



U.S. Department  
of Transportation

**Federal Transit  
Administration**

# CIRCULAR

FTA C 4702.1A

May 13, 2007

**Subject: TITLE VI AND TITLE VI-DEPENDENT GUIDELINES FOR FEDERAL  
TRANSIT ADMINISTRATION RECIPIENTS**

---

1. **PURPOSE.** The purpose of this circular is to provide recipients and subrecipients of Federal Transit Administration (FTA) financial assistance with guidance and instructions necessary to carry out the U.S. Department of Transportation's ("DOT" or the "Department") Title VI regulations (49 CFR part 21) and to integrate into their programs and activities considerations expressed in the Department's Order on Environmental Justice (Order 5610.2), and Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient ("LEP") Persons (70 FR 74087, December 14, 2005).
2. **CANCELLATION.** This circular supersedes FTA Circular 4702.1 "Title VI Program Guidelines for Federal Transit Administration Recipients," dated May 26, 1988.
3. **SCOPE.** This circular applies to all recipients of financial assistance from the Federal Transit Administration.
4. **REFERENCES.**
  - a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d).
  - b. Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.).
  - c. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.).
  - d. Department of Justice regulation, 28 CFR part 42, Subpart F, "Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs" (December 1, 1976, unless otherwise noted).
  - e. DOT regulation, 49 CFR part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964" (June 18, 1970, unless otherwise noted).

- f. Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, “Environmental Impact and Related Procedures” (August 28, 1987).
  - g. Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, “Planning Assistance and Standards,” (October 28, 1993, unless otherwise noted).
  - h. DOT Order 5610.2, “U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations,” (April 15, 1997).
  - i. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons, (December 14, 2005).
  - j. Section 12 of FTA’s Master Agreement, FTA MA 13 (October 1, 2006).
5. WAIVER. FTA reserves the right to waive any requirements of this circular to the extent permitted by law.
  6. AMENDMENTS TO THE CIRCULAR. FTA reserves the right to amend this circular in the future and to update references to requirements contained in other revised or new guidance and regulations that undergo notice and comment procedures, without further notice and comment on this circular.
  7. ACCESSIBLE FORMATS. This document is available in accessible format upon request. Paper copies of this circular as well as information regarding these accessible formats may be obtained by calling FTA’s Administrative Services Help Desk, at 202-366-4865.
  8. BACKGROUND. Since 1972, FTA has required applicants for and recipients and subrecipients of Federal assistance to certify compliance with the requirements of Title VI as part of the grant approval process.
    - a. With regard to external civil rights programs, (Title VI), the FTA Administrator exercises authority pursuant to statutes, regulations, and executive orders. 49 CFR 1.45. Implementing Title VI by FTA will be achieved through continued data collection, reporting, compliance reviews, and, if necessary, through remedial action and procedures for effecting compliance under Chapter X of this circular and the Department’s Title VI Regulations at 49 CFR Sections 21.13, 21.15, and 21.17.
    - b. This circular will also assist FTA recipients in integrating, into their existing programs, policies and activities principles of environmental justice (as embodied in Executive Order 12898), and access to services for persons with limited English proficiency, (as embodied in Executive Order 13166).

