

# MPO

PROGRAM MANAGEMENT  
HANDBOOK

## CHAPTER 10 Title VI and Nondiscrimination Program Guidance for Metropolitan Planning Organizations

OFFICE OF POLICY PLANNING



# 10. Title VI and Nondiscrimination Program Guidance for Metropolitan Planning Organizations

## Key Chapter Changes

The Title VI and Nondiscrimination Program Guidance for MPOs chapter was updated with current Title VI and nondiscrimination procedures, requirements, and resources. The chapter was reformatted for improved accessibility. (December 19, 2024)

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## 10.1 Introduction

This chapter guides Metropolitan Planning Organizations (MPOs) and Florida Department of Transportation (FDOT) staff on developing, maintaining, and reviewing metropolitan planning process consistency with [Title VI of the Civil Rights Act of 1964](#), [the Civil Rights Restoration Act of 1987](#), [the Americans with Disabilities Act \(ADA\)](#), [the Florida Civil Rights Act of 1992](#), and other nondiscrimination requirements.

All **primary**, **direct**, and **subrecipient** 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 on race, color, and national origin. Title VI 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.” [\[42 United States Code \(USC\) 2000d\]](#). The Civil Rights Restoration Act restored broad coverage of Title VI and other federal civil rights legislation, requiring all recipients of federal funds to comply with nondiscrimination authorities in all programs and activities, not just in those that receive the funding.

As defined by [Federal Transit Administration \(FTA\) Circular 4702.1B](#) and pursuant to [49 USC Chapter 53](#) and [49 Code of Federal Regulations \(CFR\) Part 21](#), a **primary recipient** is a recipient of federal funds that extends federal financial assistance to a subrecipient. A **direct recipient** is an entity that receives federal funding directly from the Federal Highway Administration (FHWA) or the FTA. A **subrecipient** is an entity that receives federal financial assistance from FHWA or FTA through a primary recipient. FDOT is the primary recipient, and an MPO can be both a direct recipient and subrecipient, depending on how federal funds are received.

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 [\[Public Law \(PL\) 93-87, 162\(a\) and 23 USC 324\]](#) (sex), the Age Discrimination Act of 1975 [\[42 USC 6101\]](#) (age), and Section 504 of the Rehabilitation Act of 1973 [\[29 USC 701\]](#) and the ADA of 1990 [\[42 USC 12131\]](#) (disability). Further, the Florida Civil Rights Act of 1992 forbids discrimination against anyone based on race, color, national origin, sex, pregnancy, handicap, familial status, or religion in places of public accommodation, including transportation facilities [\(s.760.08, Florida Statute \(FS\)\)](#). Together, these requirements define a broad Title VI/ Nondiscrimination Program, which is described in more detail below. In addition to this chapter, [FDOT’s Equal Opportunity Office \(EOO\)](#) website provides updated resources and an overview of Title VI and Nondiscrimination requirements.

## 10.2 Title VI and Related Statutes and Nondiscrimination Requirements

Title VI Programs must comply with [23 CFR Part 200](#), which provides the elements required for Title VI compliance. Each year, FDOT updates and submits to FHWA a [Title VI Implementation Plan](#) that describes its compliance practices in detail. However, in summary, FDOT is responsible for each of the following requirements, only some of which also pertain to MPOs:

- ❖ Executing and submit Assurances that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation, denied benefits, or be otherwise subjected to discrimination under any program or activity for which the recipient receives federal assistance. [\[23 CFR 200.9\(a\)\(1\) & \(a\)\(2\)\]](#)
- ❖ Taking affirmative action to correct any deficiencies found by FHWA within a reasonable time period, not exceeding 90 days to be compliant with Title VI using state-signed assurances and required guidelines. The FDOT Secretary is ultimately responsible for implementing Title VI requirements. [\[23 CFR 200.9\(a\)\(3\)\]](#)
- ❖ Conducting annual reviews of all pertinent program areas to determine the effectiveness of program area activities at all levels. [\[23 CFR 200.9\(a\)\(4\)\]](#)
- ❖ Establishing a civil rights unit and designating a coordinator who holds a responsible position in the organization and has easy access to the head of the agency, tasked with initiating and monitoring Title VI activities and preparing required reports. [\[23 CFR 200.9\(b\)\(1\)\]](#)
- ❖ Adequately staffing the civil rights unit to implement the FDOT civil rights requirements effectively. [\[23 CFR 200.9\(b\)\(2\)\]](#)



