

Key Chapter Changes

Key chapter changes highlighted **yellow** are new changes.

- No changes have been made since November 15, 2022.

10 Title VI and Nondiscrimination Program Guidance for Metropolitan Planning Organizations

Chapter Contents (last updated on November 15, 2022)

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10.1 Purpose

This chapter provides guidance to Metropolitan Planning Organizations (MPO) and Florida Department of Transportation (FDOT) staff for developing, maintaining, and reviewing metropolitan planning process consistency with Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities.

10.2 Authority

All recipients of Federal financial assistance must comply with several Federal civil rights requirements. These include Title VI of the Civil Rights Act of 1964, which prohibits discrimination based upon race, color, and national origin. The Act states that **“No person in the United States shall, on the ground 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.”** [\[42 U.S.C. 2000d\]](#)

In addition to Title VI, other nondiscrimination statutes prohibit discrimination based on sex, age, or disability. These include Section 162(a) of the Federal-Aid Highway Act of 1973 [\[23 U.S.C. 324\]](#) (sex), the Age Discrimination Act of 1975 [\[42 U.S.C. 6101\]](#) (age), and Section 504 of the Rehabilitation Act of 1973 [\[29 U.S.C. 701\]](#) and the Americans With Disabilities Act (ADA) of 1990 [\[42 U.S.C. 12131\]](#) (disability). These and additional authorities are listed below. Taken together, these requirements define a broad Title VI/ Nondiscrimination Program. [Table 10.1](#) presents the relevant Federal statutes, regulations, executive orders, and rules.

Table 10.1 Federal and State Statutes and Codes

Citation	Description
Nondiscrimination	
20 U.S.C. 1681 et seq. , Civil Rights Restoration Act of 1987	Clarifies congressional intent to prohibit discrimination in all programs and activities of Federal-aid recipients, regardless of whether or not they are Federally assisted.
23 U.S.C. 324 , Highway Act of 1973	Adds sex as a protected class and authorizes the use of Title VI enforcement measures for sex discrimination.
29 U.S.C. 701 et seq. , Section 504 of the Rehabilitation Act of 1973	Prohibits discrimination based on disability in Federally funded programs or services.
42 U.S.C. 2000d-2000d-7 , Title VI of the Civil Rights Act of 1964	Provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from, participation in, or be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
42 U.S.C. 6101 et seq. , Age Discrimination Act of 1975	Prohibits discrimination based on age in any Federally funded program or activity.
42 U.S.C. 12131 et seq. , ADA of 1990	Prohibits discrimination based on disability in programs or services operated by government entities.
49 C.F.R. 27 , Nondiscrimination Based on Disability in U.S. DOT-Assisted Programs	Codifies ADA/504 for U.S. DOT programs, services, and activities.
Title VI	
23 C.F.R. 200 et seq. , State Transportation Agency Nondiscrimination	Codified Title VI for FHWA programs, services, and activities.
23 C.F.R. 450.336 , Self-certifications and Federal Certifications	Requires the metropolitan transportation planning process be carried out in accordance with Title VI and other nondiscrimination requirements.

Citation	Description
49 C.F.R. 21 et seq. , Nondiscrimination in U.S. DOT Assisted Programs	Codifies Title VI for U.S. Department of Transportation programs, services, and activities.
Disadvantaged Business	
49 C.F.R. 26 , DBE	Establishes Federal guidelines for DBE participation in U.S. DOT-funded contracts.
Environmental Justice	
Executive Order 12898 (1994)	Directs Federal agencies to address disproportionately high and adverse human health or environmental effects in programs, policies, and activities on minority populations and low-income populations.
DOT Environmental Justice Order 5610.2(a) (2012)	Reaffirms U.S. DOT commitment to EJ and provides steps to prevent and/or address disproportionately high and adverse effects to minority or low-income populations through Title VI analyses and environmental justice analyses conducted as part of Federal transportation planning and National Environmental Policy Act (NEPA) provisions.
FHWA Environmental Justice Order 6640.23A (2012)	Provides FHWA policies and procedures for use in complying with Executive Order 12898.
Limited English Proficiency	
Executive Order 13166 (2000)	Requires Federal agencies to improve access to programs and services for those who are limited English proficient, and to provide guidance to Federal-aid recipients on taking reasonable steps to provide meaningful access for those who are Limited English Proficient (LEP).