---

James S. Simpson  
Administrator

**TITLE VI AND TITLE VI-DEPENDENT GUIDELINES FOR FTA RECIPIENTS****TABLE OF CONTENTS**

<u>CHAPTER</u>	<u>PAGE</u>
I	<u>HOW TO USE THIS CIRCULAR</u> ..... I-1
	1. Instructions to Grantees ..... I-1
	2. Reference Chart ..... I-3
II	<u>OVERVIEW</u> ..... II-1
	1. Objectives ..... II-1
	2. Regulatory Basis ..... II-1
	3. Additional Documents ..... II-3
	4. Reporting Requirements ..... II-4
	5. Determinations ..... II-4
	6. Definitions ..... II-5
III	<u>REQUIREMENTS FOR APPLICANTS</u> ..... III-1
	1. Requirement to Provide Title VI Assurances ..... III-1
	2. Requirements for First-time Applicants ..... III-1
IV	<u>GENERAL REQUIREMENTS AND GUIDELINES</u> ..... IV-1
	1. Requirement to Provide an Annual Title VI Certification and Assurance ..... IV-1
	2. Requirement to Develop Title VI Complaint Procedures ..... IV-1
	3. Requirement to Keep a Record of Title VI Investigations Complaints, and Lawsuits ..... IV-1
	4. Requirement to Provide Language Access ..... IV-1
	5. Requirement to Notify Beneficiaries of Protection Under Title VI ..... IV-2
	6. Requirement to Provide Additional Information upon Request ..... IV-3
	7. Requirement to Prepare and Submit a Title VI Program ..... IV-3
	8. Guidance on Conducting an Environmental Justice Analysis of Construction Projects ..... IV-4
	9. Guidance on Promoting Inclusive Public Participation ..... IV-5
V	<u>PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR RECIPIENTS SERVING LARGE URBANIZED AREAS</u> ..... V-1
	1. Requirement to Collect Demographic Data ..... V-1
	2. Requirement to Set System-wide Service Standards ..... V-3
	3. Requirement to Set System-wide Service Policies ..... V-4
	4. Requirement to Evaluate Service and Fare Changes ..... V-5
	5. Requirement to Monitor Transit Service ..... V-7

6. Requirement to Prepare and Submit a Title VI Program ..... V-9

VI PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR STATE DEPARTMENTS OF TRANSPORTATION OR OTHER ADMINISTRATING AGENCIES ..... VI-1

    1. Guidance on Conducting Statewide Transportation Planning ..... VI-1

    2. Guidance on Program Administration..... VI-1

    3. Guidance on Monitoring Subrecipients ..... VI-2

    4. Guidance on Providing Assistance to Subrecipients ..... VI-2

    5. Requirement to Prepare and Submit a Title VI Program..... VI-3

VII PROGRAM-SPECIFIC REQUIREMENTS FOR METROPOLITAN PLANNING ORGANIZATIONS ..... VII-1

    1. Guidance on Conducting Metropolitan Transportation Planning in a Nondiscriminatory Manner ..... VII-1

    2. Requirement to Prepare and Submit a Title VI Program..... VII-1

VIII COMPLIANCE REVIEWS ..... VIII-1

    1. Compliance Procedures ..... VIII-1

    2. Criteria ..... VIII-1

    3. Scope ..... VIII-1

    4. Determinations ..... VIII-1

    5. Results of Compliance Review Activities ..... VIII-2

    6. Effecting Compliance ..... VIII-2

    7. Title VI Compliance Review Flow Chart ..... VIII-3

IX COMPLAINTS ..... IX-1

    1. Right to file a complaint ..... IX-1

    2. Complaint acceptance..... IX-1

    3. Investigations..... IX-1

    4. Letters of Finding and Resolution ..... IX-1

    3. Appeals Process ..... IX-2

X EFFECTING COMPLIANCE ..... X-1

    1. Procedures for Securing Voluntary Compliance ..... X-1

    2. Proceedings ..... X-2

    3. Judicial Review ..... X-3

APPENDICES

APPENDIX A TITLE VI COMPLIANCE REPORTING CHECKLIST FOR ALL GRANTEES

APPENDIX B TITLE VI COMPLIANCE REPORTING CHECKLIST FOR RECIPIENTS SERVING URBANIZED AREAS WITH POPULATIONS OF 200,000 PEOPLE OR GREATER

APPENDIX C TITLE VI COMPLIANCE REPORTING CHECKLIST FOR STATE DEPARTMENTS OF TRANSPORTATION OR OTHER STATE ADMINISTRATING AGENCIES

