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SECTION A

INTRODUCTION

Chapter 7

Title VI Program

In order to meet the requirements of the [Title VI of the Civil Rights Act of 1964](#), both non-certified and certified LPAs are required to submit and obtain approval of Title VI assurances to ODOT.

Plan

A sub-recipient with a service area with a population under 200,000 can adopt ODOT's Title VI plan (a declaration in writing is required) or may use a Non-Discrimination Agreement (Title VI [Assurances](#)) which is an abbreviated Title VI plan.

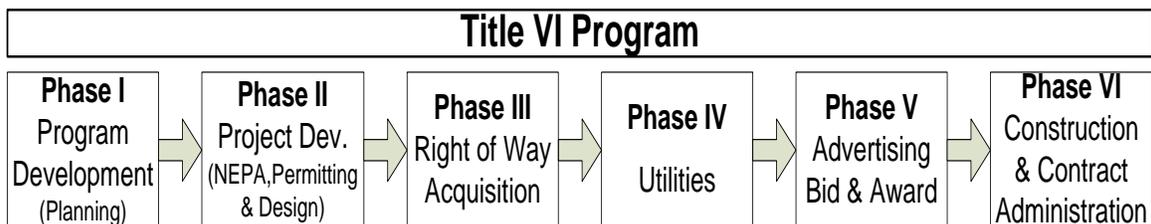
A sub-recipient with a service area with a population over 200,000 must submit a Title VI plan for approval to ODOT; templates are available on [ODOT's Civil Rights Title VI webpage](#).

Reporting

Local governments with populations under 200,000 are required to prepare and maintain on file an annual Title VI Accomplishment Report.

Local governments with populations over 200,000 are required to prepare and submit to the ODOT Title VI Program Manager an annual Title VI Accomplishment Report.

Title VI issues must be considered throughout the entire project process, from the very start of program development to closure of the project.



A. BACKGROUND

[Title VI of the Civil Rights Act of 1964](#) and subsequent federal nondiscrimination statutes such as the [Federal-Aid Highway Act](#), the [Rehabilitation Act of 1973](#), the [Age Discrimination Act of 1975](#), the [Civil Rights Restoration Act of 1987](#), [Americans with Disabilities Act of 1990 \(ADA\)](#), [Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations](#), and

[Executive Order 13166 – Limited English Proficiency](#), prohibit discrimination based on race, color, national origin, economic status, disability and sex (gender) in the provision of benefits and services in programs and activities receiving federal funds.

In 1969, the passage of The National Environmental Policy Act ([NEPA](#)) aimed to provide "all Americans safe, healthful, productive, and esthetically pleasing surroundings," and required the use of a "systematic, interdisciplinary approach" so environmental and community factors would be considered in decision-making processes.

Starting with President Clinton signing [Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations](#) in 1994, a series of orders then followed requiring the incorporation of Environmental Justice principles into federal programs and policies.

Environmental Justice is intended to ensure that the process of transportation planning is consistent with the provisions of [Title VI of the Civil Rights Act](#). Environmental Justice focuses on enhanced public involvement and an analysis of the distribution of benefits and impacts. Consistent with the United States Department of Transportation (USDOT) Order on Environmental Justice, disproportionately high and adverse impacts on minority and low-income populations should be mitigated where possible, if not totally avoided. Beyond this mitigation requirement, there is no presumed distribution of resources to sustain compliance with the Environmental Justice provisions. The intent is to ensure that no person is denied benefits based on race, color, or national origin.

Additional information can be found at FHWA's [Title VI](#) website.

B. OVERVIEW

All local public agencies (LPAs), Metropolitan Planning Organizations (MPO's), or Transportation Management Areas (TMA's) that receive federal funds through ODOT are considered sub-recipients. As sub-recipients, they are also required to assure non-discrimination in all their programs and activities, submit to ODOT Title VI assurances, and have in-place an approved Title VI Program Plan.