10.3 Certification of the MPO Planning Process with Title VI/Nondiscrimination Requirements

The authority providing for the joint certification of an MPO, including the area of Title VI and related nondiscrimination requirements, is found in [23 C.F.R. 450.336](#) (Self-certifications and Federal certifications).

Federal metropolitan planning requirements state FDOT and each MPO, concurrent with the submittal of the entire proposed Transportation Improvement Program (TIP) to the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) as part of the State Transportation Improvement Program (STIP) approval, shall certify at least every four years that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements. [\[23 C.F.R. 450.336\(a\)\]](#) The Title VI and nondiscrimination statutes and regulations to be addressed during certification are the following:

- Title VI of the Civil Rights Act of 1964 [\[42 U.S.C. 2000d-1\]](#) and [49 C.F.R. Part 211](#);
- [49 U.S.C. 5332](#), prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
- Section 1101(b) of the Fixing America's Surface Transportation (FAST) Act [\[Pub.L. 114-357\]](#) and [49 C.F.R. Part 26](#) regarding the involvement of disadvantaged business enterprises (DBE) in Federally funded projects;
- [23 C.F.R. Part 230](#), regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
- The provisions of the ADA of 1990 [\[42 U.S.C. 12101 et seq.\]](#) and [49 C.F.R. Parts 27, 37, and 38](#);
- The Older Americans Act, as amended [\[42 U.S.C. 6101\]](#), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
- [Section 324 of Title 23 U.S.C.](#) regarding the prohibition of discrimination based on gender; and

- Section 504 of the Rehabilitation Act of 1973 [\[29 U.S.C. 794\]](#) and [49 C.F.R. Part 27](#) regarding discrimination against individuals with disabilities.

10.3.1 Title VI and Related Statutes and Nondiscrimination Requirements

The Federal Title VI/Nondiscrimination program includes several prohibitions and requirements:

- Prohibits entities from intentionally denying anyone a service, program or activity for which they are eligible;
- Prohibits entities from delivering programs, services or activities in a manner that, even if unintentional, tends to disparately impact anyone based on protected class membership.
- Requires robust inclusion of the public in and consideration of public input for all programs, services and activities. This includes encouraging the representative participation of minorities and their service groups as members of planning or advisory bodies for programs receiving Federal funds;
- Requires information and services to be provided in languages other than English when significant numbers of potential beneficiaries have limited English-speaking ability;
- Requires signed assurances and the inclusion of nondiscrimination clauses in legal instruments for the purchasing of services.

In addition, each MPO must develop a Title VI Plan that details how the MPO will comply with Title VI requirements and all related regulations and directives. The Title VI Plan documents the efforts to be taken by the MPO to prevent, identify and eliminate discrimination; the methods for how it will achieve compliance for work products, planning activities, and public participation; and the process for addressing discrimination complaints. Each MPO must also develop and maintain a Community Characteristics Inventory (CCI) that includes, at a minimum, race, ethnicity, and income. The MPO must use the CCI to ensure its programs, services and activities are equitably provided and free from discrimination. [Figure 10.1](#) below presents the components of a Title VI Plan and the following sections explain each component.

Figure 10.1 Components of a Title VI Plan

Nondiscrimination Agreement	Lists the Title VI requirements that an MPO receiving State Planning (PL) funds.
Nondiscrimination Policy	MPOs must develop a policy stating they will not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status and post it for public view.
Title VI/Nondiscrimination Coordinator	MPOs must appoint a Nondiscrimination Coordinator who has access to the MPO Executive Director when discrimination issues arise.
Nondiscrimination Complaint Procedure	MPOs must develop and post for public use a procedure for processing discrimination complaints based on race, color, national origin, sex, age, and disability.
Data Collection and Review	MPOs must develop and maintain a community characteristics inventory that includes race, ethnicity, and income, at a minimum. The MPO must use the CCI to ensure its programs, services and activities are equitably provided and free from discrimination.
Nondiscrimination Training	The MPO’s Title VI/Nondiscrimination Coordinator must provide or arrange for periodic staff training in Title VI and nondiscrimination requirements.
Outside Reviews	MPOs should be prepared for grant reviews of their nondiscrimination activities by federal funding agencies.