- ❖ Developing procedures for prompt processing and disposition of Title VI and Title VIII (Fair Housing and Immigration) complaints. [\[23 CFR 200.9\(b\)\(3\)\]](#)
- ❖ Developing procedures for collecting and analyzing statistical data (race, color, national origin, and sex). [23 CFR 200.9\(b\)\(4\)](#)
- ❖ Developing a program to conduct Title VI reviews of program areas. [23 CFR 200.9\(b\)\(5\)](#)
- ❖ Conducting annual reviews of special emphasis program areas to determine the effectiveness of program area activities at all levels. [\[23 CFR 200.9\(b\)\(6\)\]](#)
- ❖ Conducting Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of federal-aid highway funds. [\[23 CFR 200.9\(b\)\(7\)\]](#)
- ❖ Reviewing state program directives in coordination with state program officials and as applicable, including Title VI and related requirements. [23 CFR 200.9\(b\)\(8\)](#)
- ❖ Conducting training programs on Title VI and related statutes for state programs and civil rights officials. [23 CFR 200.9\(b\)\(9\)](#)
- ❖ Preparing an annual report of Title VI accomplishments, including goals for the next year. [23 CFR 200.9\(b\)\(10\)](#)
- ❖ Annually submit an updated Title VI implementing plan to the Division Federal Highway Administrator for approval or disapproval. [\[23 CFR 200.9\(b\)\(11\)\]](#)
- ❖ Developing Title VI information for dissemination to the public and, as appropriate, in languages other than English. [\[23 CFR 200.9\(b\)\(12\)\]](#)
- ❖ Establishing procedures to identify and eliminate discrimination when it is found to exist. [\[23 CFR 200.9\(b\)\(14\)\]](#)
- ❖ Establishing procedures for prompt resolution of deficiencies and writing the remedial action agreed to be necessary, all within a period not to exceed 90 days. [\[23 CFR 200.9\(b\)\(15\)\]](#)

[Title 49 CFR Part 21](#) provides additional compliance information MPOs must consider regarding compliance reporting and cooperation. FTA also provides additional requirements for state departments of transportation and MPOs in [FTA Circular 4702.1B, Chapter 6](#). These requirements include documentation and reporting responsibilities.

The federal Title

VI/Nondiscrimination program [\(42 USC 2000d\)](#) includes several

prohibitions and requirements:

- ❖ Prohibits entities (FDOT/MPOs) from intentionally denying anyone a service, program, or activity for which they are eligible.
- ❖ Prohibits entities (FDOT/MPOs) 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 and consideration of public input for all programs, services, and activities. This includes encouraging representative participation of minorities and their service groups (such as nonprofits and civil rights 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 the public have limited English-speaking ability.
- ❖ Requires signed assurances and inclusion of nondiscrimination clauses in legal instruments for purchasing services.





## 10.3 Incorporating Title VI and Nondiscrimination Requirements into the MPO Planning Process

An MPO's Title VI Program documents the methods the MPO uses to prevent, identify, and eliminate discrimination, how compliance is achieved for work products (LRTP, TIP, etc.), planning activities, public participation; and the process used to address discrimination complaints. Each MPO must also develop and maintain a Community Characteristics Inventory (CCI) to ensure its programs, services, and activities are equitably provided and free from discrimination, fulfilling requirements in [23 CFR 200.9](#) as required by the [FDOT Title VI Implementation Plan](#). A CCI is a collection of data showing demographics for a jurisdictional area.

### 10.3.1 *Components of a Title VI Program*

According to the [FDOT Title VI Implementation Plan](#), each MPO must demonstrate compliance with Title VI requirements to FDOT. Minimum expectations include:

- ❖ Establishing and broadly distributing a Title VI policy;
- ❖ Developing and maintaining a CCI showing race and ethnicity demographics for the jurisdictional area;
- ❖ Identification of the Title VI point of contact for the MPO;
- ❖ Implementing a complaint procedural filing and processing procedure document consistent with [Form #275-010-010-g](#) on FDOT's [Procedural Document Library \(PDL\)](#); and
- ❖ Regularly executing and submitting to FDOT a Title VI/Nondiscrimination assurance.

The [Title VI Review Sheet](#) is available on the [Partner Site](#) and provides MPOs with a helpful tool for achieving and demonstrating Title VI compliance. The review sheet includes Title VI policy and procedures, Limited English Proficiency (LEP), Environmental Justice (EJ), Americans with Disabilities Act (ADA), Disadvantaged Business Enterprise (DBE), and a section to track annual goals and accomplishments. The review sheet identifies the minimum requirements of compliance with Title VI and assists MPOs with ensuring that key requirements are met, including:

- ❖ Executed Title VI and ADA Assurance has been provided to FDOT;
- ❖ Ensuring Title VI Coordinator has been designated and contact information;
  - The coordinator has easy access to the head of the MPO.

- ❖ Posting a Title VI/Nondiscrimination policy and the procedure for accepting and processing discrimination complaints;
- ❖ Ensuring a process for collection and analysis of protected class statistical data on beneficiaries of those impacted by its programs and services;
- ❖ Demonstrating how reviews are conducted on various programs to ensure nondiscrimination;
- ❖ Documenting that nondiscrimination training is provided to staff;
- ❖ Proof of collection of annual goals and accomplishments in its nondiscrimination program; and
- ❖ Ensuring effective dissemination of nondiscrimination responsibilities to the public and as appropriate, in languages other than English.