Agencies, MPO's, and TMA's that serve populations of under 200,000 may adapt or adopt ODOT's Title VI plan or use an abbreviated Title VI Plan, otherwise known as a Nondiscrimination Agreement (see 23 CFR 200.5 (n)). The Non-Discrimination Agreement also serves as Title VI assurances.

USDOT's implementing regulations are contained in [49 CFR Part 21](#) and [23 CFR 200](#). These regulations require the following:

- Affirmative Action; and
- Recipients to execute Title VI Assurances as a condition of federal-aid.

- Notify the state transportation agency of any complaints or lawsuits filed against the sub-recipient
- Collect and maintain statistical data on affected communities

These federal regulations require ODOT to ensure that all LPAs receiving USDOT funds administered by ODOT are in compliance with these regulations (see [23 CFR 200.9\(b\)](#) (7), [49 CFR 21.3 & 21.7](#) for reference).

The [Civil Rights Restoration Act of 1987](#) broadened the scope of Title VI coverage by expanding the definition of the terms “programs and activities” to include all programs and activities of federal-aid recipients, sub recipients, and contractors, whether or not such programs and activities are federally funded.

All ODOT construction projects reference Title VI requirements in [Oregon Standard Specifications](#) Section 170.62. This section states:

Language contained in ODOT's Standard Provisions for Intergovernmental Agreements also references civil rights laws, rules and regulations, including Title VI.

C. TITLE VI PROGRAM PLAN

Title VI Program Plans are intended to prevent discrimination in the provision of programs and services on federally funded highway programs and activities. The Title VI Program Plan is a system of policies and procedures designed to monitor agency (and sub recipient agency) compliance, address complaints, and eliminate discrimination when found to exist. A Title VI Program Plan is also a legal document that imposes individual legal liabilities to the signatory agency that are not transferable.

The LPA’s Title VI Program Plan must be presented to ODOT’s Title VI Officer for review and approval. ODOT’s Title VI Officer will perform annual compliance reviews of sub-recipients of federal funds. See ODOT’s [Office of Civil Rights Title VI](#) website for additional information.

D. TITLE VI PLAN DEVELOPMENT

Each LPA with a population above 200,000 must develop a Title VI Program Plan that reflects its individual federal-aid highway program structure. Those LPAs that serve a population of fewer than 200,000 may choose to adopt ODOT’s Title VI plan or may use a Nondiscrimination Agreement (Title VI Assurances) which is an abbreviated Title VI plan.

1. Technical Support

Technical support for LPAs Title VI Program Plan or Nondiscrimination Agreement development is available through ODOT's [Office of Civil Rights](#).

2. Program Plan Scope

The Title VI Program Plan describes how recipients of federal financial assistance will develop and comply with the requirements under Title VI and how complaints may be filed.

3. Program Plan Format

The prescribed sample format is contained in the [USDOT - Preventing Discrimination in the Federal-Aid Program Reference Notebook](#) Appendix C. LPAs should use this sample to prepare their program plan. Such LPA program plans must contain the categories listed in [Item 5](#) below, "Key Points in Developing a Title VI Plan."

4. Non-Discrimination Agreement

A sample agreement can be found in the [USDOT - Preventing Discrimination in the Federal-Aid Program Reference Notebook](#), Appendix C.

Additional information regarding resources, training, effective practices and case studies can be found at the [FHWA Environmental Justice](#) website.

If there are questions on these examples, contact the Title VI Officer in ODOT's [Office of Civil Rights](#) or the [Regional Local Agency Liaison](#).

Local public agencies having a Title VI Program Plan already approved for a different federally funded program have the option to submit the existing Title VI Program Plan for approval or create a new one. Local public agencies should submit their plans through the [Regional Local Agency Liaison](#) for review by ODOT's [Office of Civil Rights](#). The Office of Civil Rights will review the plan in accordance with federal requirements. If necessary, supplemental information will be requested prior to approval.

