

# STATE TITLE VI IMPLEMENTATION PLANS:

A collection of commendable  
procedures and practices



U.S. Department  
of Transportation

**Federal Highway  
Administration**

Office of Civil Rights

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# Disclaimer

This document was developed through a Federal Highway Administration (FHWA) survey collecting commendable practices and procedures in Title VI Implementation Plans<sup>1</sup> (Plans) from 51 state departments of transportation that were current in federal fiscal year 2019. FHWA selected elements from these Plans that it considered promising practices and compiled the results into a Plan outline.

This document is not intended as guidance, and it does not create new requirements or represent a statement of FHWA policy or interpretation of existing requirements. It is intended as an aid to recipients of federal financial assistance from the FHWA in the development of Title VI Plans and other methods of administration. FHWA recipients should tailor their policies and procedures to suit their circumstances.

Wherever possible, FHWA included language directly from existing plans. In some instances, FHWA made minor changes for consistency and formatting, as well as to minimize state-specific information. In addition, FHWA included citations to the referenced Plans; however, FHWA notes that because these citations were current to plans reviewed in federal fiscal year 2019, they may not remain current in subsequent years. FHWA intends to update this document periodically.

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<sup>1</sup> FHWA regulations (23 C.F.R. §200.9(b)(11)) provide that State Highway Agencies shall annually submit an updated Title VI Implementation Plan to the FHWA.

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## I. INTRODUCTION<sup>2</sup>

[DOT] is a recipient of federal funds from the U.S. Department of Transportation modal agencies, including the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). All Recipients of federal funding must comply with the requirements of Title VI of the Civil Rights Act of 1964 and other nondiscrimination statutes, regulations, and authorities. This Implementation Plan describes how the [DOT] accomplished nondiscrimination in the delivery of its federally-assisted programs, services, and activities. The Plan includes the structure of the Department's Title VI program as well as the policies, procedures, and practices the Department uses to comply with nondiscrimination requirements. The Plan is intended to be a living document, regularly monitored and updated by the Department to meaningfully reflect the program as it changes and grows. Anyone wishing to provide input into the Department's Title VI Program Implementation Plan is encouraged to contact the Title VI Program Manager, [name], at [contact information] or by writing to the Department's Civil Rights Office at [address].

## II. TITLE VI STANDARD ASSURANCE<sup>3</sup>

In accordance with USDOT Order 1050.2A, a copy of DOT's Title VI Nondiscrimination Assurances signed by DOT's Director is located at Appendix A.

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<sup>2</sup> Florida DOT Title VI Plan, 2019, p.1.

<sup>3</sup> Idaho DOT Title VI Plan 2019, p.5.

# III. ORGANIZATION AND STAFFING OF THE CIVIL RIGHTS OFFICE

[DOT]'s Office of Civil Rights oversees the [DOT]'s Title VI Implementation Plan and meets the terms of FHWA's implementing guidance. The [DOT]'s Title VI responsibilities are described below (see Organizational Chart in Appendix B).<sup>4</sup>

## Office of Civil Rights<sup>5</sup>

The [DOT] Title VI Program is led by the Title VI Program Manager. This position reports to the [DOT] Office of Civil Rights Manager. The Civil Rights manager reports to the DOT's Director, and the Office of Civil Rights resides in the Office of the Director at the DOT. [DOT]'s Director has also issued and signed a Policy Statement dated [date] that assures that the Title VI Program Manager will have direct access to him/her without any intermediary. A copy of this notice is included as Appendix C of this plan.

The [DOT] Office of Civil Rights can be contacted by phone, email, or postal mail at:

[Mailing address and phone number]

## Title VI Program Manager Duties

- Coordinate Title VI Program development and implementation with internal program areas.
- Provide technical assistance and advice on Title VI matters to program area Subject Matter Experts and program area managers.
- Conduct Title VI reviews of internal program areas, MPOs, and local Subrecipients to ensure Title VI compliance.
- Review DOT program areas to correct identified Title VI problems, including discriminatory practices or policies.

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<sup>4</sup> Idaho Title VI Plan 2019, p. 6.

<sup>5</sup> The following sections come from Oregon DOT, Title VI Plan 2019, p.4-5.

- Provide Title VI training for DOT internal staff and Subrecipients.
- Complete [DOT]'s Title VI Implementation Plan for submission to FHWA by October 1 each year.
- Complete [DOT]'s Title VI Annual Accomplishment Report for submission to FHWA by November 1 each year.
- Complaint investigation and resolution.
- Work with program areas to collect and document statistical data.
- Distribute and, where necessary, ensure translation of Title VI documents for the public.
- Review [DOT] program manuals, contracts, and policy documents to determine whether Title VI is appropriately addressed and implemented agency-wide.

## Civil Rights Manager Duties

- Works collaboratively with federal and state authorities in communicating Title VI program requirements.
- Works closely with [DOT]'s Title VI Program staff to implement the Department's Title VI work Plan through programs, procedures and ongoing monitoring.
- Advise Title VI Program staff of Title VI related problems and discrimination complaints.
- Communicate with the Title VI program staff regarding projects that are in development phases where Title VI issues may arise.
- Reviews Directives to determine if there are any Title VI implications.

## Title VI Specialist Duties<sup>6</sup>

The Title VI Specialist on a day-to-day basis is responsible for implementation of [DOT]'s Title VI program and for ensuring compliance with the provisions of Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities, including Executives Orders for Environmental Justice (EJ) and Limited English Proficiency (LEP). The Title VI Specialist's duties include the following:

- Coordinate and prepare the annual Title VI Accomplishment Report.

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<sup>6</sup>The following section comes from Virginia DOT, Title VI Implementation Plan 2019, p.6-10.

- Coordinate and prepare the Title VI Implementation Plan.
- Coordinate activities related to the effective and efficient implementation of [DOT]'s Title VI Program.
- Develop procedures and processes for preventing discrimination and addressing and resolving complaints of discrimination.
- Provide Title VI technical assistance, guidance, and training to DOT staff, state officials, cities, counties, consultants, contractors, suppliers, universities, colleges, planning agencies, and other recipients of federal-aid highway funds.
- Develop and conduct Title VI reviews of program area activities annually.
- Develop procedures for collecting statistical data on race, color, and national origin for participants and beneficiaries of the state highway program.
- Develop and publish Title VI information for dissemination to the general public and where appropriate ensure that the information is translated in languages other than English.
- Conduct annual reviews of all appropriate program areas, consultants, contractors, and other recipients of DOT funds.
- Implement procedures for prompt processing and disposition of Title VI complaints.
- Assist in obtaining public input, particularly in minority and traditionally underserved areas.
- Participate in the identification of Title VI impacts and mitigation measures of proposed projects.
- Assist in the collection of demographic data in right-of-way activities, etc.
- Develop procedures to conduct reviews of Metropolitan Planning Organizations (MPOs) and Planning District Commissions (PDCs) to ensure compliance with the provisions of Title VI, EJ and LEP requirements.
- Attend MPO and public meetings or hearings involving Title VI issues in the event Civil Rights staff in the district is not able to attend.
- Review environmental documents to identify and address social, economic and environmental effects and impacts.
- Review contractual procedures for consultants and contractors to ensure equity and consistency.

- Develop procedures for pre-award and post-award approval reviews of State programs and applicants for compliance with Title VI requirements.
- Provide leadership in multidisciplinary team activities.

## District Title VI Liaison Duties<sup>7</sup>

The Title VI Liaisons assist and support the Title VI Specialist in the implementation of [DOT]'s Title VI Program. The Liaisons monitor and ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities, including LEP within [DOT]'s District offices. The Liaisons' responsibilities in their respective districts include:

- Prepare a summary of the District's Title VI accomplishments for the past year and goals for the upcoming year for submission to the Civil Rights Division.
- Provide technical assistance, guidance and advice to state officials, DOT staff, cities, counties, consultants, contractors, suppliers, universities, colleges, planning agencies, and other recipients of federal-aid highway funds.
- Prepare and disseminate Title VI information to the general public and where appropriate ensure that the information is translated in languages other than English, in consultation with the Title VI Specialist.
- Develop and implement district procedures for prompt processing and disposition of Title VI complaints.
- Conduct and/or coordinate Title VI training within respective districts.
- Assist in obtaining public input, particularly in minority and traditionally underserved areas.
- Participate in the identification of Title VI impacts and mitigation measures of proposed projects.
- Conduct MPO and PDC reviews to ensure compliance with the provisions of Title VI, EJ and

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<sup>7</sup> In Virginia DOT's Implementation Plan, these staff members are given the title "District Civil Rights Managers" (DCRMs).



LEP requirements.