When updated, MPOs shall submit Title VI plans and documentation to FDOT as the primary recipient in its compliance efforts. These requirements can be fulfilled in several ways. Some MPOs create a Title VI Plan as a best practice to document and fulfill the Title VI program requirements concisely. Others fulfill requirements individually by documenting on the MPO's website. Others use the Checklist to record each aspect of the Title VI/Nondiscrimination Program, including where they are housed and when they were last updated. Regardless, documentation of nondiscrimination policies, procedures, outreach, and similar information is critical to demonstrate compliance with Title VI and related nondiscrimination requirements.

### Best Practices for Title VI Compliance

1. All complaint information, including a tracking log of the complainant, date of the complaint, basis for complaint, and complaint disposition.
2. A scrapbook of outreach events intended to increase participation and solicit feedback from low-income and minority communities.
3. Measures of effectiveness reports detailing representative public involvement.
4. Lists of MPO committee members by race, ethnicity, age, and whether they represent the community with disabilities.
5. Updated CCI showing the MPO's geographic area broken down by socioeconomic factors.
6. Community Impact Assessments that evaluate the enhancements and negative impacts of the MPO's plans.
7. The MPO's LEP, Title VI, Environmental Justice (EJ), and nondiscrimination assurance documents.
8. Samples of the MPO's meeting advertisements, contracts, and other documents containing nondiscrimination information.
9. Records of all internal and external Title VI/Nondiscrimination reviews, results, and corrective action ( if applicable).
10. Lists of nondiscrimination training provided to staff, including the date, number of attendees, and the training subject.
11. Documents that show strong practices, lessons learned, nontraditional partnerships, etc.

**Creating a Title VI Plan is the recommended best practice** to fulfill documentation requirements. A **Title VI Plan** is recommended to include the components shown in **Figure 10.1** to create a comprehensive document that captures the MPO's efforts to ensure Title VI compliance. MPOs that choose to develop a Title VI/Nondiscrimination Plan should treat it as a living document, reviewing and updating it at least once a year. Title VI Plans streamline requests from FDOT, FHWA, and FTA to verify compliance.

**Figure 10.1 Components of a Title VI Program**

<b>Title VI/Nondiscrimination Policy</b>	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.
<b>Data Collection and Review</b>	MPOs must develop and maintain a CCI 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.
<b>Title VI/Nondiscrimination Coordinator</b>	MPOs must appoint a Title VI/Nondiscrimination Coordinator who has access to the MPO Executive Director when possible discrimination issues arise.
<b>Nondiscrimination Complaint Procedure</b>	MPOs must develop and post for public use a procedure for processing discrimination complaints based on race, color, national origin, sex, age, and disability.
<b>Title VI/Nondiscrimination Assurance</b>	Lists the Title VI requirements for an MPO receiving federal funds.
<b>Nondiscrimination Training</b>	The MPO's Title VI/Nondiscrimination Coordinator must provide or arrange for periodic staff training in Title VI and nondiscrimination requirements.
<b>Outside Reviews</b>	MPOs should be prepared for reviews of their nondiscrimination activities by federal agencies.

**Nondiscrimination Policy** - MPOs must develop and post a comprehensive policy for public viewing that states the MPO will not discriminate in any program, service, or activity based on race, color, national origin, sex, age, disability, religion, or family status. As appropriate, this policy should be published in languages other than English which are prevalent in the MPO area.

**Data Collection and Review** - The MPO must develop procedures for collecting statistical data (race, color, sex, national origin, age, disability, the transportation disadvantaged, head of household status, poverty level, etc.) of participants and beneficiaries of state highway programs. This ensures that programs and services are free of discrimination and provide equitable services to protected populations. [\[23 CFR 200.9\(b\)\(4\)\]](#)

**Title VI/Nondiscrimination Coordinator** - MPOs must appoint a Title VI/Nondiscrimination Coordinator with easy access to the MPO Executive Director. At a minimum, the coordinator should hold a responsible position within the organization, and the coordinator's name and contact information should be listed in the MPO Public Participation Plan (PPP). 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 discrimination issues arise [\[23 CFR 200.9\(b\)\(1\)\]](#). The MPO may demonstrate this easy access using an organizational chart in the Title VI plan showing direct but dotted line access of the Title VI/ Nondiscrimination Coordinator to the MPO Executive Director.

**Nondiscrimination Complaint Procedure** - MPOs must develop and post procedures for public use to promptly process complaints of discrimination. The procedures must specify that all complaints alleging race, color, or national origin discrimination will be provided to the appropriate FDOT Title VI Coordinator<sup>1</sup> [\[23 CFR 200.9\(b\)\(3\), \(b\)\(14\), and \(b\)\(15\)\]](#).

