presentation - *Marjorie Hughes, FHWA Title VI Program Analyst*
  - 10:00 am - 11:30 am
- Lunch
- FHWA Title VI Program Requirements
- Four Factor Analysis Review

# Ice Breaker

If I handed you a plane ticket right now to anywhere in the world, where would you go?

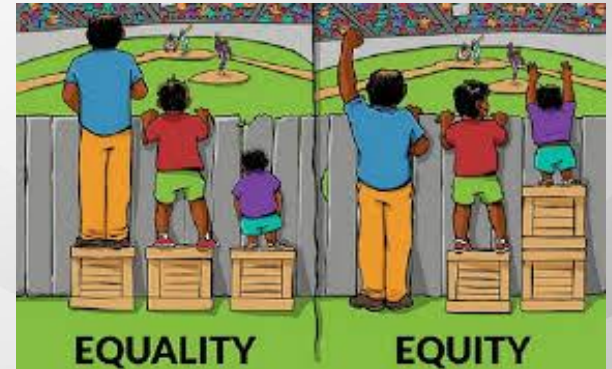


# Title VI of the Civil Rights Act of 1964


“No person in the United States shall, on the ground 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 individuals are not:

- Denied a service, benefit on the grounds of race, color, or national origin
- Provided a service or benefit that is different from that provided to others
- Restricted in the enjoyment of any advantage or privilege enjoyed by others



# ADOT CRO Title VI Oversight

- Title VI Implementation Plan
  - Goals and Accomplishments Report
  - On-site Compliance Review
  - Technical Support
  - Annual FHWA Title VI Nondiscrimination Training
- 

# What is a Title VI Implementation Plan?

- A Title VI Nondiscrimination Plan is the standard operating procedure for how Title VI of the 1964 Civil Rights Act is implemented in your Agency.
  - The plan should detail the who, what, how, when, and the why for each of the Agency's programs and activities in relation to Title VI.



# Title VI Plan Requirement

- **23 CFR 200.9(b)(11):** “shall annually submit an updated Title VI implementing plan... for approval or disapproval.”
- The Plan represents policies and procedures for implementation in the **current State Fiscal Year**
  - **State Fiscal Year 2025 Plan (7/1/24 - 6/30/25)**  
**Due: August 1, 2024**

# Title VI Plan – Elements

1. Policy Statement
2. Standard DOT Assurances
3. Organization & Staffing Notice to the Public
4. Program Review Procedures
5. Subrecipient Review Procedures
6. Data Collection/Reporting/Analysis
7. Title VI Training
8. Complaint Procedures
9. Dissemination of Title VI Information
10. Limited English Proficiency (LEP)
11. Environmental Justice (EJ)
12. Review of CA Directives
13. Compliance & Enforcement Procedures

# 1. 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 Managers
- The Policy should be **signed by the Chief Executive Officer** and **circulated** throughout the organization and made available to the public

## 2. DOT Assurances

USDOT Order No. 1050.2: Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"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 otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT.

# DOT Assurances in the Title VI Nondiscrimination Plan

- Attach the most recently signed USDOT Assurances, including Appendices
- Signed by head of Agency
  - Executive Director
  - Transportation Director
  - Head of the operating administration

# DOT Assurances in FHWA funded contracts

- Attach Appendix [A](#) and [E](#) to all contracts that are federally funded
- Attach Appendix [B](#), [C](#), & [D](#) when applicable (Real Estate)
- Title VI language paragraph (next slide)

# DOT Assurances in FHWA funded contracts

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."*

**USDOT Order No. 1050.2A**

### 3. Organization & Staffing of Civil Rights Unit

- Include a description of the relationship between the **Title VI Coordinator and the head of the Agency**
- A **description of the Title VI Coordinator's unit** along with an organizational chart
- Outline the **roles and responsibilities** of the Title VI Coordinator, Title VI Specialist/Manager & Staff