- Attend regional MPO and public meetings or hearings involving Title VI issues.
- Review environmental documents to identify and address social, economic and environmental effects and impacts.
- Review contract documents to ensure compliance with Title VI.

## Main Office Title VI Liaison Duties<sup>8</sup>

The Main Office Title VI Liaisons assist and support the Title VI Specialist in the implementation of [DOT]'s Title VI Program. The Title VI Liaisons' responsibilities, on behalf of their respective Divisions include:

- Participate in DOT's quarterly Title VI Interdisciplinary Team meetings.
- Assist with the implementation of Title VI policies for their respective Divisions.
- Advise the Civil Rights Division Administrator, Title VI Specialist or Liaisons of Title VI related problems or discrimination complaints.
- Refer Title VI discrimination complaints to the Civil Rights Program Manager or Title VI Specialist.
- Maintain statistical data by race, color, and national origin, as needed for respective program areas.
- Assist Title VI Specialist to ensure that Title VI requirements are included in program area directives and that procedures used have built in safeguards to prevent discrimination.
- Collaborate with and/or assist Title VI Specialist in conducting reviews.
- Provide assistance to their Division Administrators regarding Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities.
- Assist in the development of Title VI information for public dissemination, where appropriate, in languages other than English.

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<sup>8</sup> In Virginia DOT's Implementation Plan, these staff members are given the title "Central Office Title VI Designees."

- Provide Title VI awareness within respective division to include training, tutorials and discussions.
- Complete information for the Annual Title VI Accomplishment Report.

## IV. INTERNAL REVIEW PROCEDURES

### Scheduling<sup>9</sup>

The internal monitoring program is designed to reach, at a minimum, the public facing DOT federal program areas on a three-year cycle. This means that each program area will undergo an assessment for compliance with Title VI obligations at least once every three years. The cycle is currently structured as follows:

- Year One: Planning
- Year Two: Environment
- Year Three: Construction and Right of Way

The schedule is flexible based on factors outlined below<sup>10</sup>:

- Complaints
- Staffing changes
- Changes in protocol/rollout of projects
- Patterns indicating noncompliance
- Any additional factors

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<sup>9</sup> The following section (some referenced program areas have been removed for consistency) comes from Massachusetts DOT, Title VI Implementation Plan 2019, p.45.

<sup>10</sup> Summarized from Massachusetts DOT Title VI Plan 2019, p.48-49.

## Procedure

Programs scheduled for review will be notified in writing at least 60 days in advance to coordinate a date that ensures the attendance of [key leadership]. The notice of review will include a compliance review questionnaire that programs are required to complete in writing and return 30 days prior to the scheduled on-site review.

The Title VI staff will review the response to the questionnaire during the desk review process in advance of the on-site review. The on-site review will be conducted over a five-day period and consist of an entrance conference, review of files and documentation, staff interviews, and an exit conference.

A Determination of Findings will be issued within a 30-day period following the exit conference. A copy of the findings will be provided to the [key leadership] of the program being reviewed. No action on the part of the program will be required on findings of compliance, unless a condition of compliance is specified. However, programs found out of compliance will result in the development of a Corrective Action Plan (CAP) to overcome any deficiencies noted in the Determination of Finding within a period not to exceed 90 days. If it is determined that the matter cannot be resolved voluntarily, by informal means, action will be taken to effectuate compliance, up to and including notice to the Secretary/CEO/Commissioner.

## Methodology<sup>11</sup>

The assessment process is designed to give [DOT] Title VI staff an opportunity to understand the business practices of each program area and to identify areas of improvement and corresponding corrective actions. This is accomplished through the following methods:

- **Desk Audits**

By requesting and reviewing the documents used by [DOT]'s program areas, the Title VI staff is able to determine the extent to which Title VI activities are woven into the

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<sup>11</sup>The following section comes from Massachusetts DOT, Title VI Implementation Plan 2019, p. 46.

activities of those units. This review looks primarily for the presence of standard Title VI assurance language, as needed. This is also an opportunity for [DOT]'s Title VI staff to identify opportunities for Title VI data gathering and/or training opportunities.

- **Interviews**

[DOT]'s Title VI staff relies on in-person interviews of program area staff to determine the extent of compliance with Title VI obligations. These interviews reach both managerial and frontline staff. It is critical for managers to be sufficiently trained on Title VI principles to articulate its importance to their staff and to instruct on how adherence to Title VI is demonstrated through the particular actions of a program area. It is equally important that front-line staff be able to articulate the ways in which Title VI activities are a part of their course of business as well as the resources available to address Title VI concerns by members of the public (such as the availability of a complaint resolution process and the procedure for engaging it).

- **Shadowing**

This describes instances where [DOT]'s Title VI staff will accompany program area staff on their business activities in order to better understand the nature of the work (and possible Title VI risk factors therein) as well as monitor staff for compliance with Title VI obligations.

- **Technical Assistance**

[DOT]'s Title VI staff provides technical assistance on Title VI compliance across the agency. This can include identifying language needs in impacted communities, informing reasonable accommodation interactive process, developing new methods of data collection and analysis, and providing recommendations on new Title VI related questions and issues. Oftentimes, this technical assistance is prompted by the direct request of program area staff. These instances provide Title VI staff with an opportunity to gauge current levels of Title VI compliance throughout the agency as well as areas for improvement.

- **Attendance at Public Outreach Events**

By attending public outreach events, such as public hearings, meetings, and information sessions, [DOT]'s Title VI staff is able to observe program area staff in their direct interactions with members of the public. This gives the Title VI staff an opportunity to identify any needs or additional training and to ascertain the effectiveness of Title VI related request processes (such as language services and reasonable accommodations). Attending these sessions also provides an opportunity to learn of project-level community concerns that may be Title VI related.

## Outcome<sup>12</sup>

The internal assessment process culminates in the development of tailored Title VI work plans designed to illuminate possible deficiencies and identify areas of improvement in the Title VI activities of [DOT]'s programs, with specific timeframes for deliverables and action items. [DOT]'s Title VI staff drafts these tailored work plans immediately following the close of assessment activities. Once developed, an exit interview with [key leadership] (and staff as needed) is arranged. These sessions afford the opportunity for Title VI staff to explain the content/purpose of work plans as well as schedule technical assistance sessions and establish cycles and methodologies for program areas to report on and demonstrate their progress to address all work plan items.

The intervening years between assessments consist of Title VI staff providing both planned and ad hoc technical assistance and training, meeting regularly with program leadership and staff to track progress on work plan items, and monitoring the programs, services, and activities of program areas for Title VI compliance.

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<sup>12</sup> The following section comes from Massachusetts DOT, Title VI Implementation Plan 2019, p. 49.

## Program Areas<sup>13</sup>

The [DOT]'s mission is to provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity and preserves the quality of our environment and communities. The [DOT] has a comprehensive transportation program, each area of which is essential to achieving the mission through [DOT] core values. To measure the effectiveness of the program and ensure mission advancement, the [DOT] monitors and collects program data related to transportation issues. The following describes the various program areas, the activities conducted, and the data reviewed for nondiscrimination.

### **General Guidelines**

The cornerstone of Title VI compliance in all [DOT] programs is outreach and public involvement. The [DOT] has a Public Involvement Program that is designed to provide early, continuous and extensive outreach to all communities, but particularly to ensure that project selection does not subject populations to disparate, adverse effects based on race, color, or national origin. Each division uses a manual which describes how the division complies with Title VI requirements. Each division reports annually to the DOT Title VI Coordinator, who reviews each report for compliance.

The [DOT] uses a process to annually review Title VI activities to ensure nondiscrimination. The Coordinator examines data for nondiscrimination, which may include, but not be limited to:

- Sampling of contracts to ensure inclusion of required nondiscrimination provisions as well as nondiscrimination in the selection of consulting firms;
- Sampling of public involvement materials including meeting notices, project flyers and other similar documents to ensure appropriate nondiscrimination language and to ensure that such outreach is conducted in other languages as appropriate;
- Reviewing Title VI annual reports analyzing data for possible trends of discrimination;

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<sup>13</sup> The following section comes from Nevada DOT, Title VI Implementation Plan 2019, p. 6-14.

- Interviewing district staff to identify emerging issues and needs;
- Sampling environmental documents to ensure Community Impact Assessments appropriately identify underserved communities and discuss avoidance, minimization and mitigation of potentially disproportionate, adverse impacts;
- Choosing media outlets and other disbursement networks to ensure access to traditionally underserved and LEP customers;
- Ensuring that meetings, hearings and other public involvement events are held in accessible locations and at times to garner the best representation of the impacted community; and/or
- Collecting questions, concerns, comments or complaints from the public, ensuring they are appropriately addressed and forwarding potential discrimination concerns to the appropriate official.