10.3.2 Nondiscrimination Assurance

Nondiscrimination Assurance. As a FDOT subrecipient, each MPO is required to sign a Title VI and Related Statutes Nondiscrimination Assurance with the State to ensure compliance with requirements. The Title IV Nondiscrimination Assurance is included in the UPWP Statements and Assurances ([Form #525-010-08](#)), and is available through the [FDOT Procedural Document Library](#). The Title IV Nondiscrimination Assurance must be signed every two years with the other UPWP Statements and Assurances, or when the MPO undergoes a change in executive leadership.

The Assurance acts as the MPO’s Title VI commitment pursuant to [23 C.F.R. Part 200](#). It lists all of the Title VI requirements that an MPO agrees to perform in return for receiving Planning (PL) funds from the State, including developing a nondiscrimination policy and discrimination complaint procedure. The Assurance

also contains appendices that must be included in all MPO bids, contracts, subcontracts, and agreements. The MPO is responsible not only for ensuring its own contracting documents have the required assurances, but also that any subcontracts also contain them.

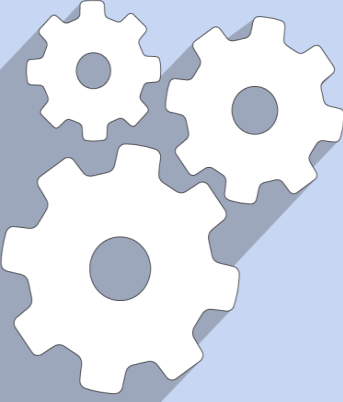
The Districts' Planning staff are encouraged to work with the respective District's Title VI Program Area Officer in planning to review the MPO's updated Title VI/ Nondiscrimination Assurance annually to ensure compliance with the Title VI Program and related statutes.

Nondiscrimination Policy. MPOs must develop and post for public view a policy that states the MPO will not discriminate in any program, service, or activity on the basis of race, color, national origin, sex, age, disability, religion, or family status. It should be published, where appropriate, in languages other than English that are prevalent in the MPO area.

Title VI/Nondiscrimination Coordinator. MPOs must appoint a Title VI/ Nondiscrimination Coordinator who has easy access to the MPO Executive Director. The Coordinator should be listed in the MPO Public Participation Plan (PPP) by name and contact information and have a responsible position within the organization. While the Coordinator may report to a lower-level supervisor in other professional duties, he or she must be able to directly and easily access the head of the MPO when possible discrimination issues arise [\[23 C.F.R. 200.9\(b\)\(1\)\]](#). The MPO may demonstrate this easy access through the use of an organizational chart in the Title VI plan showing direct but dotted line access by the Title VI/ Nondiscrimination Coordinator to the MPO Executive Director.

Nondiscrimination Complaint Procedure. MPOs must develop and post for public use procedures for prompt processing and disposition of complaints of discrimination. The procedures must clearly specify that all complaints alleging race, color or national origin discrimination will also be provided to the appropriate FDOT Title VI Coordinator ¹[\[23 C.F.R. 200.9\(b\)\(3\), \(b\)\(14\), and \(b\)\(15\)\]](#).

¹ FHWA asserts its right to investigate and issue findings for complaints filed under the Title VI Statute. The MPO can and should investigate all complaints and attempt resolution in keeping with its policy. However, FDOT is required to collect race, color and national origin complaints and forward them to FHWA.



MPOs have the flexibility to develop a complaint resolution procedure that corresponds to the organization's operations with two limitations:

1. MPO processes to resolve complaints should be time-sensitive, never exceeding more than 90 days. [23 C.F.R. 200.9(b)(15)]
2. Copies of all MPO nondiscrimination complaints should be provided to the FDOT District Title VI/ Nondiscrimination Coordinator. The FDOT Coordinator is an important resource who can assist with investigation and resolution. The Coordinator also is responsible for recording, tracking, and reporting complaint status to the FDOT Central Office and FHWA. [23 C.F.R. 200.9(b)(3)] Finally, the Coordinator serves as a clearinghouse by transferring to the appropriate authority complaints without jurisdiction or outside FDOT/MPO purview.