## 4. Program Area Review Procedures

**Describe** pertinent **program areas** and the Title VI **responsibilities** of each program area and the process for conducting **yearly reviews**. The process should define:

- The **types** of reviews and their objectives,
- What **activities** will be reviewed for the program,
- What **data** will be sought from the program area(s),
- How the **data obtained** will be analyzed, and
- How will the review determine **effectiveness**

## 5. Subrecipient Review Procedures

Describe the process for conducting reviews of the subrecipients. 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**

## 6. Data Collection & Analysis

Develop a process for collecting data that should describe:

- How the Agency collects data
- What data is collected
- How the data is analyzed

The Agency must collect Title VI Program-related data on an on-going basis.



# Data collected on bidders awarded

- Collect demographic data about the firms being awarded contracts
  - Data should be collected and analyzed to determine whether trends exist for awarding contracts on the basis of race, color, or national origin
- Any trends should be highlighted in the annual Goals and Accomplishment Report and explained

# 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:**

Demographic Data + Impact or Benefit

# Data Collection & Analysis continued...

Program Area/ Activity	Demographic Data Collected	Title VI Analysis
Procurement (Purchasing) - Contracts	Race of all bidders	Demographics of all bidders compared to awardees.
<b>Public Meetings</b>	<b>Race of all attendees (Self-ID Surveys)</b>	<b>Compare meeting attendee demographics with the demography of the project area.</b>
Right-of-Way (Real Estate)	Race of all relocatees	Compare demographics of relocatees to compensation offers.
Maintenance	Locations of maintenance work (mapped)	Compare maintenance locations to the demography of the city or neighborhoods (map overlay).

# FHWA Program Area Data Matrix

FHWA website includes a sample data source that gives examples on how data collection can be done to ensure compliance with Title VI.

Right of Way					
Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Public Involvement - Right of Way Project meetings	[Right of Way Specialist]	Communications Data Team	[Internal Database] - Communications	Form 1234: completed by attendees	Data is used to compare meeting attendee demographics with the demography of the state or areas affected.
Relocation - Appraisal Data	[Right of Way Specialist]	[Right of Way Specialist]	Electronic Project File on [internal shared drive]	Right of Way Form 1235 (relocatee profile), Appraisal Log and Recommendation	Data used to assess demographics of relocatees compared to Just Compensation offers.

## 7. Title VI Training

Include **how** and **when** members of the following will be trained on Title VI Program requirements and responsibilities:

- Agency's Civil Rights staff
- Title VI liaisons
- Other employees within the agency

Include procedures as to how and when training will be conducted for subrecipients, contractors, or consultants.





## 7. Title VI Training

- Title VI training topics (at minimum)
  - Title VI Definition
  - Title VI Complaint Procedures
  - LEP language assistance procedures, for your Agency
- Training can be different depending on the staff member's responsibility – depending on how Title VI applies to their position
- Consultants and contractors may also need to receive training on their Title VI responsibilities.
  - Consultants and contractors should follow your Agency's Title VI Nondiscrimination plan

## 8. Complaint Procedures

- Describes the Agency's procedures for prompt processing, investigation, and resolution of Title VI Program 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.
  - All FHWA Title VI & ADA complaints are to be forwarded to ADOT for processing, within 72 hours.

## 8. Complaint Procedures

If your Agency were to receive an FHWA Title VI complaint, who would investigate?

- A. CA Agency
- B. ADOT
- C. FHWA Division Office
- D. **Once FHWA Division Office receives the complaint, they may delegate ADOT to investigate the Title VI complaint against the subrecipient**

## 9. Disseminate Title VI Information



- Describes your processes and procedures on **educating** the public on their Title VI program **rights** in the Transportation decision-making process
- Includes the **tools, techniques, and strategies** used to involve and educate the public, including Limited English Proficient persons

## 9. Disseminate Title VI Information

Common methods of dissemination:

- Title VI language on mailers, agendas, etc
- Notice to the Public
- FHWA Title VI Nondiscrimination brochures
- FHWA Title VI Nondiscrimination Implementation Plan posted on website

**The Nondiscrimination posters must be posted in areas visual to the public.**

# 10. Limited English Proficiency (LEP)

## Who is an LEP individual?

- Individuals who do not speak English as their primary language and who have limited ability to read, speak, write, or understand English can be LEP
- Executive Order 13166 – states that people who are LEP should have meaningful access to federally conducted and federally funded programs and activities

# Four Factor Analysis

Is a tool to determine what are the prevalent languages in the project area.

- Agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Below are the Four Factors involved in the analysis:

1. Demography
2. Frequency
3. Importance
4. Resources

# LEP in Title VI Nondiscrimination Plan

At minimum your Implementation Plan should include:

1. Four Factor Analysis conducted on the entire service area of your Agency
2. Process to identify LEP populations project-by project
  - Four Factor Analysis
3. Identify the program areas that interact with members of the public
  - Include how your Agency will work with LEP individuals
  - Include how your Agency will solicit input from LEP individuals

**23 CFR 200.9(b)(12), Executive Order #13166**



# LEP in Title VI Nondiscrimination Plan

- Motor Vehicle Division (MVD)
  - Customer Service Program
  - Specialty Registration and Licensing Program
  - Division Operational Support Services
  - Commercial Licensing Program
  - Regulatory (Third Party Program)
- Communications
  - Community Relations
  - Public Information
- Enforcement and Compliance Division (ECD)
  - Office of Inspector General
  - Enforcement Services Program
- Executive Hearing Office
- Business Operations
  - Civil Rights Office (CRO)
  - Human Resources (HR)
  - Employee and Business Development Office
  - Audit and Analysis
  - Administrative Services Division (ASD)
    - Procurement
    - Grand Canyon National Park Airport

3. Identify the program areas that interact with members of the public
  - Include how your Agency will work with LEP individuals
  - Include how your Agency will solicit input from LEP individuals

# Tools for ensuring access to LEP individuals

I speak ...

**A**

**Amharic**

እኔ አማርኛ ነው ምናገረው.

**Arabic**

أنا أتحدث اللغة العربية

**Armenian**

Ես խոսում եմ հայերեն

**B**

**Bengali**

আমি বাংলা কথা বলতে পারি

**Bosnian**

Ja govorim bosanski

**Bulgarian**

Аз говоря български

**Burmese**

ကျွန်တော်/ကျွန်မ မြန်မာလို ပြောတတ်ပါတယ်

3



- ☐ Translated materials
- ☐ I-Speak cards
- ☐ Volunteer Bilingual staff
- ☐ Vendors for interpretation/translation services
- ☐ Online translating resources

# 11. Environmental Justice (EJ)

*What is EJ?*

- *EJ at the Federal Highway Administration (FHWA) means identifying and addressing disproportionately high and adverse effects of the agency's programs, policies, and activities on **minority populations** and **low-income** populations to achieve an equitable distribution of benefits and burdens.*

# Core Principles of EJ

- Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations;
- Ensure full and fair participation by all potentially affected populations in the decision-making process;
- Prevent the denial, reduction or significant delay in the receipt of benefits by minority and low-income populations

# Minority Populations

- Black or African American
- Hispanic
- Asian American
- American Indian/Alaskan Native
- Native Hawaiian or Pacific Islander

# EJ Low Income Populations

- Low-Income Population means any readily identifiable group of low-income persons who live in geographic proximity
  - Geographically dispersed transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed program, policy, or activity.

# FHWA EJ principles for transportation decision making

- **Identifying and addressing disproportionately high and adverse effects** on minority populations and low-income populations.
- Achieve fair treatment for minority populations and low-income populations **through an equitable distribution of benefits and burdens** resulting from programs, plans, and activities.
- Ensure the **full and fair participation of all potentially affected communities**
  - creating opportunities for meaningful public involvement in the transportation decision-making process.