**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 must be time-sensitive and never exceed 90 days. [\[23 CFR 200.9\(b\)\(15\)\]](#)
2. Copies of all MPO nondiscrimination complaints alleging race, color, or national origin as bases must 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 is also responsible for recording, tracking, and reporting complaint status to FDOT Central Office and FHWA. [\[23 CFR 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 to the appropriate entity.

**Nondiscrimination Assurance** - As an FDOT subrecipient, each MPO must sign and submit to FDOT a Title VI and Related Statutes Nondiscrimination Assurance to ensure compliance with all requirements. [\[49 CFR 21.7\]](#) The Title VI/Nondiscrimination Assurance is included in each MPO's Unified Planning Work

<sup>1</sup> 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.

Program (UPWP) Statements and Assurances ([Form #525-010-08](#)) and is available from the [FDOT Procedural Document Library](#). The Title VI/Nondiscrimination Assurance must be signed **every two years** with the other UPWP statements and assurances or when the MPO changes executive leadership.

The Assurance acts as the MPO's Title VI commitment under [23 CFR Part 200](#). It lists all Title VI requirements that an MPO agrees to perform in return for receiving federal Planning (PL) funds, including developing a nondiscrimination policy and discrimination complaint procedure. The Assurance also contains appendices that must be included in all MPO RFP/RFQs, contracts, subcontracts, and agreements. The MPO is responsible for ensuring that its contracting documents, including subcontracts, include the required assurances.

District Liaisons are encouraged to work with the District's Title VI Program Area Officer to annually review the MPO's Title VI/Nondiscrimination Assurance to ensure compliance with the Title VI Program and related statutes. More information about required Assurances can be found on [United States Department of Transportation \(USDOT\) Order No. 1050.2A](#) or [FDOT's Equal Opportunity Office](#) web page.

**Nondiscrimination Training** - The MPO Title VI Coordinator is responsible for developing and coordinating periodic training on Title VI and Nondiscrimination for MPO staff. In the Annual FDOT/MPO Joint Certification, a record should be kept of MPO employees who attend training, and the dates training was held. FDOT can provide helpful training resources, including links to short videos that explain Title VI and its attendant requirements.

**Outside Reviews** - Before signing the Annual FDOT/MPO Joint Certification and submitting it to FDOT for review, the MPO must review each program area (Public Involvement, UPWP, Transportation Improvement Program (TIP), and Long Range Transportation Plan (LRTP)) to ensure nondiscrimination. The MPO must review demographic data, measures of effectiveness matrices, committee reports, and other available documentation to provide programs, services, and activities in these areas during the year that were free from discrimination. [\[23 CFR 200.9\(b\)\(5\)\]](#) More information on the certification process can be found in [Chapter 7 of the MPO Handbook: Certification of the Metropolitan Transportation Planning Process](#).

### 10.3.2 *Certification of the MPO Planning Process*

**Title 23 CFR 450.336** (Self-certifications and Federal certifications) provides the FDOT/MPO Joint Certification process authority, including Title VI and related nondiscrimination requirements.

Federal metropolitan planning requirements state FDOT, and each MPO certifies the metropolitan transportation planning process at least every four years. This is typically done concurrently with submitting the proposed TIP to FHWA and FTA as part of the State Transportation Improvement Program (STIP) for approval. **[23 CFR 450.336(a)]** FDOT and MPOs complete the FDOT/MPO Joint Certification annually. Title VI and nondiscrimination statutes and regulations to be addressed during certification include the following:

- ❖ Title VI of the Civil Rights Act of 1964 **[42 USC 2000d-1, 49 CFR Part 21]**;
- ❖ **Title 49 USC 5332** prohibits discrimination based on race, color, creed, national origin, sex, or age in employment or business opportunity;
- ❖ Section 60307(a) of the Infrastructure and Investment and Jobs Act (IIJA) **[PL 117-58]** and **49 CFR Part 26** regarding the involvement of DBEs in federally funded projects;
- ❖ **Title 23 CFR 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 USC 12101, 49 CFR Part 27, 49 CFR Part 37, and 49 CFR Part 38]**;
- ❖ The Older Americans Act, as amended **[42 USC 6101]**, prohibiting discrimination based on age in programs or activities receiving federal financial assistance;
- ❖ Prohibition of discrimination based on gender **[23 USC 324]**; and
- ❖ Section 504 of the Rehabilitation Act of 1973 **[29 USC 794]** and **49 CFR Part 27** regarding discrimination against individuals with disabilities.

## 10.4 Limited English Proficiency (LEP)

### 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. Doing so is an important component of Title VI compliance based on national origin. To comply, MPOs must develop a written LEP plan that analyzes four factors.