Annual Reviews of Nondiscrimination Program. Before signing annual Certification of MPO Planning Process Consistency with Title VI of the Civil Rights Act of 1964, the MPO must review each program area (Public Involvement, UPWP, TIP, Bike/Ped Master Plan, and LRTP) to ensure nondiscrimination. The MPO must review demographic data, measures of effectiveness matrices, committee reports, and other available documentation to ensure programs, services, and activities in these areas during the year were free from discrimination. [\[23 C.F.R. 200.9\(b\)\(5\)\]](#)

Nondiscrimination Training. The MPO's Title VI/Nondiscrimination Coordinator must provide or arrange for periodic staff training in Title VI and nondiscrimination requirements. Both FDOT and FHWA have helpful resources, including videos and other training aids. Training may be targeted to particular areas, such as Environmental Justice, LEP, public involvement, or complaint investigation. FDOT's [Sociocultural Effects Evaluation website](#) contains a wide array of resources, including video training on Environmental Justice.

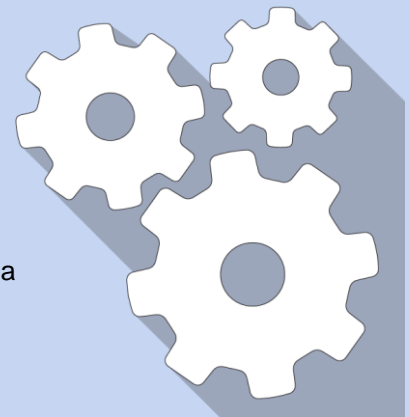
Outside Reviews. MPOs must be prepared for reviews of MPO nondiscrimination activities by FDOT or other external federal or state partners [\[23 C.F.R. 200.9\(b\)\(13\)\]](#) and [49 C.F.R. 21.11](#)].

10.4 Documentation

Documentation of nondiscrimination policies, procedures, outreach, and other similar information is critical to demonstrate compliance with Title VI and related nondiscrimination requirements. The text box provided below lists recommended items for documentation.

Some examples of important items that should be documented include:

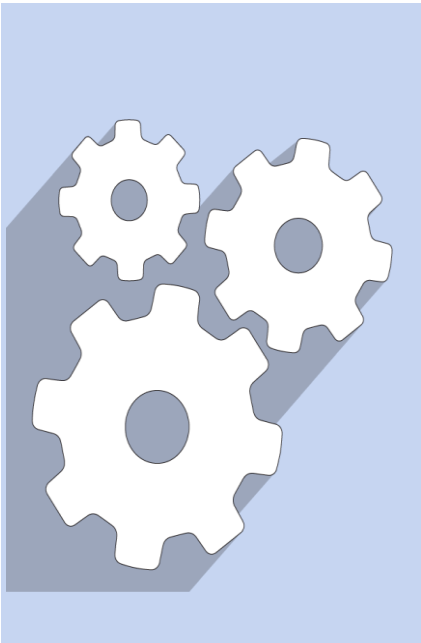
- ☑ All complaint information, including a tracking log of complainant, date of complaint, basis for complaint, and complaint disposition.
- ☑ A scrapbook of outreach events intended to increase participation and solicit feedback from low-income and minority communities.
- ☑ Measures of effectiveness reports detailing representative public involvement.
- ☑ Lists of MPO committee members by race, ethnicity, age, and whether or not disabled.
- ☑ Updated community characteristics inventories showing the MPO's geographic area broken down by socioeconomic factors.
- ☑ Community Impact Assessments that evaluate the enhancements and negative impacts of the MPO's plans.
- ☑ The MPO's LEP, Title VI, EJ, and nondiscrimination assurance documents. Samples of the MPO's meeting advertisements, contracts, and other documents containing nondiscrimination information.
- ☑ Records of all internal and external Title VI/Nondiscrimination reviews, results, and corrective action, if any.
- ☑ Lists of staff nondiscrimination training including the date, number of attendees, and the training subject.
- ☑ Documents showing strong practices, lessons learned, nontraditional partnerships, etc.