APPENDIX D TITLE VI, ENVIRONMENTAL JUSTICE AND LIMITED ENGLISH PROFICIENCY TECHNICAL ASSISTANCE RESOURCES

INDEX

## CHAPTER I

### HOW TO USE THIS CIRCULAR

1. INSTRUCTIONS TO GRANTEES. This chapter orients applicants, recipients, and subrecipients to the information and requirements contained in the remaining chapters of the circular. The applicability of guidance and procedures in this circular varies depending on the makeup of the recipient. Relevant factors include, but are not limited to, first time applicants, the size of the population served by the recipient, and the activities performed by the recipient. A summary of chapter-by-chapter applicability follows.
  - a. Circular Overview. All applicants, recipients, and subrecipients should familiarize themselves with the information set forth in Chapter II (Overview), including the objectives of this circular, the regulatory and underlying policy basis for the guidance provided in the remaining chapters, and the definitions of terms that appear later in the circular.
  - b. Requirements for Applicants. All entities applying for Federal Transit Administration (FTA) funding should familiarize themselves with the requirements for applicants set forth in Chapter III.
  - c. General Requirements and Guidelines. The requirements and guidelines in Chapter IV, apply to all FTA recipients and subrecipients. FTA encourages all recipients and subrecipients, therefore, to become familiar with these general requirements and guidelines and to utilize the checklist located at Appendix A to ensure that they comply with FTA's reporting requirements.
    - (1) Options for complying with the general requirements and guidelines. Chapter IV lists options for meeting some of the general requirements and guidelines and recommends effective practices. Recipients and subrecipients should familiarize themselves with these options and effective practices and may implement the option or practice that best meets their needs.
  - d. Requirements for Transit Agencies Serving Populations of 200,000 or Greater. All transit providers that serve urbanized areas of 200,000 people or greater should familiarize themselves with the guidance set forth in Chapter V, Program-Specific Requirements for Recipients Serving Large Urbanized Areas. FTA encourages recipients in this category to use the checklist at Appendix B to ensure that they follow FTA's reporting requirements.
    - (1) Options for complying with the program-specific requirements. Chapter V lists options for meeting the program-specific requirements and recommends effective practices. Recipients should familiarize themselves with these options and examples and may choose to implement the option or practice that best meets their needs.

- e. Requirements and Guidelines for State Departments of Transportation (State DOTs) or Other Administering Agencies. State DOTs or other administering agencies should familiarize themselves with the guidance and procedures set forth in Chapter VI. FTA encourages these agencies to use the checklist at Appendix C to ensure that they follow FTA's reporting requirements.
- f. Requirements and Guidelines for Metropolitan Planning Organizations. MPOs should familiarize themselves with the guidance and procedures set forth in Chapter VII.
- g. Compliance Reviews, Complaints, and Procedures for Effecting Compliance. All recipients and subrecipients should become familiar with the information contained in Chapter VIII, Compliance Reviews, Chapter IX, Complaint Procedures, and Chapter X, Effecting Compliance.
  - (1) Chapter VIII describes FTA's procedures for conducting compliance reviews of recipients and subrecipients and discusses the information that recipients and subrecipients should provide during and after a compliance review.
  - (2) Chapter IX describes how FTA will respond to complaints of discrimination under Title VI that are filed with FTA against a recipient or subrecipient of FTA funds.
  - (3) Chapter X outlines FTA's procedures for effecting compliance when FTA determines that a recipient or subrecipient is not complying with one or more of FTA's Title VI requirements.
- h. Appendices. Appendices A through C list the reporting requirements that apply to recipients and subrecipients. Appendix D provides technical assistance resources to assist recipients and subrecipients in meeting the requirements and guidelines of this circular.

2. REFERENCE CHART. The following chart displays which chapters pertain to different FTA applicants, recipients, or subrecipients. (The “√” refers to those chapters that pertain to the applicant or grantee.)

