

TITLE VI AS IT APPLIES TO
FEDERAL TRANSIT ADMINISTRATION GRANT PROGRAMS

A. JUSTIFICATION

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY.

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) states:

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

To achieve this purpose, each federal department and agency which provides financial assistance for any program or activity is authorized and directed by the Department of Justice (DOJ) to effectuate provisions of Title VI for each program or activity by issuing generally applicable regulations or requirements. The Department of Transportation (DOT) has issued its regulation implementing this DOJ mandate.

In this regard, the responsibility of the Federal Transit Administration (FTA) is to ensure that federally-supported transit services and benefits are distributed by applicants, recipients, and subrecipients of FTA assistance in a manner consistent with Title VI. The employment practices of a grant applicant, recipient, or subrecipient are also covered under Title VI if the primary purpose of the FTA-supported program is to provide employment or if those employment practices would result in discrimination against beneficiaries of FTA-assisted services and benefits.

FTA policies and requirements are designed to clarify and strengthen Title VI (service equity) procedures for FTA grant recipients by requiring submission of written plans and approval of such plans by the agency. All project sponsors receiving financial assistance pursuant to an FTA-funded project shall not discriminate in the provision of services because of race, color, or national origin.

Experience has demonstrated that a program requirement at the application stage is necessary to assure that benefits and services are equitably distributed by grant recipients. The requirements prescribed by the Office of Civil Rights accomplish this objective while diminishing possible vestiges of discrimination among FTA grant recipients. FTA's assessment of this requirement indicated that the formulation and implementation of the Title VI program should occur with a decrease in costs to such applicants and recipients.

2. HOW, BY WHOM AND FOR WHAT PURPOSE THE DATA WILL BE USED.

On May 26, 1988, in accordance with DOJ and DOT Title VI regulations, FTA issued Circular 4702.1 entitled, "Title VI Program Guidelines for Urban Mass Transportation Administration Recipients." This circular includes information, guidance, and instruction on the objectives of the FTA Title VI program; information on specific grant programs covered; a description of the process for implementing remedial and enforcement actions; information on the DOT complaint process; and public information requirements.

FTA Circular 4702.1 establishes the following two major categories of information collection and reporting requirements: GENERAL AND PROGRAM SPECIFIC. In addition, requirements for State administered programs are addressed.

GENERAL REQUIREMENTS:

(Applicable to all recipients.) This information collection is required by DOJ and DOT Title VI regulations. This requirement is applicable to all applicants, recipients, and subrecipients receiving federal financial assistance.

The following Title VI information must be updated, at a minimum, every 3 years and/or referenced, if information previously submitted has not changed:

- A list of active lawsuits or complaints, naming the applicant, which allege discrimination on the basis of race, color, or national origin with respect to service or other benefits;
- A description of all pending applications for financial assistance and all financial assistance currently provided by other federal agencies;
- A summary of all civil rights compliance review activities in the last 3 years;
 - A signed and dated Standard DOT Title VI Assurance;
- If the project involves construction, a fixed-facility impact analysis to assess the effects on the minority community;
- A signed and dated Standard DOT Title VI Assurance;
- If the project involves construction, a fixed-facility impact analysis to assess the effects on the minority community; and
- A signed and dated FTA Civil Rights Assurance. The purpose of this assurance is to ensure that applicants, recipients, and subrecipients will compile and maintain all applicable records, and other Title VI information. This assurance is also their compliance with Title VI.

PROGRAM-SPECIFIC REQUIREMENTS:

Applicable in areas over 200,000 - All applicants, recipients, and subrecipients providing public mass transit service in service areas with populations over 200,000 and

requesting FTA financial assistance must submit the following program information for review and determination:

- Base Map - Identifying census tracts/traffic analysis zones, major traffic generators (major employment centers, hospitals, and shopping centers), fixed-facilities (transit administration building, maintenance facilities, and garages), colleges/universities, recreational parks, arterial streets, and highways;
- Minority Population Map - An overlay identifying the total minority population (by percentage) for each census tract/traffic analysis zone in the entire service area.
- Transit Service Map - An overlay identifying all transit routes (including rail lines) and the type of service (for example, express, local, limited, or commuter).
- Population/Racial Distribution Chart - A chart indicating the actual numbers and percentages of each minority group by census tract/traffic analysis zone in the service area.
- Service Standards and Policies - A narrative description of the transit agency's service standards and policies relating to the following:
 - o Vehicle Load - The ratio of the number of seats on a vehicle to the number of passengers;
 - o Vehicle Assignment - The process by which transit vehicles are assigned to routes throughout the system due to variations among vehicles, type of service, timing of vehicle assignment, and other factors;
 - o Vehicle Headway - The measurement of the time interval between two vehicles traveling in the same direction on the same route;
 - o Distribution of Transit Amenities - The manner in which transit amenities, such as benches, passenger shelters, park and ride lots, and escalators, are provided to transit users; and
 - o Transit Access - The measure of the distance (walking) a person must travel to gain access to transit service.
- Assessment of Compliance by Grantee - Each grantee must develop procedures and guidelines to conduct a periodic self-assessment to determine whether transit service is provided in a manner consistent with Title VI.
- Changes in Service Features - A narrative description of the type of service changes proposed by the transit agency over the next 3 years.
- Information Dissemination - A description of the methods used to inform minority communities of service changes, public hearings, and other meetings/discussions pertaining to transit service or improvements.