10.5 Limited English Proficiency

[Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency](#), as well as related Department of Justice (DOJ) Guidance from August 2000, requires Federal agencies and their recipients, including MPOs, to take reasonable steps to provide meaningful access to programs and services for persons who have a limited ability to read, speak, write, or understand English. In order to comply, MPOs must develop and post a written LEP plan that includes analysis of four factors.

MPOs must use the four factors in conjunction with their area demographics, PPP, measures of effectiveness, community partners, and funding to determine when and to what extent LEP services are required. LEP plans are essentially tools for providing better customer service, obtaining more representative public input, and demonstrating Title VI compliance. The Plans should effectively discuss the four-factor analysis and list the steps, activities, or other resources the MPO uses to provide meaningful access. LEP plans must be available for public access and comment and should use plain language. Plans should not be needlessly long or contain so much background or legal information that it creates a barrier to public understanding. See [U.S. government's website for LEP](#) for resources to assist MPOs with plan development.



MPOs must develop an LEP Plan that includes an analysis of four factors:

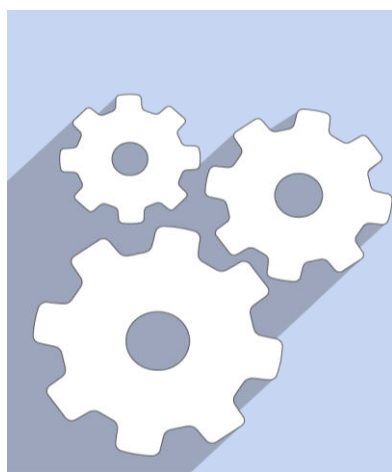
- 1. Number or proportion of LEP persons eligible to be served or likely to be encountered by the program or service;*
- 2. Frequency with which LEP individuals come in contact with the program;*
- 3. Nature and importance of the program, activity, or service provided by the program to people's lives; and*
- 4. Resources available to the recipient and costs.*

Though not required by the Executive Order or related Memoranda, MPOs may choose to comply with ‘safe harbor’ provisions. Safe harbors are affirmative defenses to a finding of noncompliance by demonstrating written translation of all vital documents based on the size of an LEP population. The safe harbor only applies to written translation of documents and when all vital documents are translated where there is an LEP language group constituting 5 percent or 1,000 persons, whichever is less. Given the size and scope of vital MPO documents, full translation could be cost prohibitive. Therefore, the MPO should carefully consider the wisdom of safe harbor compliance, and whether other reasonable steps might better or more effectively provide LEP compliance.

Finally, like all nondiscrimination programs and plans, LEP Plans are living documents that must be revisited to reflect changing communities and their needs. As such, the MPO should review its LEP Plan annually to ensure that it remains accurate and effective.

10.6 Environmental Justice (EJ)

[Executive Order 12898](#), Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, first issued in 1994, was reaffirmed by the White House in 2011. A consortium of Federal agencies, including U.S. DOT, participated in a working group to revise and update EJ guidance for its modal agencies and for recipients of Federal assistance; this included the MPOs. The result was the [U.S. DOT Order on EJ, 5610.2\(a\)](#) (May 2012) and [FHWA Order on EJ, 6640.23A](#) (May 2012). U.S. DOT defines three fundamental EJ principles, which are described in the text box below.



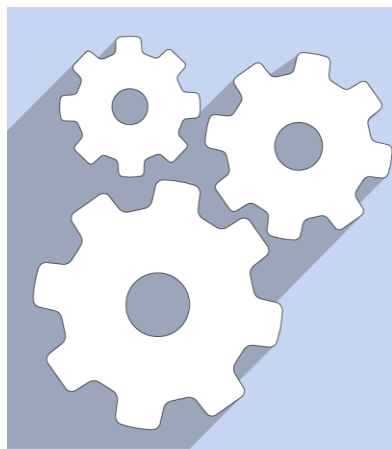
The goals of Environmental Justice remain constant:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

U.S. DOT's Order states that it will "promote the principles of environmental justice (as embodied in the Executive Order) through the incorporation of those principles in all DOT programs, policies, and activities... fully considering environmental justice principles throughout planning and decision-making processes in the development of programs, policies, and activities." The Order also requires the collection and analysis of demographic data (race, color, national origin, and income level) through existing statutory and regulatory authority to ensure that EJ objectives are achieved.