	Applicants	All recipients or subrecipients	Recipients serving 200,000 or greater	State DOTs/administering agencies	MPOs
Chapter I	√	√	√	√	√
Chapter II	√	√	√	√	√
Chapter III	√	√		√	
Chapter IV		√	√	√	√
Chapter V			√		
Chapter VI				√	
Chapter VII					√
Chapter VIII	√	√	√	√	√
Chapter IX	√	√	√	√	√
Chapter X	√	√	√	√	√
Appendix A		√	√	√	
Appendix B			√		
Appendix C				√	
Appendix D	√	√	√	√	√



## CHAPTER II

### OVERVIEW

This chapter outlines (1) the objectives, (2) regulatory basis, (3) reporting procedures, and (4) definitions contained in this circular.

1. OBJECTIVES. The guidance and procedures in this document will help Federal Transit Administration (FTA) recipients and subrecipients to:
  - a. Ensure that the level and quality of transportation service is provided without regard to race, color, or national origin;
  - b. Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations;
  - c. Promote the full and fair participation of all affected populations in transportation decision making;
  - d. Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations;
  - e. Ensure meaningful access to programs and activities by persons with limited English proficiency.
2. REGULATORY BASIS. In order to assist recipients and subrecipients in carrying out the provisions of the Department of Transportation (DOT) Title VI Regulations at 49 CFR part 21, each of the requirements in this circular includes a reference to the corresponding provision of 49 CFR part 21.
3. ADDITIONAL DOCUMENTS. In addition to the above-listed regulations the following documents incorporate Title VI principles:
  - a. DOT Order 5610.2, the Department's Order on Environmental Justice, establishes the procedures used by the Department to comply with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," dated February 11, 1994. This Order establishes procedures for the Department of Transportation to use in complying with EO 12898.
  - b. The Department's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons ("DOT LEP Guidance"), 70 FR 74087, (December 14, 2005). This guidance is based on the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, as it affects limited English proficient persons.
  - c. Section 12 of FTA's Master Agreement, which provides, in pertinent part, that the recipient agrees to comply, and assures the compliance of each third-party contractor at

any tier and each subrecipient at any tier of the project, with the provisions of 49 U.S.C. Section 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity. Furthermore, the recipient agrees to comply, and assures the compliance of each third-party contractor at any tier and each subrecipient at any tier of the project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000d et seq., and with 49 CFR part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act.” Unless FTA states otherwise in writing, all recipients shall comply with all applicable Federal directives, current or future, not listed herein.

4. **REPORTING REQUIREMENTS.** 49 CFR Section 21.9(b) requires that recipients record and retain certain information and submit information to FTA as necessary or required. Recipients of FTA funding shall fulfill this requirement by submitting a compliance report to the responsible FTA regional office every three years (or every four years in the case of metropolitan planning organizations (MPOs) that are direct recipients of FTA funds). Chapters IV, V, VI, and VII and appendices detail what information should be included in these reports. In addition, recipients and subrecipients should note the following FTA guidance concerning reporting:
  - a. **Determination of Deficiencies.** If any of the required information is not included in the recipient’s Title VI compliance report, or if the information submitted is not consistent with the guidance provided in the relevant section of this circular, then FTA may determine that the report is deficient and may condition or delay continued Federal financial assistance to the recipient until FTA is satisfied that the recipient has taken corrective action.
  - b. **Subrecipient Reporting.** Subrecipients shall submit compliance reports to the recipient consistent with reporting timelines established by the recipient.
5. **DETERMINATIONS.** FTA will issue findings of no deficiency, findings of deficiency, and findings of non-compliance based on the following procedures:
  - a. **No deficiency.** If, after a review of a recipient or subrecipient’s practices, FTA determines that the entity has followed this circular’s guidance and procedures, it will be considered to be not deficient in meeting the specific part of the circular and the corresponding provision(s) of the DOT Title VI regulations. Agencies are not expected to take any corrective action in response to findings of no deficiency, except with regards to advisory comments. Advisory comments are recommendations that the recipient or subrecipient undertake activities in a manner more consistent with the guidance provided in the pertaining section of the circular. FTA will issue advisory comments to the recipient or subrecipient. The entity can chose to implement or disregard an advisory comments.
  - b. **Deficiency.** If, after a review of a recipient’s or subrecipient’s practices, FTA determines that the entity has not followed this circular’s requirements, guidance and procedures, it will be considered to be deficient in meeting the specific part of the circular and the corresponding provision(s) in the DOT Title VI regulations, unless the agency can

provide FTA with adequate justification for failing to follow the guidance and procedures in question.