## Annual Reporting

Each program area Title VI Liaison will provide Annual Reports describing the activities which intersect with the Title VI Nondiscrimination Program. In this report, the program area will provide the data they have collected throughout the period and explain the steps their program area has taken to comply with Title VI Program requirements. In these reports, program area liaisons will provide the following information:

- A description of the service area demographics, including how information was collected;
- How Title VI information was disseminated to the public;
- How different populations were affected by race, color, and national origin, whether any groups suffered disparate, adverse impacts, and what efforts were made to minimize and mitigate potential adverse effects;
- The number of requests for Limited English Proficiency (LEP) services and those provided;
- A description of any discrimination related complaint received;

- Any proposed changes to policy or procedures.

The Office of Civil Rights will review and evaluate the data reported in these reports to identify trends, prioritize program area comprehensive compliance reviews.

## Construction Division

The Construction Division has an essential function and responsibility within the department to assist in meeting the overall mission, goals and values.

Our goal is to provide the resources necessary to insure the quality of construction projects by improving decisions made in the field, making information available for training and to maintain statewide consistency. The highway construction program is ever changing and it is imperative that relevant up to date resources are available for the stakeholders involved in the construction process.

The Construction Division has the primary responsibility for assuring that highway construction practices adhere to Title VI requirements. DOT Construction Division ensures that any firm interested in working on construction projects are able to do so without regard to race, color or national origin.

### **Activities to ensure nondiscrimination**

- Monitor prime and subcontracting to ensure disadvantaged and small business opportunities to receive Department work;
- Ensure project information is adequately distributed to stakeholders and the public, following the Department's public involvement procedures and LEP plan;
- Ensure that all mitigation measures during construction are effectively implemented to reduce health and environmental hazards to the public, e.g. work zone safety, measures to reduce noise and air impacts, erosion control measures;<sup>14</sup>

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<sup>14</sup> This activity comes from New Hampshire DOT, Title VI Implementation Plan 2019, p 24.



- Carefully review project activities to avoid disproportionately high or adverse impacts to underserved communities during the construction phases;
- Regularly check all contracts and random subcontracts to ensure appropriate nondiscrimination language and required contract inclusions;
- Each District has a Title VI Liaison. The Liaison reviews documents and other project activities for nondiscrimination and reports annually to the Title VI Coordinator; and
- The Department uses its review process to annually review activities to ensure nondiscrimination. Title VI reviews are conducted by the Title VI Coordinator who issues a RFI, performs a desk audit, conducts an onsite visit, issues an approved finding and oversees compliance with a corrective action plan, if any. As part of the review, the Coordinator examines data for nondiscrimination, which may include but not be limited to:
  - Sampling of construction contracts, subcontracts, purchase orders and lease agreements to ensure inclusion of required nondiscrimination provisions;
  - Sampling of construction public involvement materials including meeting notices, project flyers and other similar documents to ensure appropriate nondiscrimination language;
  - Reviewing Title VI annual reports searching data for possible trends of discrimination;
  - Interviewing District Construction staff to identify emerging issues and needs;
  - Sampling Contract Compliance Reviews to ensure adequacy and consistency of the process;
  - Examining consistent administration of testing and specifications regardless of race, color, or national origin. Nondiscrimination in the approval of material suppliers and sources;<sup>15</sup>

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<sup>15</sup> This activity comes from Iowa DOT, Title VI Implementation Plan 2019, p 17.

- Examining uniformity in the assessment of sanctions, liquidated damages, withholding payments, suspension, termination of contracts and decertification; and,<sup>16</sup>
- Data and information regarding mitigation commitments made during the environmental process and progress toward completion of the commitments.<sup>17</sup>
- Data and information regarding temporary traffic and pedestrian routing during the course of construction, as well as a demographic profile of the project area.<sup>18</sup>

## Environmental Division<sup>19</sup>

The Environmental Division oversees all environmental programs within [DOT]. This group ensures that local, state, and federal environmental laws are complied with during the development, construction, and operation of DOT projects.

The Environmental Division integrates environmental considerations into all [DOT] activities to achieve environmental compliance. The division manages environmental programs, works to streamline the environmental process, and monitors changing laws and regulations.

The Environmental Division houses a diverse group of environmental specialists who research, analyze, and monitor the effects transportation projects have on the environment. They include air, noise, hazardous materials, and water quality specialists; biologists, archaeologists, environmental engineers, social analysts, and National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) experts.

A contract with standard terms and conditions is submitted with all Requests for Proposals, which includes the required Title VI language. Additionally, contracts with consultants are compiled using standard templates which have standard contract language regarding Title VI as part of the General Terms and Conditions. All consultant contracts include the standard contract

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<sup>16</sup> Georgia DOT.

<sup>17</sup> This activity comes from Connecticut DOT, Title VI Implementation Plan 2019, p 17.

<sup>18</sup> This activity comes from Connecticut DOT, Title VI Implementation Plan 2019, p 17.

<sup>19</sup>The following section comes from Nevada DOT's Title VI Plan 2019, p. 9-11.

clauses and also include a provision that says that any subcontracts must include these same provisions.

The Environmental Division's procedures are focused on preparing environmental documentation for projects and the processes for approving that document. They discuss how Title VI should be incorporated into the environmental process and environmental documentation.

All notices are placed on the DOT website as are project documents referenced in the notice. DOT's social media is used to disseminate meeting notices. All notices placed in newspapers are placed in the regular body of the paper and not the Legal Notices Section. If they are published in an identified area, ethnic newspapers and radio stations are included in the noticing effort. Community facilities such as churches, community centers and commercial businesses are approached to post notices of the meeting.

Sources of outreach efforts to encourage public involvement include, but are not limited to:

- Publications: [list]
- Radio: [list]
- Depending upon the project location and potential impacts, other smaller newspapers and "neighborhood" papers.

When warranted, mailings to property owners are multilingual. Language interpreters are available at [DOT] public meetings. Community advisory councils or boards are made aware of the meeting and if requested, project representatives make a separate presentation to those bodies. NEPA documents are made available at local libraries, affected city or county offices, and at [DOT] District offices. Copies of documents are available upon request and may be translated as needed.

For individuals who may lack transportation, [DOT] policy provides meetings be held close to a project area to facilitate involvement. Transit routes are also included on notices if they directly serve or are in close proximity to a meeting venue.

As part of a given environmental study, identifying the demographic composition and any affected populations in the project's study area is a specific task. Based on the results of this research, outreach methods are established to most effectively involve potentially affected

neighborhoods or potential project users. Post meeting reviews are held to determine the effectiveness of the all aspects of the meeting and to make recommendations for future meetings.

### **Activities to ensure nondiscrimination**

- As with all [DOT] programs, public involvement is the cornerstone of Title VI compliance. The [DOT] has a Public Involvement Program that is designed to provide early, continuous and extensive outreach to all communities, but particularly to ensure that project selection does not subject any populations to adverse, disparate impacts;
- The [DOT] uses an Environmental Manual which describes how the [DOT] complies with environmental requirements in project development. The Manual includes chapters on both public involvement and Title VI compliance; and
- The Environmental Division uses a review process to annually review environmental activities to ensure nondiscrimination. Title VI reviews are conducted by the Title VI Coordinator who issues a Request for Information (RFI), performs a desk audit, and/or conducts an onsite visit, then issues an approved finding and oversees compliance with a corrective action plan, if any. As part of the review, the Coordinator examines data for nondiscrimination, which may include, but not be limited to:
  - Sampling of consultant contracts to ensure inclusion of required nondiscrimination provisions as well as help ensure nondiscrimination in selection of consulting firms;
  - Sampling of public involvement materials including meeting notices, project flyers and other similar documents to ensure appropriate nondiscrimination language; including:
    - Ensure community involvement and participation is considered in the design of projects for all affected populations;
    - Data and information regarding the demographics of public meeting participation, including comparisons to the relevant population for each project<sup>20</sup>;

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<sup>20</sup> This activity comes from Connecticut DOT, Title VI Implementation Plan 2019, p. 13.

- Number of public hearings/informational meetings held, the meeting location, and the representative participation based on the affected populations within the project area<sup>21</sup>;
  - Demographic breakdown of attendees in public meetings/public involvement activities; and,<sup>22</sup>
  - Sampling of PD&E public involvement materials including meeting notices, project flyers, and other similar documents to ensure appropriate nondiscrimination language.<sup>23</sup>
- Reviewing Title VI Annual Reports analyzing data for possible trends of discrimination;
- Interviewing District staff to identify emerging issues and needs; and/or
- Sampling environmental documents to ensure Community Impact Assessments appropriately identify underserved communities and discuss avoidance, minimization and mitigation of disproportionately high or adverse impact.
  - The number and types of environmental reviews.<sup>24</sup>
  - Summary of any EA or EIS where any populations were disproportionately impacted by race, color, or national origin and any mitigating measures taken as a result.<sup>25</sup>

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<sup>21</sup> This activity comes from Michigan DOT, Title VI Implementation Plan 2019, p. 32.