5. Key Points in Developing a Title VI Program Plan

As noted previously, each LPA that serves a population greater than 200,000 must develop a Title VI Program Plan. In so doing the LPAs should consider the following points in developing a Title VI Plan. For LPAs with a Nondiscrimination Agreement, these points are incorporated in the Nondiscrimination Agreement.

a. Policy statement

The policy statement reflects the LPA's commitment to Title VI compliance, including all related federal laws and regulations, and is signed by the LPA's Chief Executive Officer.

b. Authorities

This section cites all relevant federal statutes, regulations, executive orders and other legislation.

c. Organization and Staffing

This section identifies the Title VI Coordinator and program area Title VI Specialists within the organization directly responsible for the management and administration of the Title VI Program. The Program Plan is to include an organization chart that describes the reporting relationship between the designated Title VI Specialists within each program emphasis area and the designated LPA Title VI Coordinator.

d. Program Emphasis Areas

This section describes the federal-aid highway program emphasis areas (i.e., Planning, Research, Design, Education and Training, Right of Way, Construction, Maintenance, etc.), addresses the program areas' legal/operational authorities, and indicates the Title VI compliance monitoring responsibilities of each program emphasis area.

e. Title VI Standard Assurances and Appendices (DOT 1050.2)

The USDOT 1050.2 Standard Title VI Assurances are placed by reference in every contract, grant or property regardless of its funding source. See the [US Department of Justice Title VI Legal Manual](#) for additional information.

f. Complaint Procedures

This section outlines the process for filing complaints and the investigative process. It also identifies the LPA staff positions responsible for this process, and the time limits to submit complaints and complete investigations (60 days per [23 CFR 200.9\(b\) \(3\)](#)).

g. Table of Contents

This section enables the reader to quickly locate particular sections of the Title VI Program Plan.

E. REPORTING REQUIREMENTS

LPAs are to provide the following reports and data to ODOT.

1. Annual Title VI Accomplishment Report

All agencies with approved Title VI Program Plans or Nondiscrimination Agreements are to prepare an annual report of their Title VI Program Plan implementation compliance activities titled the Title VI Annual Accomplishment Report. This report describes the activities that occurred during the State of Oregon's fiscal year that ends on June 30. Agencies with populations under 200,000 are required to maintain the report on file but are not required to submit to ODOT. Agencies with populations over 200,000 must forward the completed report to the [Regional Local Agency Liaison](#), no later than August 15, who will forward it to ODOT's [Office of Civil Rights](#) for review and approval. Annual Accomplishment Report Guidelines *can bet* found on ODOT's [Office of Civil Rights](#) website and assists agencies in addressing Title VI compliance for each area of their federal-aid highway program.

2. Revisions to the Local Public Agency's Title VI Program Plan or Nondiscrimination Agreement

The Title VI Program Plan shall be regularly updated with current information including names and titles of staff, organizational charts and any other updates as needed. Agencies must submit substantive revisions as noted below, to their Title VI Program Plan or Nondiscrimination Agreement to the [Regional Local Agency Liaison](#), who will forward it to ODOT's [Office of Civil Rights](#) for review and approval. Such revisions include but are not limited to the following items:

- The filing of the LPA's new Chief Executive Officer's signature;
- Administrative changes in the LPA's Title VI Program Plan administrative structure and staffing;
- Changes to the Title VI Program Plan's complaint procedures, etc.

LPAs only need to submit changes to the Title VI Program Plan or Nondiscrimination Agreement when substantive revisions such as the ones described above take place.