- c. Non-compliance. If, after an investigation of a recipient's or subrecipient's practices, FTA determines that the entity has engaged in activities that have had the purpose or effect of denying persons the benefits of, excluding them from participation in, or subjecting persons to discrimination on the basis of race, color, or national origin under the recipient's program or activity, FTA will consider the grantee to be non-compliant with the DOT Title VI regulations. If noncompliance cannot be corrected informally, the recipient or subrecipient may be subject to remedial action or proceedings under Chapter X of this circular and the DOT Title VI regulations at 49 CFR Sections 21.13, 21.15, and 21.17.

6. DEFINITIONS. For purposes of this circular, the following definitions will be used:

- a. Adverse Effect means the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness, or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or non-profit organizations; increased traffic congestion, isolation, exclusion or separation of individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.
- b. Alternative "Clean" Fuels mean fuels that reduce vehicle emissions. These fuels can include natural gas, ethanol, methanol, electricity, and liquefied propane gas.
- c. Applicant means an eligible entity or organization that submits an application for financial assistance under any FTA program.
- d. Deficient refers to a condition where, after a review of a recipient's or subrecipient's practices, and barring an adequate justification from the recipient or subrecipient, FTA determines that the entity has not followed specific provisions of this circular's required guidance and procedures.
- e. Discrimination refers to any act or inaction, whether intentional or unintentional, in any program or activity of a Federal aid recipient, subrecipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.
- f. Disparate Impact refers to facially neutral policies or practices that have the effect of disproportionately excluding or adversely affecting members of a group protected under Title VI, and the recipient's policy or practice lacks a substantial legitimate justification.

- g. Disparate Treatment refers to actions that result in circumstances where similarly situated persons are treated differently (i.e., less favorably) than others because of their race, color, or national origin.
- h. Disproportionately High and Adverse Effect on Minority and Low-income Populations means an adverse effect that:
  - (1) is predominately borne by a minority population and/or a low-income population, or
  - (2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.
- i. Environmental Justice Activity means an action taken by DOT, FTA, or a recipient or subrecipient of FTA funding to identify and address adverse and disproportionate effects of its policies, programs, or activities on minority and/or low-income populations, consistent with Executive Order 12898 and the DOT Order 5610.2 on Environmental Justice.
- j. Fixed Guideway means a public transportation facility using and occupying a separate right-of-way or rail for the exclusive use of public transportation and other high occupancy vehicles, or using a fixed catenary system and a right-of-way usable by other forms of transportation.
- k. Federal financial assistance means
  - (1) grants and loans of Federal funds;
  - (2) the grant or donation of Federal property and interests in property;
  - (3) the detail of Federal personnel;
  - (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
  - (5) any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of assistance.
- l. FTA Activity means any program of assistance authorized by the Federal Transit Laws at 49 U.S.C. Chapter 53 or the Federal Highway Laws at Title 23 United States Code that are administered by FTA.
- m. Grantee means a direct or indirect recipient of Federal financial assistance from FTA.
- n. Limited English Proficient (LEP) Persons are persons for whom English is not their primary language and who have a limited ability to speak, understand, read, or write

English. It includes people who reported to the U.S. Census that they do not speak English well or do not speak English at all.