<sup>22</sup> This activity comes from Delaware DOT, Title VI Implementation Plan 2019, p. 30.

<sup>23</sup> This activity comes from Florida DOT, Title VI Implementation Plan 2019, p 5.

<sup>24</sup> This activity comes from Connecticut DOT, Title VI Implementation Plan 2019, p 13. This activity is also mentioned by the following State DOTs: Delaware, p. 28; Maryland, p. 33; and Michigan, p. 32.

<sup>25</sup>This activity comes from Delaware DOT and Michigan DOT, Title VI Implementation Plans 2019, p 28 and 32 respectively.

- Monitor procedures for the identification of SEE impacts through the use of the DOT's Environmental Evaluation Checklist or other forms<sup>26</sup>, including potential impacts on minority populations for:<sup>27</sup>
  - Air quality
  - Noise
  - Community cohesion
  - Relocations
  - Community services
  - Mitigation measures
- Identify what mitigative measures have been employed in the location studies and project alternative analysis when there is the potential for disproportionate or discriminatory impacts.<sup>28</sup>
- Review and ensure the validity of socioeconomic data<sup>29</sup>, specifically:
  - The methods for identifying populations for Title VI purposes<sup>30</sup>
  - The study area selection and consider community impacts<sup>31</sup>

## Planning Division

[DOT] understands that transportation touches everyone's lives in a very personal way on a daily basis. Transportation is critical to our state's economic vitality and our quality of life, which is why DOT engages in a forward-thinking planning process that encourages community and stakeholder participation in transportation investment decisions.

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<sup>26</sup>. This activity comes from Idaho and Delaware DOT, Title VI Implementation Plans 2019, p 10 and 27 respectively.

<sup>27</sup> This list comes from Connecticut DOT and Maryland DOT, Title VI Implementation Plans 2019, p. 13 and 33 respectively.

<sup>28</sup> This activity comes from Delaware DOT, Title VI Implementation Plan 2019, p.27.

<sup>29</sup> This activity comes from New Mexico DOT, Title VI Implementation Plan 2019, p 6.

<sup>30</sup> This activity comes from Connecticut and Maryland DOT, Title VI Implementation Plans 2019, p 13 and 33.

<sup>31</sup> This activity comes from Maryland DOT, Title VI Implementation Plan 2019, p 33.

The Planning Division (PD) is made up of eight sections (also referred to as divisions): Program Development, Multimodal Planning, Southern [State] Planning, Roadway Systems, Traffic Information, Research, Performance Analysis, and Traffic Safety Engineering. The first three are typically considered to cover the core Planning functions of the Department. The Transit Section (within Multimodal Planning) submits a separate Title VI report to FTA.

These sections are responsible for major corridor studies and the development and plan adoption of urban freeway corridor improvements in [State] as well as data analysis.

The Planning Division hands out Title VI brochures at all the public meetings and hearings. PD also provides this information to any contractors or vendors used for public involvement via project-specific Public Outreach and Public Involvement Plans. PD will continue to provide hard copies of the Title VI brochures division- wide to staff, consultants/contractors, and to the public at all of PD's public meetings and hearings.

### **Activities to ensure nondiscrimination**

- The Department uses a Public Involvement Program that is designed to provide early, continuous and extensive outreach to all communities, but particularly to ensure that project selection does not subject any populations to disparate, adverse effects based on race, color, or national origin.
- The [DOT], the [State] Transportation Board, and MPOs scrutinize planning projects, screening them to identify and categorize the various impacts and enhancements of planned projects.
- The [DOT] annually reviews planning activities to ensure nondiscrimination. Title VI reviews are conducted by the Title VI Coordinator, who may issue a request for information, perform a desk audit, and/or conduct an onsite visit, then issue an approved finding and oversee compliance with a corrective action plan, if any. As part of the review process, the Coordinator examines data for nondiscrimination, which may include, but not be limited to:
  - Sampling contracts to ensure inclusion of required nondiscrimination provisions;
  - Sampling public involvement materials including meeting notices, project flyers and other similar documents to ensure appropriate nondiscrimination language;

- Reviewing Title VI annual reports searching for possible trends of discrimination in planning;
- The process or strategies used to ensure Title VI issues are addressed in the planning process. This includes written procedures as well as implementation of those procedures<sup>32</sup>, specifically examining the following:
  - Monitor the utilization of demographic information that identifies populations and evaluate the equitable distribution of the benefits/burdens of the transportation plans and activities, as well as transportation system investments, on these populations<sup>33</sup>
  - Information regarding project prioritization procedures for MPOs as well as rural projects<sup>34</sup>
  - Review the process in which projects are selected<sup>35</sup>
  - Ensure that formal and informal public comments are incorporated into the transportation decision-making process.<sup>36</sup>
- Interviewing District and/or MPO planning staff to identify emerging issues and needs; and
- Reviewing Certifications of MPO Planning Process Consistency with Title VI of the Civil Rights Act documents to ensure MPOs are current with nondiscrimination submissions.

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<sup>32</sup> This activity comes from Connecticut DOT, Title VI Implementation Plan 2019, p 11.

<sup>33</sup>This activity comes from Delaware DOT, Title VI Implementation Plan 2019, p 40. Similar language can also be found in Connecticut DOT p. 19 and Michigan DOT p. 36.

<sup>34</sup> This activity comes from Connecticut DOT, Title VI Implementation Plan 2019, p 12.

<sup>35</sup> This activity comes from Maryland DOT, Title VI Implementation Plan 2019, p 27.

<sup>36</sup> This activity comes from Connecticut DOT, Title VI Implementation Plan 2019, p 12.



## Right-of-Way Division

The Right-of-Way Division (ROW) has the responsibility of assuring that all Right-of-Way functions and the results of those activities are executed in accordance with Title VI.

The Division ensures the equitable treatment of business and persons displaced by highway projects, regardless of race, color, or natural origin by operating under the Federal Code of Regulations (49 CFR Part 24) to address the requirements established by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended.

### **Activities to ensure nondiscrimination**

- Ensure that procedures are in place to collect and review statistical data pertaining to all beneficiaries or persons affected by negotiations, relocation, and property management to ensure ROW activities do not have a disproportionate or adverse effect on traditionally underserved populations. Data collected through the use of the “Nondiscrimination Survey” score card shall include race, color, national origin;<sup>37</sup>
- Establish controls to ensure the objectiveness, quality, and equity of appraisals, property management, relocation assistance, and payments to impacted persons and property owners<sup>38</sup>;
- ROW uses interpreters and translators as necessary to ensure that those with LEP needs receive meaningful access to the Department’s services;
- Each District has a Liaison who reviews appraisals, acquisition, relocation and other documentation for nondiscrimination and submits annual reports activities to the Title VI Coordinator;
- All projects have a ROW plan that is monitored for compliance with the Uniform Act Relocation Assistance and Real Property Acquisition Policies Act of 1970 as well as for Title VI compliance; and
- The [DOT] uses a review process to annually review ROW activities to ensure nondiscrimination. Title VI reviews are conducted by the Title VI Coordinator who issues an

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<sup>37</sup> This activity comes from New Hampshire DOT, Title VI Implementation Plan 2019, p 21.

<sup>38</sup> This activity comes from New Hampshire DOT, Title VI Implementation Plan 2019, p 21.

RFI, performs a desk audit, conducts an onsite visit, issues an approved finding and oversees compliance with a corrective action plan, if any. As part of the review, the Coordinator examines data for nondiscrimination, which may include but not be limited to:

- Sampling of appraisal contracts to ensure inclusion of required nondiscrimination provisions as well as ensuring nondiscrimination in selection of consulting firms;
- Sampling of ROW public materials including information notices, relocation assistance documents and other similar materials to ensure appropriate nondiscrimination language is included and materials are offered in alternative languages as required by the [DOT] LEP Plan;
- Ensure equitable treatment of all businesses and persons displaced by highway projects (i.e. property valuations, negotiations, and relocation benefits were conducted/calculated in a nondiscriminatory manner),<sup>39</sup> specifically examining the following:
  - Sampling project ROW documents to ensure appraisal values, acquisitions, and relocation assistance do not show trends and patterns of discrimination, opportunities to purchase excess property, in particular, discrimination whether intentional or unintentional against persons based on race, color, or national origin<sup>40</sup>;
  - Data and information related to the appraisal process, including just compensation offers and supporting documentation<sup>41</sup>;
  - Data and information related to the demographics of relocatees and other beneficiaries of the Right-of-Way Division. This includes persons

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<sup>39</sup> This activity comes from Delaware DOT, Title VI Implementation Plan 2019, p 31.

