Section III – Nonsegregated Facilities

(and related essential nondiscrimination information)
First, a word about Title VI

- In the Federal Aid program, Civil Rights requirements are rooted in Title VI of the Civil Rights Act of 1964
- Though primarily related to employment (Title VII), the 1273 is nonetheless connected to the nondiscrimination responsibilities of State Highway Agencies
- Recipients may not discriminate on the basis of race, color or national origin, and are also prohibited from discriminating against other protected classes such as:
  - Sex (The Highway Act of 1973)
  - Age (Age Discrimination Acts 1967 and 1975)
  - Disability (Titles I and II of ADA and other laws)
  - Religion (State Civil Rights Act)
  - Family Status (State Civil Rights Act)
Title VI is so important, that we never miss an opportunity to provide training

Some Title VI facts:

- It has never been amended
- It serves as the basic structure of other federal and state civil rights laws
- Proposed by Kennedy, signed into law by Johnson
- Its intent was clarified by the Civil Rights Restoration Act of 1987
- Noncompliance can result in removal of Federal Aid
Other Important Title
VI Concepts

- **Environmental Justice** – a requirement of all highway and environmental legislation, EO 12898 required specific consideration of impacts on minority and low income populations

- **Limited English Proficiency** – EO 13166; part of national origin – important programs and services must be meaningfully accessible to LEP
So what is the 1273 Connection?

• YOU are!
• Recipients are required to review programs annually to ensure nondiscrimination
• Construction is a major program for State Highway Agencies
• Ensuring inclusion of and compliance with 1273 goes a long way toward fulfilling FDOT and local agency nondiscrimination requirements
Nonsegregated Facilities

Section III levies two important responsibilities, one stated, one understood:

– *For contractors, it requires prevention of disparate facilities for employees.*

– *For SHAs, it requires a method of ensuring 1273 compliance*
What images come to mind when you hear ‘segregation’?

In the civil rights context, Segregation is “the physical separation of categories of individuals, usually on the basis of gender, race, religion, or class, sanctioned either by law or by custom.”
FHWA 1273 is clear about what facilities must be free from segregation

- waiting rooms
- work areas
- restaurants
- other eating areas
- time clocks,
- restrooms, washrooms, locker rooms, and other storage or dressing areas
- parking lots
- drinking fountains
- recreation or entertainment areas
- Transportation
- housing provided for employees.

1273 permits segregation only when gender based privacy is necessary.
1273 also clearly defines the Contractor’s responsibilities:

- Cannot have policies of segregation
- Cannot sanction custom or habits of segregation
- Cannot allow assignments to segregated locations
However, it is important to remember that segregation, like any discrimination, falls into two categories.

1. Intentional, or disparate treatment... Cause and direct effect
   - Or -
2. Unintentional, or disparate impact... Cause and indirect or unforeseen effect

- The first is insidious and far less common in the modern workplace.
- The second is generally based upon a facially neutral policy or practice that tends to discriminate; a more common occurrence these days.
Can you think of possible examples of unintentional segregation?

- Women work inside; men outside
- Inside bathrooms for office staff; outside bathrooms for field workers
- Assignment of equipment or other facilities on the basis of ‘safety’
- Steering committees open only to underrepresented groups
What roles do we play as compliance staff?

- We ensure Contractor certification.
- We conduct labor interviews, observing and asking about conditions.
- We examine bulletin boards to ensure employees understand their rights.
- We train contractors on the Workbook (Section 3.6).
- We conduct contractor compliance reviews under 23 CFR 230.
- We randomly pull contracts and subcontracts to check 1273 inclusion.
- We report unusual activities and conditions, as well as complaints to the District, Central Office and/or Federal Highway.
- We document, document, document.
Questions?

Thank you, Erica, Charlotte and Carey (he’s the thin one)