# Environmental Justice in the Title VI Nondiscrimination Plan

- Describes the process of **how** EJ is integrated into **each FHWA funded** project.
  - How does the Agency collect minority (race) and low-income population data?
  - Describe how each program integrates EJ into Public Participation



# EJ and Title VI

Area of Comparison	EJ	Title VI Statute
Authorizing source	Executive Order 12898	Civil Rights Act of 1964
Goal	Identify and address disproportionately high and adverse human health or environmental effects on minority and low-income populations	Prohibit discrimination on the basis of race, color, or national origin in programs receiving Federal assistance
Protected classes	Minority and low-income populations	Race, color, and national origin

# EJ & Public Involvement

- Meaningful engagement methods for minority and low income populations
  - Identification of EJ communities within a project area
- Provide multiple methods for:
  - Outreach
  - Transportation decision making process
- Consider potential barriers that may exist for low income and minority groups to participate

# What does Title VI/EJ/LEP compliance look like in Public Involvement?

- Limited English Proficiency (LEP) in Public Involvement (examples)
  - Notices available in multiple languages
  - Outreach in LEP languages
- EJ in Public Involvement (examples)
  - Making virtual meeting accessible through multiple avenues
  - Accessible meeting locations and times
- Title VI in Public Involvement
  - Public knows their rights
  - Public has access to the transportation decision making process

# Addressing Discrimination under EJ and Title VI

- **EJ** - When you have EJ communities, we must evaluate to what extent we have those impacts. (Disproportionately High and Adverse).
- **Title VI** - Prohibits discrimination. Provides a mechanism to file a complaint if stakeholders and/or public feel actions are discriminatory.

## 12. Review of CA Directives

- Agency must describe the process of reviewing directives for potential Title VI implications.
  - Agency's should periodically review their local directives
- Agency must also describe process for reconciling issues if directives have Title VI implications.
  - If it is determined to have Title VI implications, then the Agency needs to interpret how the Local Government Directive impacts each program area from a Title VI perspective



# 13. Compliance and Enforcement Procedures

- How trends/patterns of discrimination are:
  - Identified
  - Eliminated
- How compliance reviews of sub-recipients are:
  - Conducted
  - Determined compliant
  - Enforced



# Implementation Plan Wrap-Up

- Plan should have the submittal date, and the effective date
- Plan should contain the Agency Title VI Standard Operating Procedures (SOP)
- Agencies will submit a Plan every year, with newly signed FHWA Title VI Assurances and Policy Statement.
- Four Factor Analysis will be completed by agency annually
- Publish the ADOT Civil Rights Office approved FHWA Title VI Nondiscrimination Plan on your Agency's public website

# Goals and Accomplishments Report

## 23 CFR §200.9(b)(10)

- Shall “prepare a yearly report of Title VI **accomplishments** for the past year and **goals** for the next year.”



# Accomplishments should include:

1. **Program Area Reviews** - Number of reviews, results, and actions taken; any corrective actions being 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 with current status

# Goals should include:

1. Number of reviews planned for the next year
  - Program Area Reviews
  - Sub-recipient Reviews
2. Number and description of sessions planned for FHWA Title VI training
  - Internal (to Agency staff)
  - External (has the Title VI Coordinator attended any trainings)
3. Any other Title VI related goals the Agency anticipates for the upcoming year

# Important Dates

- Implementation Plan due August 1, 2024
  - Assurances must be signed each year
- Goals and Accomplishments due August 1, 2024

## CONTACT US

MARLENE WHITE  
Civil Rights Specialist  
[MWhite3@azdot.gov](mailto:MWhite3@azdot.gov)  
602-712-8674

JOANNA LUCERO  
Title VI Program Manager  
[JLucero@azdot.gov](mailto:JLucero@azdot.gov)  
602-712-7886

DANIELLE VALENTINE  
Title VI Coordinator  
[DValentine@azdot.gov](mailto:DValentine@azdot.gov)  
602-712-8625

602-712-8946  
TITLEVI@AZDOT.GOV