<sup>40</sup> This activity comes from Idaho Title VI Implementation Plan 2019, p. 12.

<sup>41</sup> This activity comes from Connecticut and Maryland DOT, Title VI Implementation Plan 2019, p 15 and 35 respectively.

and businesses that receive relocation counseling and who attend informational meetings<sup>42</sup>;

- Concerns raised by persons who were relocated and what action was taken to address concerns<sup>43</sup>; and,
  - Whether the determination to condemn a property is done in a nondiscriminatory fashion based on who was affected by the condemnation and whether the property owner was aware of his/her rights during the process<sup>44</sup>
- Reviewing Title VI annual reports searching data for possible trends of discrimination, including equitable treatment without regard to race, color, and national origin;
  - Interviewing District ROW staff to identify emerging issues and needs;
  - Sampling project right of way documents to ensure appraisals, acquisitions and relocation assistance do not show discriminatory trends based on race, color, or national origin; and/or,
  - Conducting interviews with members of the public impacted by acquisition and relocation.

## V. EXTERNAL REVIEW PROGRAM

[DOT] is required<sup>45</sup> to monitor its Subrecipients to ensure those entities are in compliance with Title VI and related nondiscrimination statutes. [DOT] has determined that any Subrecipient receiving federal financial assistance through [DOT] for the purpose of administering programs and activities requires monitoring. The Subrecipients that receive federal financial assistance through [DOT] for

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<sup>42</sup> This activity comes from Connecticut and Maryland DOT, Title VI Implementation Plan 2019, p 15 and 35 respectively.

<sup>43</sup> This activity comes from Delaware DOT and Michigan DOT, Title VI Implementation Plan 2019, p 32 and 34 respectively.

<sup>44</sup> AL.

<sup>45</sup> See 23 C.F.R. §200.9(b)(7). See also 28 C.F.R. § 42.410.

the purpose of administering programs and activities includes: local public agencies; metropolitan and regional transportation planning organizations; and, transit grantees. [DOT] has taken a three-step approach to monitoring those Subrecipients that qualify for monitoring under the Title VI program.<sup>46</sup>

Subrecipients of Federal-aid in [State] include metropolitan planning organizations, councils of governments, local governments, universities, private for profit and non-profit agencies, transit grantees, airport authorities and contractors/consultants.<sup>47</sup>

[List MPOs]

The DOT has oversight within the state of an additional [number] counties, approximately [number] cities and towns and [number] Indian tribes ([number] reservations) that have the potential to become a Subrecipient LPA.

## Subrecipient Review Selection Procedures <sup>48</sup>

Every year, [DOT] identifies Subrecipients for which an onsite review will be conducted based on the assessment of risk of non-compliance and potential magnitude of the impact of non-compliance. [DOT] identifies those Subrecipients based on the following criteria:

- [DOT] knows of or has received (formal or informal) complaints regarding the Subrecipient;
- [DOT] staff have identified Subrecipients with known Title VI issues/concerns;
- The Subrecipient has submitted problematic responses to the Title VI compliance questionnaire and/or submitted incomplete Title VI documentation following the questionnaire;
- The Subrecipient receives a large amount of funding from [DOT] relative to other Subrecipients;

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<sup>46</sup>This paragraph comes from Ohio DOT, Title VI Implementation Plan 2018, p.21.

<sup>47</sup> This paragraph comes from Arizona DOT's Title VI Implementation Plan 2018, p.18.

<sup>48</sup> The following section (information on transit providers removed) comes from Ohio DOT's Title VI Implementation Plan 2018, p.22.

- SubrecipientThe Subrecipient is new to [DOT], receives a large amount of funding from [DOT] and requires Title VI training.

[DOT] conducts reviews of five to eight local public agencies each year, three transit grantees each year, and two planning organizations every other year. The onsite review activities conducted with each type of Subrecipient are identified below. The results of the onsite reviews are included in [DOT]'s Title VI Goals and Accomplishments Report.

## Subrecipient Review Procedures<sup>49</sup>

Each year [DOT] allocates a portion of its FHWA funding to [number] Metropolitan Planning Organizations (MPOs) and [number] Local Public Agencies (LPAs) in the form of direct funding or grants/awards to be used for transportation planning and construction projects at the metropolitan and/or local level.

Each of the MPOs and all of the LPAs with 50 or more employees develop a Title VI Plan that describes implementation, reporting, and complaint procedures. LPA's with fewer than 50 employees will have the option to use DOT's Title VI Program process as a template and administer the Title VI program in a similar manner as resources allow.

Annually [DOT] establishes a schedule for Title VI Program reviews of MPOs and LPAs using the criteria below. The review may consist of a desk audit or an on-site review. [DPT]'s annual goal is to conduct desk audits on one third of all recipients and perform onsite reviews with 30 local agencies per year.

### ***Review Criteria and Process:***

- Prioritize recipients according to:

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<sup>49</sup> The following procedures come from Idaho DOT, Title VI Plan 2018, but the questionnaire referenced is not provided as the appendix, pp. 17-21.

- Funding amount and type,
  - # of complaints against an MPO or LPA,
  - Revisit agencies with previously identified deficiencies, and
  - Length of time between reviews.
- Phase I-Subrecipient: Agency without an Approved Title VI Program/Plan
    - These agencies have up to 3 years to develop a comprehensive Title VI Program, which includes an LEP Plan. The [DOT] Title VI Coordinator assist the agencies with developing a Title VI Program and then they help to monitor the implementation. Once [DOT] reviews the Title VI Program, and accepts the implementation plan, then [DOT] categorizes it as Phase II.
  - Phase II Subrecipient: Agency with an approved Title VI Program/Plan
    - [DOT] monitors the effectiveness of the agency’s Title VI Program during the Phase II review. The recipient must submit documentation to [DOT] for review. The program documents should show effective implementation of the approved Title VI Program and provide evidence that the Subrecipient monitors its program as outlined in its Title VI Program Plan. Deliverables submitted might include:
      - Vital documents translated for LEP population;
      - Demographic maps used in decision-making;
      - Examples of training and outreach events for underutilized populations; and
      - Other efforts made demonstrating that the LPA’s has ensured non-discrimination in all its programs and activities.

The Title VI Coordinator will work together to classify the Subrecipient into either the “Phase I” or “Phase II” review category.

In addition, on its website [DOT] offers comprehensive checklists, document samples, and other pertinent information regarding the implementation of a Title VI Program to ensure that LPAs and

other federal-aid recipients are actively working to prevent discrimination within their organization. Examples and checklists are online at [\[link\]](#).

LPAs are Subrecipients of federal financial assistance and must implement policies and procedures prohibiting discrimination. [DOT]'s Title VI Coordinator is responsible to monitor Title VI plans and program implementation. Agencies receiving federal funding must make the appropriate recommended corrections if [DOT] finds noncompliance. The Title VI Coordinator uses a combination of DOT's Pre-award Assurance Checklist, along with a 25-point review process to examine for compliance with civil rights regulations. As part of his/her regular duties, Title VI Coordinator will work with Subrecipients to help them implement a Title VI program and will train local officials and Title VI Liaisons to help them understand the requirements of a Title VI Program and how to make effective implementation efforts.

Before receiving federal financial assistance, Subrecipients will be required to complete [DOT]'s Pre-Award Checklist that seeks to understand if the local has the necessary information for compliance (e.g., data on employee demographics, public outreach, Title VI policies and policy statements, etc.). The Pre-Award Checklist is online at: [\[link\]](#).

The MPOs are responsible for the transportation planning process within their urbanized areas and by means of a Memorandum of Understanding relating to transportation planning with [DOT]'s and mutual agreement of Federal funding in support of metropolitan planning and project activities: As a result, each MPO must develop a:

- 3-year Transportation Improvement Program (TIP);
- Long-range transportation plan; and
- Must develop and implement an annual Unified Planning Work Program (UPWP).

[DOT]'s Planning Division assists the MPOs with transportation planning activities that he/or she must require Title VI compliance. In coordination with the Civil Rights Office, the Planning Division also provides advice to MPOs on Title VI Program issues. The Planning Division oversees the Metropolitan Planning Organizations by monitoring, as follows:

- Reviewing the Unified Planning Work Program (UPWP) approval, administration, and oversight;
- Evaluating the Transportation Improvement Program (TIP);
- By providing general assistance and or any guidance;
- Ensuring Title VI Program compliance; and
- Assisting with MPO Federal/State reviews.