MPOs must use the **Four Factor Analysis (FTA Circular 4702.1B, Chapter 3)** 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 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 review 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. While a federal requirement, these are, first and foremost, practical plans for the MPO to use in assessing the need for language services. See the [Limited English Proficiency](#) web page for resources to assist MPOs with LEP plan development.

I Speak Statements

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<input type="checkbox"/> أنا أتكلم اللغة العربية (Arabic)	<input type="checkbox"/> Yie gorgngv Mienh waac. (Mien)
<input type="checkbox"/> Ես խոսում եմ հայերեն (Armenian)	<input type="checkbox"/> म नेपाली बोल्छु (Nepali)
<input type="checkbox"/> আমি বাংলা ভাষী (Bengali)	<input type="checkbox"/> Mówię po polsku. (Polish)
<input type="checkbox"/> Ja govorim bosanski jezik (Bosnian)	<input type="checkbox"/> Eu falo Portugês. (Portuguese)
<input type="checkbox"/> ကျွန်ုပ်တို့ပြောဆိုသောစကားပြောသည် (Burmese)	<input type="checkbox"/> ਇ ਸੁਪਾਅ ਪੰਜਾਬੀ (Punjabi)
<input type="checkbox"/> 我说中文 (Chinese Simplified)	<input type="checkbox"/> Cunosc limba Română. (Romanian)
<input type="checkbox"/> 我說中文 (Chinese Traditional)	<input type="checkbox"/> Я говорю по-русски. (Russian)
<input type="checkbox"/> Ja govorim hrvatski. (Croatian)	<input type="checkbox"/> Ou te tautala faaSamoa. (Samoaan)
<input type="checkbox"/> اینجانب به زبان فارسی صحبت می کنم (Farsi)	<input type="checkbox"/> Govorim srpski. (Serbian)
<input type="checkbox"/> Je parle français. (French)	<input type="checkbox"/> Waxaan ku hadlaa Somali. (Somali)
<input type="checkbox"/> Je parle le Français haïtien (French Creole)	<input type="checkbox"/> Yo hablo español. (Spanish)
<input type="checkbox"/> Μιλώ ελληνικά. (Greek)	<input type="checkbox"/> أتحدث السودانية (لغوي سوداني) (Sudanese)
<input type="checkbox"/> હું ગુજરાતી બોલું છું (Gujarati)	<input type="checkbox"/> Marunong po akong magsalita ng Tagalog. (Tagalog)
<input type="checkbox"/> Mwen pale Kreyòl. (Haitian Creole)	<input type="checkbox"/> ภาษาไทย (Thai)
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<input type="checkbox"/> Kuv hais lus hmoob. (Hmong)	<input type="checkbox"/> Я розмовляю українською. (Ukrainian)
<input type="checkbox"/> Ana m a sù Igbo (Igbo)	<input type="checkbox"/> میں اردو بولتا/بولتی ہوں. (Urdu)
<input type="checkbox"/> Parlo italiano (Italian)	<input type="checkbox"/> Tôi nói tiếng Việt. (Vietnamese)
<input type="checkbox"/> 私は日本語を話します (Japanese)	<input type="checkbox"/> איך רעד יידיש (Yiddish)
<input type="checkbox"/> Mi chat Jamiekian langwjjij (Jamaican Creole)	<input type="checkbox"/> Mo gbọ Yoruba (Yoruba)
<input type="checkbox"/> ខ្ញុំនិយាយភាសាខ្មែរ (Khmer)	
<input type="checkbox"/> 본인의 모국어는 한국어입니다 (Korean)	
<input type="checkbox"/> نه ز زماني كوردی ده ناختم. (Kurdish)	

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MPOs must develop an LEP Plan that includes an analysis of four factors [FTA Circular 4702.1B, Chapter 3]:

1. Estimate the number or proportion of LEP persons eligible to be served and/or encountered by the program or recipient identified:
  - a. How LEP persons interact with the recipient's agency (MPO);
  - b. LEP communities and assess the number or proportion of LEP persons from each language group to determine the appropriate language services for each;
  - c. Literacy skills of LEP populations in their native languages to determine whether translation of documents will be an effective practice; and
  - d. Whether LEP persons are underserved by the MPO due to language barriers.
2. Frequency with which LEP people come in contact with the program. MPOs should survey key program areas and assess major points of contact with the public, including:
  - a. Use of bus and rail service;
  - b. Purchase of public transit passes and tickets through vending machines, outlets, websites, and over the phone;
  - c. Participation in public meetings;
  - d. Customer service interactions;
  - e. Ridership surveys; and
  - f. Operator surveys.
3. The nature and importance of the program, activity, or service provided by the program to people's lives.
4. The resources available to the MPO for LEP outreach and associated costs.

After completing the Four Factor Analysis, the MPO will use the results to determine which language assistance services are appropriate and develop a plan to address the identified needs of LEP populations to be served.