To implement these requirements, the MPO must use all reasonable and available means at their disposal to better understand the demographics and needs of the communities within their areas. Sources of information may include, but not be limited to, Census and/or American Community Survey data; information collected and maintained by school, emergency, and social service providers; religious, community, or charitable organizations; planning and/or community development committees and boards; homeowners and civic groups; and surveys, blogs, and other social media sources.

MPOs may find it helpful to create a Sociocultural Data Report (SDR) to supplement CCI data on community demographics, low-income and minority populations, and potential partner organizations that may serve or have more information about the community. Once complete, the MPO may then use the SDR to analyze transportation plans, listing the benefits and impacts of its plans on the underserved communities, and assessing whether or not they are disproportionately high or adverse. The SDR is located in FDOT's [Environmental Screening Tool](#). More information about the Sociocultural Data Report and other tools for identifying demographics can be found at FDOT's [SCE Evaluation Process web page](#).



MPOs have two responsibilities with regard to Environmental Justice:

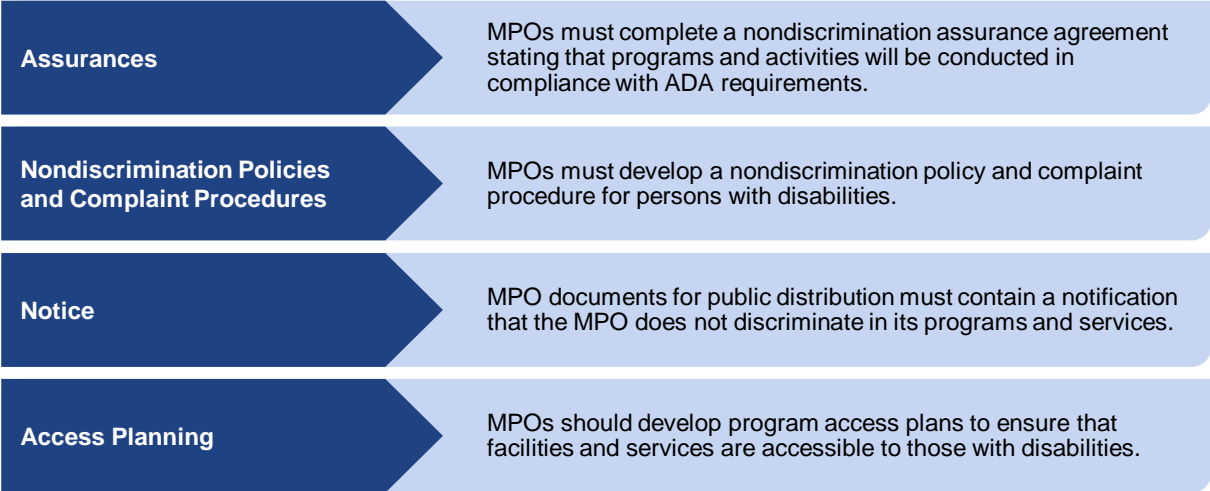
- 1. Access to Information.** MPOs must ensure and document early, continuous, and meaningful opportunities for involvement by minority and low-income communities; and
- 2. Data Collection and Analysis.** MPOs must scrutinize demographic data to ensure that planning activities will not have disproportionately high or adverse impacts on underserved communities and, where impacts are unavoidable, that documented steps are taken to avoid, minimize, or mitigate impacts.

As with all nondiscrimination programs and activities, MPOs should annually examine their EJ strategy for effectiveness; this includes ensuring that it captures significant changes in the area's minority and low-income populations. More information on EJ compliance may be found at [FDOT's EJ website](#) or [FHWA's EJ website](#).