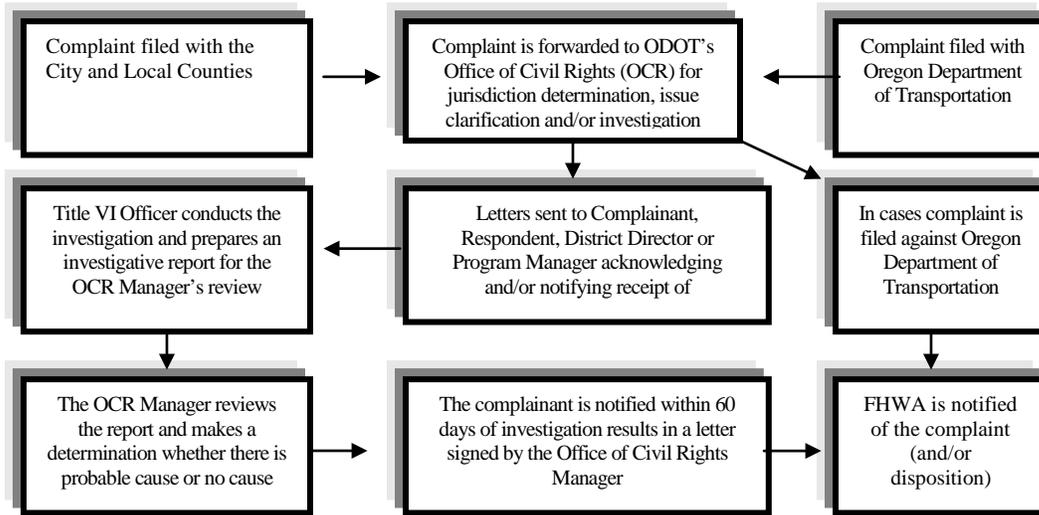
F. TITLE VI COMPLAINT INVESTIGATIONS

1. Roles and Responsibilities

a. ODOT

ODOT is responsible for investigating all Title VI discrimination complaints occurring within the federal-aid highway program or its activities, unless the complaint filed is against ODOT. Complaints naming ODOT as a respondent shall be

forwarded to the [Regional Local Agency Liaison](#), and processed as depicted by the flow chart, from ODOT's Office of Civil Rights' *Title VI Program Plan*, below.



The procedures that the Office of Civil Rights will use to investigate such complaints can be found at ODOT's [Office of Civil Rights](#) website and are included in ODOT's Title VI plan.

All state level Title VI investigations are to be completed within 60 days of acceptance of a complaint.

b. Local Public Agency (LPA)

An annual Log of Complaints must be maintained by each LPA. The Log of Complaints must contain the following information for each complaint filed:

- The name and address of the person filing the complaint;
- The date of the complaint;
- The basis of the complaint;
- The disposition of the complaint;
- The status of the complaint.

All findings from state investigations are preliminary and subject to the concurrence of [FHWA Office of Civil Rights](#). FHWA's Office of Civil Rights will render final decisions in all cases. There are no administrative appeal forums in Title VI complaints. Once FHWA issues its final agency decision, a complainant in disagreement with such determination may file an appeal with the appropriate U.S District Court.

G. TITLE VI COMPLIANCE REVIEWS

ODOT/FHWA will conduct annual reviews of compliance (as required by FHWA) with Federal Title VI regulations as follows:

1. Compliance Review

The ODOT Title VI Coordinator will notify and work through the [Regional Local Agency Liaison](#) to make arrangements to conduct annual compliance reviews of LPAs with approved Title VI Program Plans. The compliance review will focus on how effectively the LPA has implemented its approved Title VI Program Plan and provide technical assistance to the LPA as needed. ODOT will gather documentation and interview individuals with Title VI responsibilities as part of the review process. ODOT will notify the LPA in writing of the scheduled date and the documents that will be required for the on-site review.

2. Local Public Agency Found in Compliance

If no deficiencies are found during the on-site review, the LPA will be told at the conclusion of the review and be notified in writing that it is in compliance.

3. Local Public Agency Found in Non-Compliance

If deficiencies are identified during the review, the LPA will be apprised of them at the conclusion of the review and be given 90 days to correct them. After the LPA corrects the deficiencies, it will be notified in writing that it is in compliance. If a LPA does not correct Title VI Program deficiencies identified by ODOT or FHWA, it may be subject to sanctions including the suspension of FHWA funding.