- o. Low-Income means a person whose median household income is at or below the Department of Health and Human Services' poverty guidelines.
- p. Low-Income Population means any readily identifiable groups of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.
- q. Minority Persons include the following:
  - (1) American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
  - (2) Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.
  - (3) Black or African American Populations, which refers to peoples having origins in any of the Black racial groups of Africa.
  - (4) Hispanic or Latino Populations, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
  - (5) Native Hawaiian and Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- r. Minority Population means any readily identifiable group of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient populations (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.
- s. National Origin means the particular nation in which a person was born, or where the person's parents or ancestors were born.
- t. Noncompliance refers to an FTA determination that the recipient or subrecipient has engaged in activities that have had the purpose or effect of denying persons the benefits of, excluding from participation in, or subjecting persons to discrimination in the recipient's program or activity.
- u. Predominantly Minority Area means a geographic area, such as a neighborhood, Census tract, or traffic analysis zone, where the proportion of minority persons residing in that area exceeds the average proportion of minority persons in the recipient's service area.
- v. Predominantly Low-Income Area means a geographic area, such as a neighborhood, Census tract, or traffic analysis zone, where the proportion of low-income persons

residing in that area exceeds the average proportion of low-income persons in the recipient's service area.

- w. Recipient means any State, political subdivision, instrumentality, or any public or private agency, institution, department or other organizational unit receiving financial assistance from FTA.
- x. Secretary means the Secretary of the Department of Transportation.
- y. Service Area refers to either the geographic area in which a transit agency is authorized by its charter to provide service to the public or to the planning area of a State Department of Transportation or Metropolitan Planning Organization.
- z. Service Standard/Policy means an established policy or service performance measure used by a transit provider or other recipient, or subrecipient as a means to plan or distribute services and benefits within its service area.
- aa. Subrecipient means any entity that receives FTA financial assistance as a pass-through from another entity.
- bb. Title VI Program refers to a recipient's submission, provided to FTA or to the subrecipient's direct recipient every three years, containing information in response to the requirements of this circular

### CHAPTER III

#### REQUIREMENTS FOR APPLICANTS

This chapter describes the procedures that all applicants for Federal Transit Administration (FTA) financial assistance, including those entities applying for FTA assistance for the first time, should follow to comply with the Department of Transportation (DOT) Title VI regulations.

1. REQUIREMENT TO PROVIDE TITLE VI ASSURANCES. To ensure accordance with 49 CFR Section 21.7, every application for financial assistance from FTA must be accompanied by an assurance that the applicant will carry out the program in compliance with Title VI of the Civil Rights Act of 1964. This requirement shall be fulfilled when the applicant submits its annual certifications and assurances to FTA. The text of FTA's annual certifications and assurances is available on FTA's Web site.
2. REQUIREMENTS FOR FIRST-TIME APPLICANTS In addition to the assurances set out above, entities applying for FTA funding for the first time shall provide information regarding their Title VI compliance history if they have previously received funding from another Federal agency. This shall include a copy of any Title VI compliance review activities conducted in the last three years. The summary should include:
  - a. The purpose or reason for the review.
  - b. The name of the agency or organization that performed the review.
  - c. A summary of the findings and recommendations of the review.
  - d. A report on the status and/or disposition of such findings and recommendations. This information should be relevant to the organizational entity actually submitting the application, not necessarily the larger agency or department of which the entity is a part.

## CHAPTER IV

### GENERAL REQUIREMENTS AND GUIDELINES

This chapter describes requirements that all Federal Transit Administration (FTA) recipients and subrecipients shall follow to ensure that their programs, policies, and activities comply with the Department of Transportation (DOT) Title VI regulations. This chapter also offers guidance on integrating, into programs, policies, and activities, considerations expressed in the DOT Order on Environmental Justice.