The Planning Division, the Office of Civil Rights, the Title VI Coordinator, and the Title VI Liaisons will monitor the MPO's overall strategies and goals of the transportation planning process to ensure Title VI Program compliance. [DOT] utilizes the Title VI review criteria as outlined above to decide the level of review required. A review will evaluate the outreach efforts employed by the MPO during the 3-year planning period. One of the review functions will be to compare the demographics of attendees at planning meetings, and then perform an analysis of available documents to determine if the planning process includes underserved and underutilized populations, those with Limited English proficiency. [DOT] staff will, as well examine marketing and advertising samples, marketing and email communications, and check the disposition of complaints filed against the MPO during the same period. [DOT] will complete the analysis and provide a report on any identified deficiencies. If necessary [DOT] will provide corrective action plan for the planning process that will aim to improve participation of underutilized and underserved populations.

[DOT]'s Title VI Coordinator will oversee, monitor, and train MPOs as follows:

- Review Limited English Proficiency (LEP, E.O. 13166) compliance to ensure utilization of demographic information. Ensure the MPOs use the data to identify potential LEP populations, and that the MPOs assess distributions of the benefits/burdens of the transportation plans and activities on these groups;
- Monitor Title VI compliance to ensure utilization of demographic information. Ensure the MPOs use the data to identify potential disparately impacted populations, and that the MPOs assess distributions of the benefits/burdens of the transportation plans and activities on these groups;



- Monitor public involvement processes to improve effectiveness and reduce participation barriers for populations based on race, color, and national origin; and
- Evaluate MPO annual accomplishments and goals.

Pursuant to 23 CFR 450.334, all MPOs undergo a triennial FHWA/FTA joint review, which includes a Title VI Program compliance assessment. Should the USDOT Operating Administration identify a program deficiency, within 90 days the Department will voluntarily develop an agreed upon Corrective Action Plan (CAP) with the modal agency to address the deficiencies.

## Review Steps<sup>50</sup>

### 1. Notice of compliance review

- a. When a compliance review commences, the Title VI program staff will send a notice of compliance review providing the reason for the review and a request for documents to the Subrecipient.
- b. The Subrecipient will be given an initial thirty (3) day time period to produce the requested documentation. This time period may be extended when a reasonable request for extension is made and at the discretion of DOT staff.
- c. Any Subrecipient who fails to respond to a notice of compliance review, including the request for information, within the prescribed deadline shall receive written notification of his or her deficiency status from the Title VI program staff (see preliminary findings below).

### 2. Desk review

Information received from the Subrecipient is reviewed in office by the Title VI staff and a telephone call may be scheduled to discuss preliminary deficiencies observed and to request additional information as necessary.

The following factors will play a role in determining whether or not an on-site review is necessary:

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<sup>50</sup> The following section comes from Indiana DOT, Title VI Plan 2018, p. 39-41.

- Deficiencies are directly related to improvements being constructed or maintained by the Subrecipient;
- Deficiencies include missing entire program components or are otherwise considered major deficiencies;
- The Subrecipient's program coordinator or representative has not been identified and/or does not appear to have the support of the executive leadership of the agency in ensuring program compliance; and,
- The review is based upon the receipt of a complaint.

### 3. Preliminary findings:

Following the conclusion of the desk review and/or on-site review, the reviewer shall provide the Subrecipient with a written report of preliminary findings which shall:

- Document any deficiencies observed and direct the Subrecipient to come into compliance within 90 days.
- Require that any deficiencies which cannot possibly be resolved within 90 days shall be reflected in a compliance plan submitted to DOT for approval within the 90 day period and shall include dates by which compliance will be achieved and specific action steps with identified task ownership.
- In addition, it is the Subrecipient's responsibility to notify DOT that it has achieved its approved compliance plan goals. Failure to provide such notice will place them in deficiency status.
- Failure to comply: If the Subrecipient does not voluntarily comply within 90 days of the original notification or alternative period approved by DOT, DOT will issue a Notice of Noncompliance. If the Subrecipient fails to submit appropriate and complete documentation to support its commitment to comply with Title VI, DOT will issue a noncompliance letter and forward a copy to FHWA and may then take or participate in other legally available action against the Subrecipient for failure to comply, such as withholding payment on a contract, and/or suspending or terminating the contract.
- Following the expiration of 90 days, DOT may do any of the following:
  - Certify the current Subrecipient compliant and eligible to receive funds
  - Identify the current Subrecipient as deficient but on an approved corrective action plan, or

- Issue a notice of noncompliance

## VI. DATA COLLECTION AND ANALYSIS

### General<sup>51</sup>

[DOT] is required by federal regulations to collect statistical data on the race, color, and national origin of participants in and beneficiaries of its programs. See 23 CFR § 200.9(b)(4). [DOT] civil rights staff works with program area staff (environmental, planning, right of way, etc.) on collecting and analyzing data. This requirement is also addressed in [DOT]'s Title VI [procedures memorandum]

Data collection efforts specific to each program area are described on an annual basis in [DOT]'s Goals and Accomplishment Report to FHWA. The following is a brief description of data collection efforts conducted by [DOT]:

Right of Way: During the interview/intake process, [DOT] ROW staff will ensure that demographic information is collected voluntarily and inform impacted person of the reasons for collecting the demographic data. Additionally, ROW staff will disseminate Customer Service Surveys that include demographic information questions and provide to all relocatees and persons impacted by ROW activities.

More information regarding the new data collection procedures can be found in these forms and be found in section 4.20 of the Right of Way Manual.

Environmental Planning: [DOT] collects and analyzes U.S. Census and other data as a part of the environmental Justice analysis, regarding populations expected to be impacted by [DOT] projects. Demographic data is collected during the environmental review process. [DOT]'s process for identifying possibly disparately impacted populations is described in chapter 9.15 of the [DOT] NEPA Manual, which is available at [link]. Additionally, Environmental staff collect voluntary demographic data during public meetings. These data will include demographic

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<sup>51</sup> The following section comes from Colorado DOT, Title VI Plan 2018, p.17-18.

information from attendees.

Statewide Planning: As part of the Statewide Planning Process, [DOT] staff analyze demographic maps that include median income levels per county, racial/ethnic makeup at the U.S. Census tract level, and trends regarding transportation equity. Additionally, demographic data will be collected at all public meetings hosted.

Language Assistance: The [Division] sends out an annual report form to headquarters right of way, environmental planning, and some regional civil rights staff in order to collect data about the number of occasions [DOT] staff has provided translation or interpretation services to members of the public. Feedback from this report form is included in the Title VI Goals and Accomplishments report.

### Public Involvement<sup>52</sup>

[DOT] developed a major data collected tool: the Public Participation Survey, used to gather demographic data on the participants of public meetings/hearings. The intent is to gather a sufficient pool of data to determine whether the DOT is reaching all population groups and receiving input in the transportation decision-making process. The surveys are scanned into a database and displayed on a spreadsheet or directly entered on a spreadsheet. The data for each category is transferred onto a data table report. U.S. Census Bureau, American Fact Finder data files are collected at city level, if available, county level, or service area for other meeting/hearings. The data of the participants is compared to the US Census data for the project area to help identify underserved populations in each category.

## Data Collection<sup>53</sup>

Federal program areas are responsible for collecting data on race, color, and national origin as it pertains to their potential interaction with the public. Additional data can include language spoken other than English. The Office of Civil Rights will work individually with each program area to develop

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<sup>52</sup> The Public Involvement section comes from North Dakota, Title VI Plan 2018. P.43.

<sup>53</sup> The following sections come from TX DOT, Title VI Plan 2018, p. 22-24. Although this general section is similar to the Colorado and North Dakota language, it is included here as another example approach.

a collected data set which will support both the desk audit and reporting to FHWA. Potential sources of data and analysis tools include:

- Census Data
- School Districts
- Forms or Surveys
- Management Systems (Pavement and Congestion)
- Land Use Plans
- Geographic Information Systems
- Transportation Models
- MPO Committees (e.g., Citizen Advisory Committees)

## Analysis

Once the Title VI data is collected, the data must be analyzed for the purpose of identifying patterns of discrimination. Each federal program area is responsible for analyzing the data collected and recommending corrective action, as appropriate. A pattern of discrimination may result from a specific process, or as the result of a process or procedure being implemented in a discriminatory manner.

Types of analysis to address compliance with Title VI include:

- Distribution of benefits (dollars, facilities, systems, projects) by groups and communities;
- Allocation of funds by mode (highway, bus, etc.);
- Impact of investments on race, color, and national origin;
- Projected population increases versus planned facilities and type of facilities;
- Impacts of the location of existing or proposed facilities connected with a project;
- Alternatives to modes, locations, and types of facilities;
- Language needs assessment;

- Transportation needs of all persons within boundaries of plans or projects;
- Persons included in the decision-making process;
- Strategies to address impacts;
- Priorities for investments;
- Sources for financing investments, and
- Strategies to disseminate information.