10.7 Americans with Disabilities Act (ADA) and Related Authorities

Under the Americans with Disabilities Act of 1990 [\[42 U.S.C. 12131\]](#), MPO programs and services may not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the basis of a disability. Moreover, the MPO has the responsibility of providing reasonable accommodation to those with disabilities who require special services to access information or participate in MPO activities. The figure below describes ADA requirements for all government entities, including MPOs.

Figure 10.2 ADA Requirements for All Government Entities



Assurances. [49 C.F.R. 27.9](#) requires all Federal-aid recipients to complete a nondiscrimination assurance stating that programs and activities will be conducted in compliance with ADA. If the MPO has executed the FDOT Nondiscrimination Assurance (which specifically includes disability), it need not sign a separate ADA Assurance.

Nondiscrimination policies and complaint procedures. [49 C.F.R. 27.13](#) requires Federal-aid recipients to develop a nondiscrimination policy and complaint filing/process procedure for disability. Recipients also must name a responsible person to coordinate disability nondiscrimination activities. While this part only applies to entities with 15 or more employees, all MPOs are encouraged to comply. **Note:** If the MPO has a comprehensive complaint policy and procedure that includes disability, and has named a Title VI/Nondiscrimination Coordinator, then it need not develop separate policies and procedures wholly for disability.

Notice. [49 C.F.R. 27.15\(b\)](#) requires all publications or other general information for public distribution to contain a notification statement the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and services. Recipients also must provide upon request reasonable accommodation for access to programs and services for those with disabilities. FDOT developed a standard statement for use on all public documents and notifications, stating that:

The MPO does not discriminate on the basis of race, color, national origin, sex, age, religion, disability and family status. Those with questions or concerns about nondiscrimination, those requiring special assistance under the Americans with Disabilities Act (ADA), or those requiring language assistance (free of charge) should contact [enter Title VI/Nondiscrimination Coordinator or Public Information Office] at (XXX) XXX-XXXX or coordinator@anympo.org.

Access Planning. [28 C.F.R. 35.150\(d\)](#) states that government entities with 50 or more employees having ownership/control over pedestrian rights-of-way must have an ADA transition plan to prioritize, schedule, and detail structural changes necessary to bring facilities into compliance. As MPOs generally do not meet the thresholds for employment or sidewalk ownership/control, they are not required to develop transition plans. However, under [28 C.F.R. 35.105](#), all public entities, including MPOs are required to conduct a self-evaluation of programs and services for accessibility; and where deficiencies are discovered, develop program access plans for making the required modifications for compliance. In addition, MPOs must ensure that all planning products include accessibility considerations and the involvement of communities with disabilities and their service representatives in the planning process. MPOs also can enhance ADA compliance by providing technical assistance to local agencies within their jurisdictions. Examples of assistance that MPOs can provide are:

- Conduct and/or share roadway surveys and other information regarding accessibility and connectivity of pedestrian rights-of-way;
- Gather and distribute input from partner organizations that serve the community that is disabled;
- Collect, analyze, or share crash and other data related to high priority pedestrian areas;
- Provide safety outreach to schools, neighborhoods, community service groups, and other similar organizations; and
- Ensure that Bike/Ped Master Plans and similar documents are shared with (or plan input gathered from) public works and maintenance departments of the local agencies within MPO jurisdiction.

10.8 Disadvantaged Business Enterprise (DBE)

[Title 49 C.F.R. Part 26](#) establishes the Federal guidelines for participation of Disadvantaged Business Enterprises (DBE) in U.S. DOT-funded contracts. As a recipient of Federal planning funds, MPOs must comply with these requirements. The MPO certification process also certifies if the metropolitan planning process is being carried out in accordance with all applicable DBE requirements. [\[23 C.F.R. 450.336\(a\)\(5\)\]](#)

Under [49 C.F.R. 26.21\(a\)\(1\)](#), FHWA's *primary* recipients are required to have an approved DBE program plan. As further explained in the preamble: "For FHWA, the modification makes clear that under FHWA's financial assistance program, its direct, primary recipients must have an approved DBE program plan, and subrecipients are expected to operate under the primary recipient's FHWA-approved DBE program plans." Thus, all FHWA funding provided to MPOs through FDOT is subject to FDOT's DBE Program Plans. MPOs may not use an alternative DBE plan for FHWA funds provided by the State. If the MPO is a direct recipient of FTA funds, and more than \$250,000 of those funds are used for contracts, then the MPO must have its own DBE program and goal approved by FTA.