1. REQUIREMENT TO PROVIDE AN ANNUAL TITLE VI CERTIFICATION AND ASSURANCE. Applicants shall submit their annual Title VI assurance as part of their annual Certification and Assurance submission to FTA. Recipients shall collect Title VI assurances from subrecipients prior to passing through FTA funds. (These Title VI assurances must be submitted as part of a standard list of assurances provided by subrecipients to their direct recipient(s)).
2. REQUIREMENT TO DEVELOP TITLE VI COMPLAINT PROCEDURES. In order to comply with 49 CFR Section 21.9(b), recipients and subrecipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public upon request. In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI complaint investigation and tracking procedures developed by the recipient.
3. REQUIREMENT TO RECORD TITLE VI INVESTIGATIONS, COMPLAINTS, AND LAWSUITS. In order to comply with 49 CFR Section 21.9(b), recipients and subrecipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipient and/or subrecipient that allege discrimination on the basis of race, color, or national origin. This list shall include the date of the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient or subrecipient in response to the investigation, lawsuit, or complaint.
4. REQUIREMENT TO PROVIDE MEANINGFUL ACCESS TO LEP PERSONS. Title VI and its implementing regulations require that FTA recipients take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP).
  - a. Developing a Language Implementation Plan. Recipients and subrecipients can ensure that LEP persons have meaningful access to their programs and activities by developing and carrying out a language implementation plan pursuant to the recommendations in Section VII of the DOT LEP Guidance. Certain FTA recipients or subrecipients, such as those serving very few LEP persons or those with very limited resources may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a



recipient's program or activities. Recipients or subrecipients electing not to prepare a written language implementation plan should consider other ways to reasonably provide meaningful access. The elements of an effective implementation plan on language assistance for LEP persons can be found at section VII of the Department's Policy Guidance, located at 70 FR 74087 (2005).

5. REQUIREMENT TO NOTIFY BENEFICIARIES OF PROTECTION UNDER TITLE VI.

In order to comply with 49 CFR Section 21.9(d), recipients and subrecipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Recipients and subrecipients that provide transit service shall disseminate this information to the public through measures that can include but shall not be limited to a posting on the agency's Web site.

a. Contents. The notice shall include:

- (1) A statement that the agency operates programs without regard to race, color, and national origin.
- (2) A description of the procedures that members of the public should follow in order to request additional information on the recipient's or subrecipient's nondiscrimination obligations.
- (3) A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient or subrecipient.

b. Effective Practices for Fulfilling the Notification Requirement. In complying with the above requirements, recipients and subrecipients should keep the following guidance in mind:

- (1) Dissemination. Agencies may inform the public of their rights under Title VI through such measures as posters, comment cards, or flyers placed at stations and in transit vehicles. The type, timing, and frequency of these measures are at the recipient's or subrecipient's discretion.
- (2) General notification. Agencies may include a statement of nondiscrimination on the basis of race, color, and national origin as part of a broader statement of its commitment to nondiscriminatory service. This broader statement can also include a commitment to nondiscrimination on the basis of characteristics not covered by Title VI, such as age, gender, and disability.
- (3) Document translation. Notices detailing a recipient's or subrecipient's Title VI obligations and complaint procedures should be translated into languages other than English, as needed and consistent with the DOT LEP Guidance.
- (4) Subrecipients. In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI Notice developed by the recipient;

however, subrecipients should notify their beneficiaries that they may file discrimination complaints directly with the subrecipient.

6. REQUIREMENT TO PROVIDE ADDITIONAL INFORMATION UPON REQUEST. At the discretion of FTA, information other than that required by this circular may be requested, in writing, from a recipient or subrecipient to investigate complaints of discrimination or to resolve concerns about possible noncompliance with Title VI.
7. REQUIREMENT TO PREPARE AND SUBMIT A TITLE VI PROGRAM. FTA requires recipients to report certain general information to determine compliance with Title VI. The collection and reporting of this program constitute the recipients' Title VI Program. To ensure compliance with 49 CFR Section 21.9(b), FTA requires that all recipients document their compliance with this chapter by submitting a Title VI Program to FTA's regional civil rights officer once every three years.
  - a. Contents. The submission shall include the following information:
    - (1) A summary of public outreach and involvement activities undertaken since the last submission and a description of steps taken to ensure that minority and low-income people had meaningful access to these activities.
    - (2) A copy of the agency's plan for providing language assistance for persons with limited English proficiency that was based on the DOT LEP Guidance or a copy of the agency's alternative framework for providing language assistance.
    - (3) A copy of the agency procedures for tracking and investigating Title VI complaints.
    - (4) A list of any Title VI investigations, complaints, or lawsuits filed with the agency since the time of the last submission. This list should include only those investigations, complaints, or lawsuits that pertain to the agency submitting the report, not necessarily the larger agency or department of which the entity is a part.
    - (5) A copy of the agency's notice to the public that it complies with Title VI and instructions to the public on how to file a discrimination complaint.
  - b. Eliminating Redundancy. If, prior to the deadline for subsequent reports, the recipient has not altered its language assistance policies, procedures for tracking and investigating a Title VI complaint, or its notice to the public that it complies with Title VI and instructions to the public on how to file a Title VI complaint, the recipient should submit a statement to this effect in lieu of copies of the original documents.
  - c. Reporting Requirement Exemptions. Recipients whose only FTA funding is through the FTA's University Transportation Center Program, National Research and Technology Program, Transportation Cooperative Research Program, Over the Road Bus Accessibility program, or Public Transportation on Indian Reservations program are exempt from submitting a Title VI compliance report to FTA. The absence of this requirement to submit a Title VI report does not obviate the underlying obligations to comply with the requirements of this chapter.