MPOs have considerable flexibility in developing an LEP and shall, at a minimum, include [\[FTA Circular 4702.1B, Chapter 3\]](#):

1. The results of the Four Factor Analysis, including a description of the LEP populations served.
2. A description of how the MPO provides language assistance services by language.
3. A description of how the MPO provides notice to LEP people about the availability of language assistance.
4. A description of how the MPOs monitor, evaluate and update the language access plan.
5. A description of how the MPO trains employees to provide timely and reasonable language assistance to LEP people.

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 the written translation of documents and when all critical documents are translated where there is an LEP language group constituting 5 percent or 1,000 people, whichever is less. Given the size and scope of vital MPO documents, complete translation could be cost-prohibitive. Therefore, the MPO should carefully consider the wisdom of safe harbor compliance and whether other reasonable steps might more efficiently provide LEP compliance.

Further guidance on LEP compliance can be found in FDOT's [Public Engagement Resource Guide](#), [LEP Guidance](#), [Quick Guide for Engaging People with LEP](#), and the [Title VI Review Sheet](#).

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

## 10.5 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 the USDOT, participated in a working group to revise and update EJ guidance for its modal agencies and recipients of federal assistance. This included MPOs. The result was the **USDOT Order on EJ, 5610.2(a)** and the **FHWA Order on EJ, 6640.23A** in May 2012.<sup>2</sup> Additional guidance can be found in **FTA Circular 4703.1**.

**Executive Order 14096**, Revitalizing Our Nations Commitment to Environmental Justice for All, issued in 2023, emphasizes the requirements established in Executive Order 12898 for robust public participation and transparency of federal actions, including early and continuous community engagement, particularly with underserved and overburdened communities.

USDOT defines three fundamental EJ principles, which are described in the text box below.

### The goals of Environmental Justice remain constant:

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

**USDOT Order on EJ, 5610.2(a)** states that it will “promote the principles of Environmental Justice (as embodied in the Executive Orders) by incorporating those principles in all USDOT programs, policies, and activities. This will be done by fully considering environmental justice principles throughout planning and decision-making processes in developing programs, policies, and activities.” The Order also requires collecting and analyzing demographic data (race, color, national origin, and income level) through existing statutory and regulatory authority to ensure that EJ objectives are achieved.

<sup>2</sup> Unlike Title VI, which covers all programs, services and activities of recipients, the Executive Order on EJ applies only to those projects or plans that are federally-funded.

To implement these requirements, the MPO must use all reasonable and available means to better understand the demographics and needs of communities within their areas. Sources of information may include Census and American Community Survey (ACS) data, information collected and maintained by school, emergency, and social service providers, religious, community, or charitable organizations, planning and community development committees and boards, homeowners and civic groups, surveys, blogs, and other social media sources.

MPOs may find it helpful to create a Sociocultural Data Report (SDR) to supplement CCI data with 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, list the benefits and impacts of its plans on underserved communities, and assess whether they are disproportionately high or adverse. The SDR is included within FDOT's [Environmental Screening Tool](#). More information about the Sociocultural Data Report and other demographic identification tools can be found on FDOT's [Sociocultural Effects Resources web page](#).

### MPOs have two responsibilities regarding Environmental Justice:

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

Like 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 can be found on [FDOT's Environmental Justice](#) web page, [FHWA's Environmental Justice](#) web page, and [FTA's Environmental Justice](#) web page.

## 10.6 Americans with Disabilities Act (ADA) and Related Authorities

Under the Americans with Disabilities Act of 1990 [\[42 USC 12131\]](#), MPO programs and services may not exclude from participation, deny benefits, or be subject to discrimination of anyone based on a disability. Moreover, MPOs are responsible for 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**

<b>Assurances</b>	MPOs must complete a nondiscrimination assurance agreement stating that programs and activities will be conducted in compliance with ADA requirements.
<b>Nondiscrimination Policies and Complaint Procedures</b>	MPOs must develop a nondiscrimination policy and complaint procedure for persons with disabilities.
<b>Notice</b>	MPO documents for public distribution must contain a notification that the MPO does not discriminate in its programs and services.
<b>Access Planning</b>	MPOs should develop program access plans to ensure that facilities and services are accessible to those with disabilities.

**Assurances** [49 CFR 27.9](#) requires all federal aid recipients to complete a nondiscrimination assurance stating that programs and activities will be conducted in compliance with ADA requirements. If an MPO has executed the [FDOT Nondiscrimination Assurance](#) (including disability), it does not need to sign a separate ADA Assurance.

**Nondiscrimination policies and complaint procedures:** [Title 49 CFR 27.13](#) requires MPOs to develop a nondiscrimination policy and complaint filing process/procedure. The person responsible for coordinating disability nondiscrimination activities must be named. 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 *developing separate policies and procedures for disability is not required*.