When determining compliance with Title VI, each program area may consider the following:

- The manner in which services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of their race, color, or national origin as defined by Title VI authorities;
- The population eligible to be served by race, color and national origin;
- The location of existing or proposed facilities connected with the program, and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination;
- The present or proposed membership by race, color and national origin, in any planning or advisory body which is an integral part of the program; and
- Where determination of location is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color and national origin.

## VII. TRAINING

### Internal Training

Internal training<sup>54</sup> is composed of three levels of training of varies intensity and content. Past training has included topics such as methods for identifying complaints of discrimination, understanding and applying Title VI regulations and identifying elements of Title VI compliance within program areas.

The Title VI Coordinator conducts one hour of Title VI training, quarterly, for the Title VI Liaisons.

1. Director and Division – This training will occur annually and functions as part training and part debriefing regarding highlights from the previous reporting year. The training portion is high-level and is tailored to identify and address major challenges and special emphasis areas.
2. Federal Program Area Staff – This training will occur semi-annually and, more specifically, will focus on the major challenges and special emphasis areas in each of the federal program areas. It will highlight the challenges that require coordination between federal program areas.
3. Title VI Liaison Level – This training will be conducted semi-annually and is intended to provide liaisons with the opportunity to discuss issues, ask questions regarding reviews conducted or to be conducted, review specific scenarios, and share experiences. It is also an opportunity to provide individualized training related to Title VI requirements and how to apply the requirements to specific federal program areas. The training provided to the liaisons is intended to be a trickle-down approach for dissemination to staff under liaisons.

**New Title VI Liaisons<sup>55</sup>** - In addition, the Title VI Coordinator provides six hours of Title VI training for newly appointed Title VI Specialists. Training includes one hour instruction in person followed by four hours of independent study, and concluding with one-hour instruction in person. The training materials are on DOT's internal website and include a training program syllabus clearly describing the requirements of each section to be completed including a question and answer session at the

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<sup>54</sup> "Internal Training" and following information from Arizona DOT's Title VI Plan, 2018, p.21-22.

<sup>55</sup> "New Title VI Liaisons" and following information from the North Dakota DOT's Title VI Plan, 2018, p.44.

end of the training. The training covers Title VI, all related nondiscrimination statutes, and ADA/Section 504.

**All staff** – The Office of Civil Rights will offer a minimum of one hour of Title VI training to all DOT employees annually. This training may be offered on more than one day to accommodate work schedules.

**New Staff** - Title VI Liaisons in each division and district are responsible to conduct Title VI training for new employees. A new employee Title VI Training syllabus and checklist is available to assist the Title VI Specialist in fulfilling this responsibility. The available training is one hour and includes an independent study of viewing Title VI, ADA, and LEP videos followed by a brief discussion of the materials with the Title VI Specialist. Additional question and answer time is provided as needed. The Title VI Specialist may choose to provide Title VI Training to their division or district employees using training materials from previous trainings. The Title VI Program Administrator has recorded CDs/DVDs of previous trainings, presentations, and other materials available. The materials on DOT under the Title VI are a good source of training materials. Title VI training records for all DOT employees are stored in DOT training files.

The training provides comprehensive information on the Title VI program and its application to program operations, identification of Title VI issues and resolution of complaints. Scheduled training events may be recorded documenting the training topic, date, time, hours, location, and participants. The Title VI training schedules are reported to FHWA in the annual Goals and Accomplishments report.

## External Training

**Subrecipient Training** - The [DOT] Title VI Program staff utilizes its external online training module<sup>56</sup> to satisfy the training needs of Subrecipients in an expeditious manner. Staff provides individual (one-on-one) technical training to Subrecipients on an “as needed basis” and specialized

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<sup>56</sup> “Subrecipient Training” and following information from Tennessee DOT’s Title VI Plan, 2018, p. 127.



training upon request. In addition to the online training for Subrecipients, the Title VI program staff offers Title VI training in each region of the state for its Subrecipients as well, one per region annually.

**Subrecipient Resources**<sup>57</sup> [DOT] has partnered with the Local Assistance Program (LTAP) to develop online Title VI training for Subrecipients and anyone else interested in taking the course. The Title VI training course is mandatory for LPAs that request to participate in DOT's local-let program. Information about the LPA training requirements is available at: [link].

The Title VI Program Staff requires all Title VI coordinators to participate in [DOT] Title VI training triennially. The coordinators can attend a regional session offered by staff, an online Subrecipient Title VI training, or request a specialized Title VI training, in which case, the Title VI Program Staff will schedule a time to train the coordinator and agency staff. [DOT] Subrecipients are required to conduct annual Title VI training with their respective agency's employees and document the results.<sup>58</sup>

The Office of Environment has also incorporated Title VI considerations into its Public Involvement training. The Public Involvement training course, which includes a module on identifying and engaging stakeholders in underserved populations, is a one-day course for consultants, District Environmental staff, Communications staff, and LPA staff. The course is based on DOT's Public Involvement Manual. The course produces an overview of public involvement and includes instruction on why public involvement is necessary and public involvement requirements as well as offering methods and best practices. Information about the training courses are available at: [link].

Public Involvement Manual is available at: [link].

Underserved Populations Guidance is available at: [link].

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<sup>57</sup> Ohio DOT p.33-34.

<sup>58</sup> This paragraph and the following section come from Tennessee DOT's Title VI Plan, 2018, p. 69.

## VIII.COMPLAINT DISPOSITION PROCEDURES<sup>59</sup>

**Who can file?** Any person who believes they—or with a specific class of persons—were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of a Federal-aid Recipient may file a Title VI complaint.

**Where can one file?** Complaints may be filed with [DOT], FHWA Division Offices, the FHWA Headquarters Office of Civil Rights, the United States Department of Transportation (USDOT) Departmental Office of Civil Rights, or the U.S. Department of Justice.

**When must one file?** According to U.S. DOT regulations, 49 CFR § 21.11(b), a complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the investigating agency.

**What should a complaint look like?** Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. However, the complainant may call the agency and provide the allegations by telephone, and the agency will transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature. A complaint should contain at least the following information:

- A written explanation of what has happened;
- A way to contact the complainant;

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<sup>59</sup> The following section comes from Maryland DOT and is copied from the Official FHWA Q&A on this subject, Title VI Plan 2018, p. 37-40.

- The basis of the complaint (e.g., race, color, national origin);
- The identification of a specific person/people and the respondent (e.g.) agency/organization) alleged to have discriminated;
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s). Complaint should indicate if the alleged discrimination is on-going.

**How are complaints routed?** FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency.

With this understanding, complaints should be routed in the following ways:

- All complaints should be routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against State DOTs or Subrecipients of Federal financial assistance.
- Complaints should be forwarded from the initial receiving agency through the Federal-aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with a Subrecipient City, that receiving agency should forward the complaint to the State DOT, which should forward the complaint to the State's FHWA Division Office, which should forward the complaint to HCR. If a complaint is filed with a State DOT, then the State DOT should forward the complaint to the State's FHWA Division Office, which should forward the complaint to HCR.
- State DOTs and Subrecipients must log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Division Office, State DOT, and Subrecipient (where applicable).

Complaints may be sent to:

[DOT address]

And/Or

Federal Highway Administration

[State] Division

Attention: Civil Rights Specialist

City, Street Zip

And/Or

Federal Highway Administration Headquarters - Office of Civil Rights

1200 New Jersey Avenue, SE HCR-40, Room E81-101

Washington, DC 20590

202-366-0693 or Fax: 202-366-1599

TTY: 202-366-5751

Additionally, complaints may be filed the U.S. Department of Justice at:

Federal Coordination and Compliance Section - NWB

Civil Rights Division

U.S. Department of Justice

950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530

**What are the potential outcomes for processing a complaint?**

There are four potential outcomes for processing complaints:

1. **Accept:** if a complaint is timely filed (see Question 2c, above), contains sufficient information to support a claim under Title VI, and concerns matters under FHWA's jurisdiction, then HCR will send to the complainant, the respondent agency, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
2. **Preliminary review:** if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
3. **Procedural Dismissal:** if a complaint is not timely filed (see Question 2c, above), is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Division Office a written notice that it is dismissing the complaint.
4. **Referral\Dismissal:** if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

HCR is responsible for conducting all investigations of State DOTs and other primary Recipients. In the case of a complaint filed against a Subrecipient, HCR may either conduct the investigation itself, or it may delegate the investigation to the primary Recipient State DOT. If HCR chooses to delegate the investigation of a Subrecipient, HCR will communicate its acceptance of the complaint to the complainant and respondent, but the State DOT will conduct all data requests, interviews, and analysis. The State DOT will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI. All Letters of finding issued by FHWA are administratively final.

