

Ensuring Compliance with Title VI through Reviews

Why conduct reviews?

Reviews are the cornerstone of any Title VI Program and the requirements for reviews are woven throughout Title VI as part of an overall oversight program.

- All entities that receive federal financial assistance (recipients) from the Federal Highway Administration (FHWA) are required to create establish and maintain effective internal control over the Federal award that provides reasonable assurance that the entity is managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. 2 C.F.R. §200.303(a).
- For Title VI, all recipients are required to create “methods of administration for the program” to give a reasonable guarantee the recipient complies with Title VI. 49 C.F.R. §21.7(b).
- For state highway agencies (SHAs), FHWA regulations provide they must conduct Title VI reviews for all programs and activities (23 C.F.R. §200.9(b)(5)). In addition, SHAs are required to review those entities to which the SHA distributes federal funds (subrecipients), such as cities, counties, and metropolitan planning organizations (23 C.F.R. §200.9(b)(7)). U.S. Department of Justice regulations additionally provide that recipient entities must create a Title VI compliance program for themselves as well as subrecipients who receive federal financial assistance through them. 28 C.F.R. §42.410.

Therefore, recipients must implement internal controls and methods of administration, in part, through reviews.

What programs and activities should recipients review?

Title VI covers all the programs and activities of recipient agencies, and recipients are required to provide a reasonable guarantee of compliance with Title VI. However, even the smallest transportation agencies are complex entities with numerous component parts and activities. Therefore, recipients should take care to adopt a risk-based approach, and recipients can begin by conducting a broad programmatic assessment. Such assessments can assess basic information about the recipient’s programs, including how data is collected and analyzed, . Once these risks are assessed and prioritized, recipients can schedule reviews and other tasks in an annual work plan such as the SHA’s Goals and Accomplishments Report.

A risk-based approach also can mean reviewing a representative sampling of projects or subrecipients, rather than each one. Another good starting point would be to evaluate how the recipient collects statistical data on race, color, and national origin for those impacted by the recipient’s programs and activities. 23 C.F.R. §200.9(b)(4).

How should reviews be conducted?

Reviews are part of a process to (1) measure risk and (2) mitigate risk. Reviews should therefore test two main aspects of compliance:

1. Whether the recipient's internal controls, themselves, are sufficient and compliant with regulations and other legal standards, and
2. Whether the implementation of the internal controls—actual projects and activities—is sufficient and compliant with regulations and other legal standards.

An effective review has with a review plan to outline the objectives, discuss the review scope, and generally offer a roadmap for how to proceed.

Review Plan Elements	
Overall Objectives	What program requirements will be reviewed? What recipient processes will be tested?
Scope	Who, what, when, where, how? What is the time period being reviewed?
Resources	Which personnel are necessary? Is travel required? Are any software programs needed?
Data and Information	What parts of the agency have the data? What format is the data? How must the data be prepared for analysis?
Analysis	What analytical techniques are appropriate? What is the best way to present results for decisionmakers?
Schedule	When will key aspects of the review occur? What is the target date for completion?

Finally, recipients should document their reviews and findings. Thorough documentation will help ensure that recipients are using their data and analyses to give a reasonable guarantee of compliance with Title VI. In addition, agency leaders can make better decisions with findings supported by data and analysis, as well as providing FHWA with documented for the recipient's Title VI activities.