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

*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](mailto:coordinator@anympo.org).*

**Access Planning:** [Title 28 CFR 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 CFR 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 to make required modifications for compliance. In addition, MPOs must ensure all planning products include accessibility considerations and the involvement of communities with disabilities and their service representatives in the planning process. [Title 28 CFR 35.130\(b\)](#) lists additional prohibitions against discrimination, including the prohibition of denying a qualified individual with a disability the opportunity to participate as a member of a planning or advisory board. 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 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 with disabilities.
- ❖ Collect, analyze, or share crash and other data related to high-priority pedestrian areas.
- ❖ Provide safety and accessibility outreach to schools, neighborhoods, community service groups, and other similar organizations.
- ❖ Ensure that Bike/Ped Master Plans and similar documents are shared with public works and maintenance departments of the local agencies within MPO jurisdiction.



## 10.7 Disadvantaged Business Enterprise (DBE)

[Title 49 CFR Part 26](#) establishes the federal guidelines for participation of DBE in USDOT-funded contracts. As a recipient of federal planning funds, MPOs must comply with these requirements. The MPO certification process certifies that the metropolitan planning process is being carried out, including all applicable DBE requirements. [\[23 CFR 450.336\(a\)\(5\)\]](#)

The DBE Certification Program is a federal program designed for business owners deemed “socially and economically disadvantaged.” To achieve DBE status, a business must meet the criteria listed on the [FDOT's Equal Opportunity Office](#) web page under [49 CFR 26.63](#).

Under [49 CFR 26.21\(a\)\(1\)](#), FHWA's **primary** recipients must have an approved DBE program plan. Under FHWA's financial assistance program, its **direct** and **primary** recipients must have an approved DBE program plan, while **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 passed through FDOT. All FTA direct recipients receiving planning, capital, or operating assistance must maintain an approved DBE program that is compliant with FTA's [DBE program requirements](#). Since the FTA 5305(d) planning funds are converted to PL funds for MPOs as part of the Consolidated Planning Grant (CPG), the MPOs will operate under the FHWA-approved DBE program.

Per [49 CFR 26.51\(f\)](#), state transportation agencies must achieve their overall goals for DBE participation through race-neutral means for two consecutive years. A race-neutral program must be continued until they can no longer achieve the approved goal. Consequently, since 2001, 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 do not specify a project goal or contract sanctions for failing to meet DBE availability.

### Setting DBE goals is outlined in [49 CFR 26.45](#) with a 2-step process

1. Determine a base figure for the relative availability of DBEs (such as using DBE directories, bidders list, disparity studies, etc.).
2. After calculating a base figure, examine all evidence available in your jurisdiction to determine if any adjustment is needed for the base figure to arrive at your overall goal.



As per the [Florida Unified Certification Program Agreement](#), 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 in federally funded contracts, which would assist in attaining DBE goals.

It is a best practice for MPOs to check the UPC DBE Directory to ensure that DBE contractors and subcontractors are certified as DBEs for the work tasks required by the MPO. MPOs also may contact FDOT's EOO [DBE Supportive Services Providers](#) for more information. [FDOT's Equal Opportunity Office](#) web page provides relevant contact information.

MPOs are required to manually provide their Bidders Opportunity Lists (BOLs) and keep them with their internal records. Commitments and payments are tracked through the progress reports provided by MPOs. MPOs are also required under [49 CFR 26.29](#) to ensure contractors and consultants adhere to prompt payment requirements, paying subcontractors within **30 days of receiving payment from the MPO**. This includes the return of retainage, if any, within 30 days of a subcontractor's satisfactory completion of its subcontracted work.

MPOs must ensure DBEs are performing a Commercially Useful Function (CUF), meaning that they are 1) working within their area of certification, 2) self-controlling their contracted work and their own workforce, and 3) are obtaining/using supplies or other materials without the assistance of the prime contractor. [Title 49 CFR 26.55](#) further describes the verification of DBE CUF. More information and specific instructions can be found on the [DBE Certification](#) page on the [FDOT's Equal Opportunity Office](#) web page.

### 10.7.1 *DBE Contract Assurances*

Per [49 CFR 26.13](#), MPOs must 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 VI/Nondiscrimination Agreement must be signed every two years along with the other UPWP Statements and Assurances.

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

*In accordance with [49 CFR 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 10.54% 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 DBEs listed in the Florida 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 EOO DBE Supportive Services suppliers. More information is available by visiting <http://www.fdot.gov/equalopportunity/serviceproviders.shtml>.*

*Consistent with [49 CFR 26.13\(b\)](#), the contractor, subrecipient 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.*

### 10.8 References

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

**Table 10.1 Federal and State Statutes and Codes**

#### **NONDISCRIMINATION**

**Citation:** [20 USC 1681 et seq.](#), Civil Rights Restoration Act of 1987

**Description:** Clarifies congressional intent to prohibit discrimination in all programs and activities of federal aid recipients, regardless of whether they are federally assisted.