- Minority Representation on Decisionmaking Bodies - A breakdown, by race, of non-elected boards, advisory councils, or committees as an integral part of the transit agency's planning process.
- Multilingual Facilities - The extent to which bilingual persons and/or materials will be provided to assist non-English speaking persons.

Applicable in areas of 200,000 or less - All applicants, recipients, or subrecipients providing transit services within a service area with a population below 200,000 are required to develop and implement a monitoring procedure to ensure that the level and quality of service are consistent with Title VI. The information collected under the monitoring procedure is to be reviewed and an assessment made by each transit agency to determine Title VI compliance. The data collected must be kept on file by each transit agency. FTA may request this information for an on-site review or complaint investigation.

REQUIREMENTS FOR STATE-ADMINISTERED PROGRAMS:

The FTA Title VI requirements also apply to the programs administered by State agencies. Generally, the programs include the FTA elderly, handicapped, and rural assistance programs. In addition, some States administer the FTA planning, formula capital, and operating assistance programs for urbanized areas with a population of 200,000 or less.

Metropolitan Planning Organizations (MPOs) to come under the jurisdiction of States. Thus, States will have the responsibility of assuring that MPOs comply with Title VI nondiscrimination requirements.

For the above-noted programs, Title VI shall be enforced in the following manner:

- State agencies shall ensure that subrecipients are in compliance with the requirements contained in Circular 4702.1 and shall conduct Title VI assessments of subrecipients;
- State agencies shall maintain and provide data and other relevant information to FTA as required in Circular 4702.1, including all pertinent data obtained from subrecipients;
- Subrecipients shall be responsible for complying with these requirements and shall submit all pertinent data to the State agency; and
- FTA may, at its discretion, collect data from State agencies necessary to

determine Title VI compliance. FTA may, as appropriate, conduct compliance reviews of State agencies and subrecipients.

All grant applicants, recipients, and subrecipients are required to submit applicable Title VI information to the FTA Office of Civil Rights for review and approval. The intent of the application review is to determine Title VI compliance or non-compliance prior to grant approval. The guidelines enable applicants, recipients, and subrecipients to identify, analyze, and address Title VI problem area(s) concurrent with or prior to the submission of specific applications. This type of compliance program allows the applicant to propose solutions to correct concerns or deficiencies inconsistent with Title VI.

If FTA did not conduct pre-award reviews, concerns and deficiencies would not be identified beforehand and program improvements could not be integrated into projects. FTA's experience with pre-award reviews for all projects and grants suggests this method contributes to maximum efficiency and the most effectiveness of FTA dollars and has kept post-award complaints at a minimum. The uniform application of Title VI informational requirements will ensure that applicants are fully aware of their obligations and responsibilities. In this way, the objective of the Title VI statute can be more easily met and beneficiaries of FTA funded programs will have a greater likelihood of receiving transit services and related benefits on a non-discriminatory basis.

ENVIRONMENTAL JUSTICE PROGRAM:

The DOT has directed all of its modal administrations, including FTA, to emphasize and incorporate environmental justice into the administration of the Title VI program. Under Executive Order 12898, federal agencies must achieve environmental justice as part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including social and economic, of its programs, policies, and activities on minority populations and low-income populations of the United States. In this regard, FTA has been working with other DOT modal administrations to incorporate environmental justice precepts into the planning requirements and in providing technical assistance to grant recipients so that they are cognizant of environmental justice in their planning and in the placement of projects. In the past year, FTA received an increased number of complaints alleging discrimination in environmental justice. These complaints must be responded to by grantees and investigated by FTA.

3. CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY.

Each requirement concerning Title VI information has been carefully reviewed and encourages the use of improved information technology at the discretion of the transit systems.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION.

No similar information from applicants/recipients is required by any other program office in FTA or other program offices within the DOT or other federal agency.

5. IF THE COLLECTION OF INFORMATION INVOLVES SMALL BUSINESS OR OTHER SMALL ENTITIES, DESCRIBE THE METHODS USED TO MINIMIZE BURDEN.

The collection of Title VI information does not involve small businesses.

6. DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION WERE CONDUCTED LESS FREQUENTLY.

FTA Circular 4702.1 requires a one-time Title VI submission by all grant applicants/recipients within areas serving populations greater than 200,000, with an update due every 3 years after the initial submission. (Submissions are provided to FTA on a staggered basis so that only one-third of all grantees submit Title VI programs each year.) If submissions were required less frequently, the preventive nature of the current Title VI program, focusing on the pre-award process and providing technical assistance to grantees, would be diminished. FTA would have to rely on the post-award review process. In addition, due to the dynamics of the service delivery process (the purchase and routing of new equipment and schedule changes) a less frequent submission would hamper FTA's ability to monitor the grantees' service delivery.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT REQUIRE THE COLLECTION TO BE CONDUCTED IN A MANNER INCONSISTENT WITH GUIDELINES IN 5 CFR PART 1320.6.