Per [49 C.F.R. 26.51\(f\)](#), where State transportation agencies achieve their overall goals for DBE participation through race neutral means for two consecutive years, they must continue a race-neutral program until they can no longer achieve the approved goal. Since 2000, FDOT has operated an entirely race neutral DBE program in that it achieves DBE goals through the normal competitive bid process. This means that MPOs must ensure their procurement and contracting documents carefully follow FDOT's specifications, and that they do not specify a project goal or contract sanctions for failing to meet DBE availability.

The State maintains a [Florida Unified Certification Program Disadvantaged Business Enterprise \(UCP DBE\) Directory](#) to help contractors and consultants identify subcontractors and subconsultants eligible to participate on Federally funded contracts towards the attainment of DBE goals.

MPOs must check the UPC DBE Directory to ensure that DBE contractors and subcontractors are certified as DBEs in the area of work required by the MPO. MPOs also may contact FDOT's supportive services providers for more information. FDOT's [Equal Opportunity Office DBE](#) website provides relevant contact information.

10.8.1 DBE Contract Assurances

Under [49 C.F.R. 26.13](#), MPOs are required to have a signed policy statement expressing their commitment to DBE participation. The DBE Assurance is included in the UPWP Statements and Assurances ([Form #525-010-08](#)), and is available through the [FDOT Procedural Document Library](#). The Title IV Nondiscrimination Agreement must be signed every two years with the other UPWP Statements and Assurances.

In addition, each contract an MPO signs with a consultant and/or subconsultant must include the following assurance:

In accordance with 49 CFR Part 26.21, and the FDOT DBE Program Plan, DBE participation on FHWA-assisted contracts must be achieved through race-neutral methods. 'Race neutral' means that the MPO can likely achieve the overall DBE goal of 10.65% through ordinary procurement methods. Therefore, no specific DBE contract goal may be applied to this project. Nevertheless, the MPO is committed to supporting the identification and use of DBEs and other small businesses and encourages all reasonable efforts to do so. Furthermore, the MPO recommends the use of certified DBE's listed in the Florida Unified Certification Program (UCP) DBE Directory, who by reason of their certification are ready, willing, and able to provide and assist with the services identified in the scope of work. Assistance with locating DBEs and other special services are available at no cost through FDOT's Equal Opportunity Office DBE Supportive Services suppliers. More information is available by visiting <http://www.fdot.gov/equalopportunity/serviceproviders.shtm> or calling 850-414-4750.

Consistent with 49 CFR 26.13(b), the contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;

- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

10.9 References

This section provides references, procedures, and forms related to Title VI/ Nondiscrimination requirements for MPOs.

Table 10.2 References

Reference	Description
Title VI Assurance, DOT 1050.2A	Executed by the FDOT Secretary committing to Title VI/ Nondiscrimination compliance in all programs, services, and activities.
Unified Planning Work Program (UPWP) Statements and Assurances	This agreement can be found on FDOT's Procurement Document Library web page .
Title VI/Nondiscrimination Complaint, 275-010-010	Establishes FDOT's process for implementing the FHWA Title VI compliance program and conducting Title VI program compliance reviews.
Title VI Implementation Plan	FDOT's Title VI/Nondiscrimination Program Implementation Plan, which describes the policies, procedures, and practices in use to comply with nondiscrimination requirements.
Disadvantaged Business Enterprise Program Plan	Establishes FDOT's DBE Program Plan in accordance with 49 C.F.R. Part 26.
Limited English Proficiency Plan	FDOT's LEP guidance.
Sociocultural Data Report (SDR)	Displays information about communities in a project area that potentially may be affected by the project.

Reference	Description
Sociocultural Effects Evaluation (SCE)	FDOT's Sociocultural Effects Evaluation resources.
Environmental Justice Web Page	FDOT's Environmental Justice information.