### **What are the timeframes for investigations?**

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance. For State DOTs that have been delegated an investigation from FHWA, 23 CFR §200.9(b)(3) provides that State DOTs must complete investigations within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA).

Investigation files are confidential and will be maintained by [DOT]. The contents of such files will only be disclosed to appropriate [DOT] personnel and federal authorities in accordance with Federal and State laws. [DOT] will retain files in accordance with records retention schedules and all Federal guidelines.

## **Title VI Complaint Form**

See Appendix H.

# **IX. COMPLIANCE AND ENFORCEMENT PROCEDURES<sup>60</sup>**

### **Remedial Action**

The goal for Title VI and regulatory enforcement is to achieve voluntary compliance. If deficiencies are found during a Title VI review, the Compliance Review Report will include a draft corrective action plan (CAP) with projected due dates. A final CAP is issued following a compliance conference (“conference”) meeting or phone call with the program area or Subrecipient. During the conference, the program area or Subrecipient will be able to propose remedial actions to correct the deficiencies. The CAP for Departmental programs areas is called the Title VI Work Plan.

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<sup>60</sup> The following section comes from North Carolina DOT Title VI Plan, 2018, p. 41-42.

Program areas and Subrecipients are expected to correct all deficiencies according to their CAP and provide periodic updates to the Title VI Officer assigned to the review. The Title VI Officer will provide technical assistance, as needed, and work with the (program area's) Title VI Liaison or Subrecipient's Title VI Coordinator to ensure implementation of the CAP. When the Title VI Officer has determined that a sub-recipient's deficiencies are sufficiently corrected, the Subrecipient will be notified that the review process is complete and no further progress reporting is needed. The Subrecipient will receive an official Closeout Letter signed by the Department's Title VI Coordinator.

### **Affecting Compliance**

Departmental Programs: When [DOT] program area refuses to cooperate or comply with Title VI, the Title VI Specialist will elevate the matter to the OCR Director and DOT Secretary, after which, the matter may be referred to the FHWA Civil Rights Program Manager or responsible USDOT Operating Administration (OA).

Subrecipients: When a Subrecipient fails to take appropriate corrective action in response to the findings of deficiencies in the compliance report:

- The Subrecipient moves from a "deficiency status" to noncompliance;
- [DOT] will submit two copies of the case file to FHWA with a recommendation that the sub-recipient be found in noncompliance; and/or,
- [DOT] may, with the concurrence of FHWA (or other USDOT OA), initiate proceedings to impose sanctions for noncompliance.

### **Sanctions**

In the event that a Subrecipient or contractor ("recipient") fails or refuses to comply with Title VI, the first step taken by the [DOT] program area with oversight of the recipient will be attempts to resolve the issue using the program area's normal administrative solutions. However, the

Department may take any or all of the following steps, with the concurrence of USDOT (i.e., FHWA), if the recipient is uncooperative or nonresponsive during attempts by [DOT] to voluntarily resolve the compliance issue:

- a. Cancel, terminate, or suspend the contract or agreement in whole or in part;
- b. Refrain from extending any further assistance to the recipient under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient;
- c. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the recipient; and/or,
- d. Refer the case to the appropriate federal agency for appropriate administrative or legal proceedings. Other means authorized by law.

## X. REVIEW OF STATE DIRECTIVES<sup>61</sup>

The Title VI Staff employs several processes to review [DOT] directives, policies and practices:

- The Title VI Staff works collaboratively with the Title VI Advisory Committee, a group consisting of division directors or their appointees, who help to make and implement policies. The committee works to ensure [DOT] directives are in keeping with Title VI of the Civil Rights Act of 1964 and other federal nondiscrimination mandates;
- The Title VI Staff is included in the review process when [DOT] directives are drafted and policies implemented. This process affords the Title VI Staff an opportunity to review for any possible Title VI issues.
- The Title VI Staff reviews all environmental documents, public meeting and hearing transcripts to ensure staff is aware of any potential Title VI issues.
- The Director serves on decision-making committees as a Civil Rights Advisor to ensure [DOT] directives are in accordance with the federal and state nondiscrimination laws, rules, and regulations; and,

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<sup>61</sup> The following section comes from Tennessee DOT Title VI Plan 2018, p. 161.



- The Title VI Staff cooperatively with FHWA Division Civil Rights staff to implement federal nondiscrimination directives.

## XI. DISSEMINATION OF INFORMATION<sup>62</sup>

In accordance with 23 CFR § 200.9(a)(12), [DOT] develops Title VI information for dissemination to the general public and, where appropriate, in languages other than English.

### **Notification to Beneficiaries - Website**

[DOT]'s website is designed to ensure Title VI information is readily accessible to the public. The website informs the public of their rights under Title VI and provides information on how to file a complaint. Title VI information available on [DOT]'s website includes:

- [DOT]'s Title VI Plan
- Title VI and Related Statutes Nondiscrimination Statement (English and Spanish)
- Title VI Nondiscrimination Assurances
- [DOT]'s Title VI Annual Work Plan & Accomplishment Report
- [DOT]'s External Discrimination Complaint Form (English and Spanish)
- Title VI Poster
- Title VI Requirements for Subrecipients
- [DOT]'s Title VI Technical Assistance Guide for Subrecipients
- [DOT]'s Language Assistance Plan

The above information is located on [DOT]'s Web site at: [link]

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<sup>62</sup> Unless otherwise noted, all content in the Dissemination of Title VI Information from TXDOT, Title VI Plan 2018, p.30.

### **Notification to Beneficiaries - Posters and Brochures**<sup>63</sup>

The [DOT] provides posters, brochures, and survey cards at every public hearing and meeting. These program posters and brochures are available in languages other than English, as needed. Furthermore, current copies of [DOT]'s Title VI Notice to the Public are available and accessible at DOT buildings.

Survey Card: [\[link\]](#)

## **XII. PUBLIC INVOLVEMENT**<sup>64</sup>

As outlined in [DOT]'s Public Involvement Manual, it is [DOT]'s policy and commitment to foster public involvement in all of its projects. [DOT] welcomes everyone, regardless of race, color, or national origin (including LEP individuals), to participate in and benefit from its public involvement activities. Special efforts need to be made to engage and stakeholders from all demographic groups. Efforts to involve these affected stakeholders in public participation activities can include both general measures, such as placing public notices in public areas (e.g., libraries, transit stations, or vehicles), as well as targeted measures to address linguistic, institutional, cultural, economic, historical, or other barriers that may prevent such populations from effectively and meaningfully participating in the decision-making process.

Some effective practices include:

- Scheduling meetings at times and locations that are convenient and accessible for all communities, including LEP communities.
- Employing different meeting sizes and formats.
- Coordinating with community and faith-based organizations; educational institutions; and, other organizations to implement public engagement strategies that reach members of all impacted communities.

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<sup>63</sup> Notice to the Public comes from Arizona DOT, Title VI Plan 2018, p. 14.

<sup>64</sup> The following section comes from Ohio DOT, Title VI Plan 2018, p. 39.

- Considering radio, television, or newspaper ads on stations and in publications that serve typically underserved communities. Outreach to these populations could also include audio programming available on podcasts.
- Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.

[DOT]'s Public Involvement Manual is available at: [\[link\]](#)

[DOT]'s Office of Environmental Services developed Underserved Populations Guidance: [\[link\]](#)

[DOT]'s Office of Statewide Planning and Research has also developed a process to engage stakeholders in long-range statewide transportation planning. The Planning Program Public Involvement Process outlines the procedures that ODOT follows to secure public comment on the development of [key planning initiatives], [DOT]'s statewide transportation plan, the Statewide Transportation Improvement Program (STIP), and other regional or corridor transportation planning studies that [DOT] conducts. Securing and responding to public comment is a critical component of [DOT]'s transportation planning program. Effective and informed public comment helps [DOT] develop plans that meet [State]'s existing and future travel needs, while promoting community livability and economic development. [DOT] has taken steps to include Title VI considerations in [key planning initiatives] and in its STIP.

The Planning Program Public Involvement Process is available at: [\[link\]](#)

# LIST OF ATTACHMENTS

- **APPENDIX A:** Standard USDOT Title VI Assurances
- **APPENDIX B:** Organizational Charts
- **APPENDIX C:** Title VI Policy Statement
- **APPENDIX D:** Sample Questions for Program Area Reviews
- **APPENDIX E:** Sample Questions for Subrecipient Reviews
- **APPENDIX F:** Title VI Requirements for Subrecipients
- **APPENDIX G:** Checklist for Subrecipient Reviews
- **APPENDIX H:** Title VI Complaint Form