H. OTHER NONDISCRIMINATION STATUTES RELATED TO TITLE VI

1. Limited English Proficiency – (LEP) ([Executive Order 13166](#))

As noted above, one of the bases covered under Title VI is national origin. One type of national origin discrimination is discrimination based on a person's inability to speak, read, write, or understand English. The federal government and those receiving federal financial assistance (recipients, sub recipients, contractors) must take reasonable steps to ensure that LEP persons have meaningful access to the programs, services, and information those entities provide. This may require providing written and/or oral communications in a language other than English. More information regarding LEP responsibilities can be found in the [USDOT LEP Guidance](#) document, and by contacting ODOT's Title VI staff in the [Office of Civil Rights](#).

Additional guidance on LEP can be obtained from the following resources:

- [U.S. Department of Justice](#) and
- [FAQ about LEP, Title VI and Title VI Regulations.](#)

A source to locate providers of State contracted language interpretation and translation services can be found by using the [State of Oregon ORPIN site](#). From ORPIN home page click on the “Browse” menu in the left-hand column. From this page you can click on the “Browse Contracts Link.” In the search menu you can enter in terms such as “language translation” or “language interpretation” to access information in the State procurement system regarding providers of these services that are currently under State contracts.

2. Environmental Justice (Executive Order 12898)

Procedures for addressing environmental justice are contained in the FHWA document “An Overview of Transportation and Environmental Justice.” This document and additional Title VI information can also be found at the following websites:

- [FHWA Environmental Justice](#);
- [FHWA EJ guidebook](#); and
- [FHWA Office of Civil Rights](#).

3. Americans with Disabilities Act

The Americans with Disability Act (ADA) prohibits discrimination from access to, or the benefits of, or the opportunity to participate in the activities or programs managed by a public entity that receive federal funds. As a project manager, ADA considerations should be integrated into every stage of project development and delivery, especially planning, public involvement, design and construction where it is imperative to include the ADA community needs and inputs. The key element of ADA to LPAs external citizens is equitable access. It is the responsibility of the LPA to ensure that they are providing access through auxiliary aids, location choices, and facilities as needed.

Resources to help LPAs understand and integrate ADA compliance regulations into their internal operations can be found on [ODOT’s Office of Civil Rights](#) website.

In order to meet the needs of the disabled public, the LPA is required to publish and offer auxiliary aids if requested. These could include sign language interpretation, Braille translation, alternative formats or voice readers in order to provide equitable access. For a list of resources, contact ODOT’s ADA Title II officer for more information.

I. SUMMARY OF TITLE VI REQUIREMENTS

1. Title VI Program Elements

- Appoint a Title VI Coordinator
- Obtain Title VI training for coordinator and other key staff

- Proactively prevent discrimination as defined in Title VI and related authorities; Disseminate Title VI program information to the public
- Include Title VI compliant language in all contracts to second tier sub-recipients
- Obtain and maintain data on race, ethnicity, age, gender, disability, limited English proficiency, and income of populations in service area
- Proactively include traditionally under-represented populations (hard to reach through traditional notification process) in public involvement and informational processes
- Analyze the benefits and burdens of activities and projects on the service area Title VI protected population
- Perform periodic self-assessments for Title VI compliance
- Develop periodic Title VI reports (MPO's and sub-recipients with populations over 200,000 submit annual reports to ODOT)
- Respond to periodic Title VI reviews by ODOT
- Correct any deficiencies identified through a review or complaint

2. Complaints

- Provide the public access to a defined complaint process and a complaint form (ODOT's can be used)
- Maintain a complaint log
- Refer complaints to ODOT when complaint is against ODOT sub-recipient
- Submit completed complaint investigations (lodged against second tier sub-recipients) to ODOT