8. GUIDANCE ON CONDUCTING AN ANALYSIS OF CONSTRUCTION PROJECTS. In order to integrate, into environmental analyses, considerations expressed in the DOT Order on Environmental Justice, recipients and subrecipients should integrate an environmental justice analysis into their National Environmental Policy Act (NEPA) documentation of construction projects. (Recipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required.). Recipients preparing documentation for a categorical exclusion (CE) can meet this requirement by completing and submitting FTA's standard CE checklist, which includes a section on community disruption and environmental justice. FTA recommends that recipients preparing an environmental assessment (EA) or environmental impact statement (EIS) integrate into their documents the following components:
- a. A description of the low-income and minority population within the study area affected by the project, and a discussion of the method used to identify this population (e.g., analysis of Census data, minority business directories, direct observation, or a public involvement process).
  - b. A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population.
  - c. A discussion of all positive effects that would affect the identified minority and low-income population, such as an improvement in transit service, mobility, or accessibility.
  - d. A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects, including, but not limited to, any special features of the relocation program that go beyond the requirements of the Uniform Relocation Act and address adverse community effects such as separation or cohesion issues; and the replacement of the community resources destroyed by the project.
  - e. A discussion of the remaining effects, if any, and why further mitigation is not proposed.
  - f. For projects that traverse predominantly minority and low-income and predominantly non-minority and non-low-income areas, a comparison of mitigation and environmental enhancement actions that affect predominantly low-income and minority areas with mitigation implemented in predominantly non-minority or non-low-income areas. Recipients and subrecipients that determine there is no basis for such a comparison should describe why that is so.
9. GUIDANCE ON PROMOTING INCLUSIVE PUBLIC PARTICIPATION. In order to integrate, into community outreach activities, considerations expressed in the DOT Order on Environmental Justice, and the DOT LEP Guidance, recipients and subrecipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency's public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.

- a. Effective Practices for Fulfilling the Inclusive Public Participation Requirement.  
Recipients and subrecipients have wide latitude to determine how, when, and how often specific public involvement measures should take place, and what specific measures are most appropriate. Recipients should make these determinations based on the composition of the population affected by the recipient's action, the type of public involvement process planned by the recipient, and the resources available to the agency. Efforts to involve minority and low-income people in public involvement activities can include both comprehensive measures, such as placing public notices at all stations and in all vehicles, and measures targeted to overcome linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and low-income people and populations from effectively participating in a recipient's decision-making process. Effective practices include:
- (1) Coordinating with individuals, institutions, or organizations and implementing community-based public involvement strategies to reach out to members in the affected minority and/or low-income communities.
  - (2) 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.
  - (3) Using locations, facilities, and meeting times that are convenient and accessible to low-income and minority communities.
  - (4) Using different meeting sizes or formats, or varying the type and number of news media used to announce public participation opportunities, so that communications are tailored to the particular community or population.
  - (5) Implementing DOT's policy guidance concerning recipients' responsibilities to LEP persons to overcome barriers to public participation.