**Citation:** [23 USC 324](#), Highway Act of 1973

**Description:** Adds sex as a protected class and authorizes the use of Title VI enforcement measures for sex discrimination.

**Citation:** [29 USC 701 et seq.](#), Section 504 of the Rehabilitation Act of 1973

**Description:** Prohibits discrimination based on disability in federally funded programs or services.

**Citation:** [42 USC 2000d-2000d-7](#), Title VI of the Civil Rights Act of 1964

**Description:** 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.

**Citation:** [42 USC 6101](#), Age Discrimination Act of 1975

**Description:** Prohibits discrimination based on age in any federally funded program or activity.

**Citation:** [42 USC 12131](#), ADA of 1990

**Description:** Prohibits discrimination based on disability in programs or services operated by government entities.

**Citation:** [49 CFR 27](#), Nondiscrimination Based on Disability in USDOT-Assisted Programs

**Description:** Codifies ADA/504 for USDOT programs, services, and activities.

**Citation:** [Nondiscrimination Handbook for Local Agencies](#)

**Description:** Handbook for local agencies to comply with nondiscrimination.

**Citation:** [Title VI/Nondiscrimination Complaint, 275-010-010](#)

**Description:** Establishes FDOT's process for implementing the FHWA Title VI compliance program and conducting Title VI program compliance reviews.

**Citation:** [Unified Planning Work Program Statements and Assurances](#)

**Description:** This agreement can be found on [FDOT's Procurement Document Library web page](#).

#### **TITLE VI**

**Citation:** [23 CFR 200](#), State Transportation Agency Nondiscrimination

**Description:** Codified Title VI for FHWA programs, services, and activities.

**Citation:** [23 CFR 450.336](#), Self-certifications and Federal Certifications

**Description:** Requires the metropolitan transportation planning process to be carried out under Title VI and other nondiscrimination requirements.

**Citation:** [49 CFR 21](#), Nondiscrimination in USDOT Assisted Programs

**Description:** Codifies Title VI for U.S. Department of Transportation programs, services, and activities.

**Citation:** [FTA Circular 4702.1B](#)

**Description:** Provides Title VI requirements and guidelines for FTA recipients.

**Citation:** [Title VI Assurance, DOT 1050.2A](#)

**Description:** Executed by the FDOT Secretary, committing to Title VI/Nondiscrimination compliance in all programs, services, and activities.

**Citation:** [Title VI Review Sheet](#)

**Description:** A checklist to assist MPOs with verifying compliance.

**Citation:** [Title VI Implementation Plan](#)

**Description:** FDOT's Title VI/Nondiscrimination Program Implementation Plan describes the policies, procedures, and practices to comply with nondiscrimination requirements

### DISADVANTAGED BUSINESS

**Citation:** [49 CFR 26](#), DBE

**Description:** Establishes federal guidelines for DBE participation in USDOT-funded contracts.

**Citation:** [Disadvantaged Business Enterprise Program Plan](#)

**Description:** Establishes FDOT's DBE Program Plan under 49 CFR Part 26.

**Citation:** [Grant Application Program](#)

**Description:** FDOT web page for DBE documentation

### ENVIRONMENTAL JUSTICE

**Citation:** [Executive Order 12898](#) (1994)

**Description:** Directs federal agencies to address disproportionately high and adverse human health or environmental effects in programs, policies, and activities on minority and low-income populations.

**Citation:** [DOT Environmental Justice Order 5610.2\(a\)](#) (2012)

**Description:** Reaffirms USDOT's commitment to EJ and provides steps to prevent and address disproportionately high and adverse effects on 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.

**Citation:** [Environmental Justice Web Page](#)

**Description:** FDOT's Environmental Justice information.

**Citation:** [FHWA Environmental Justice Order 6640.23A](#) (2012)

**Description:** Provides FHWA policies and procedures for complying with Executive Order 12898.

### LIMITED ENGLISH PROFICIENCY

**Citation:** [Executive Order 13166](#) (2000)

**Description:** Requires federal agencies to improve access to programs and services for limited English proficiency and guide federal aid recipients on taking reasonable steps to provide meaningful access for those who are Limited English Proficient (LEP).

**Citation:** [LEP Guidance](#)

**Description:** An FDOT guidance document for additional background on LEP.

**Citation:** [Limited English Proficiency Plan](#)

**Description:** FDOT's LEP guidance.

**Citation:** [Quick Guide for Engaging People with LEP](#)

**Description:** FDOT Resource for engaging people with LEP.

### RESOURCES

**Citation:** [Sociocultural Data Report](#)

**Description:** Displays information about communities in a project area that may be affected by the project.

**Citation:** [Sociocultural Effects Evaluation](#)

**Description:** FDOT's Sociocultural Effects Evaluation resources.

**Citation:** [Equal Opportunity Office Web Page](#)

**Description:** FDOT's Equal Opportunity Office Web Page.