The collection of Title VI information is conducted in a manner consistent with the guidelines specified in 5 CFR Part 1320.6.

8. DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY.

FTA has consulted on an on-going basis with Title VI officers of grant recipients and several external organizations representing program beneficiaries. Contacted groups and persons have indicated that FTA's Title VI requirements are vital to ensuring non-discrimination.

A 60-day Federal Register Notice was published on May 30, 2006, (pages 30716 and 30717), soliciting comments prior to submission to the Office Management and Budget (OMB). No comments were received. A 30-day Federal Register Notice was published on August 17, 2006 (pages 307560 and 307561).

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN REMUNERATION OF CONTRACTORS OR GRANTEES.

This is not applicable as other types of payments and gifts are not provided to grantees.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.

All information collected is certified to comply with Freedom of Information Act, the Privacy Act of 1974, and OMB Circular A-108. Confidentiality is promised, when requested, for information exempt from the mandatory public disclosure requirements of the Freedom of Information Act.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE.

This information collection does not contain any questions of a personal or confidential nature.

12. PROVIDE ESTIMATE OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION AND ANNUALIZED COST TO RESPONDENTS.

Approximately 950 grantees are required to prepare Title VI submissions during each 3-year period (342 grantees prepare general and program specific submissions and 608 submit only the general requirements.). Based on information received from grantees, the average time spent by a grantee in the preparation of a general and program specific program is now approximately 45 hours. The annual burden is 5,130 hours (342 grantees x 45 hours = 15,390 – 15,390/3). Grantees submitting only general requirements will spend approximately one hour per submission or 202 hours annually (608 grantees x 1 hour per submission or 202 hours annually (608 grantees x 1 hour = 608 hours – 608/3 = 202 hours). The total annual burden for all grantees is 5,332 hours (5,130 hours + 202 hours = 5,332 hours).

Assuming the average hourly wage cost is \$18.00, total annual labor cost to the grantees preparing general and program specific requirements equals \$95,976. (5,332 hours x \$18 = \$95,976). The total annual labor cost to grantees submitting only general requirements is \$3,636 (202 hours x \$18 = \$3,636). The total annual labor cost for all grantees is \$99,512 (\$95,976 + 3,636 = \$99,612).

13. PROVIDE ESTIMATES OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE COLLECTION OF INFORMATION (NOT INCLUDING THE COST OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).

The estimate of the printing and equipment costs for each grantee submitting general and program specific data is \$110, for a total annual overhead of \$12,540 (\$110 x 342

grantees = $\$37,620/3 = \$12,540$). The estimated printing and equipment cost for grantees

submitting only general requirements is \$25, for a total annual overhead of \$5,066 ($\$25 \times 608 = \$15,200/3 = \$5,066$). The total annual cost for printing and equipment for all grantees is \$17,606 ($\$12,540 + \$5,066 = \$17,606$).

14. PROVIDE ESTIMATE OF THE TOTAL ANNUALIZED COST TO THE FEDERAL GOVERNMENT.

A total of 10 Regional Civil Rights Officers review Title VI program submissions. On an average, the 10 spend approximately 11 percent of their total annual duty hours, or approximately 200 hours per year (11 percent \times 2,080 hours) reviewing programs. Using an average grade of GS-13, at an hourly rate of \$40, the total cost of labor hours for the 10 officers is \$92,000 (230 hours \times \$40 \times 10 = \$92,000). At an estimated ten percent overhead rate, total overhead is \$9,200 (10% \times \$92,000 = \$9,200). The total estimated cost to the federal government is \$101,200 ($\$92,000 + \$9,200 = \$101,200$).

15. EXPLAIN THE REASONS FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEM 13 or 14 OF THE OMB FORM 83-I.

The burden hours for this submission have been adjusted to correct the hours reported in the previous request.

16. PLANS FOR TABULATION AND PUBLICATION FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED.

FTA does not anticipate the publication of its Title VI data.

17. IF SEEKING APPROVAL NOT TO DISPLAY THE EXPIRATION DATE FOR OMB APPROVAL, EXPLAIN THE REASONS.

There is no reason not to display the expiration date of OMB approval.

18. EXPLAIN ANY EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19 OF OMB FORM 83-I.

No exceptions are stated.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

FTA does not anticipate the publication of its Title VI data for statistical use.

Attachments to Justification Statement

60-Day Federal Register Notice

30-Day Federal Register Notice

42 U.S.C. 2000d – Title VI of the Civil Rights Act of 1964

FTA Circular 4702.1 – Title VI Program Guidelines for

Urban Mass Transportation Administration Recipients

Executive Order 12898