



# MaineDOT

## **Civil Rights Office:**

- Sherry Tompkins, Director
- Mary Bryant, Title VI Program Specialist & DBE Program Administrator
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[www.maine.gov/mdot/civilrights/](http://www.maine.gov/mdot/civilrights/)

# TRAINING TOPICS

**Title VI & Equal  
Employment  
Opportunity  
(EEO)**

**Disadvantaged  
Business  
Enterprise  
Program (DBE)**



# ENSURING FAIRNESS



The Federal Highway Administration (FHWA) works with partner agencies, in our case both MaineDOT and Local Public Agencies (LPAs) to design, construct and maintain our public highway systems and ensure fair delivery of our programs and services.



Therefore, MaineDOT and LPAs must comply with civil rights requirements; primarily including Title VI, the Disadvantaged Business Enterprise Program, the On-The-Job Training Program and the Davis Bacon Act.



# TITLE VI OF THE CIVIL RIGHTS ACT

# PROHIBITS DISCRIMINATION



## ON THE BASIS OF:

- **Race**
- **Color**
- **National Origin**
- **Limited English Proficiency**

# Title VI Program Requirements

- **Notifying the public**: LPAs must notify the public that no one will be excluded from participation, denied benefits, or discriminated against in any program or activity. They must also include instructions on how to file a Title VI discrimination complaint with the LPA.
- **Submitting Title VI assurances**: LPAs must submit signed Title VI assurances to the state Department of Transportation (DOT) annually. They must also include the nondiscrimination assurances from USDOT Order 1050.2 in all contracts.
- **Designating a point of contact**: LPAs must designate a responsible person to coordinate Title VI efforts.
- **Routing complaints**: LPAs must establish a process for routing complaints.
- **Collecting demographic data**: LPAs must collect demographic data on their programs and activities.
- **Coordinating with MaineDOT**: LPAs must conform to the policies and procedures of MaineDOT.
- **Making efforts to ensure nondiscrimination**: LPAs must make every effort to ensure nondiscrimination in all of their programs and activities, even if they aren't federally funded.



# Title VI Program Requirements LPAs must meet:



- Title VI assurances
- Implementation/Nondiscrimination Plan
- Annual Reporting

# What is a Title VI Implementation Nondiscrimination Plan?

A Title VI Implementation Plan is the standard operating procedure for how Title VI of the 1964 Civil Rights Act is implemented and overseen by LPA's.



# What does a Title VI Implementation Nondiscrimination Plan contain?

A Title VI Implementation Plan is intended to be public document which conveys the day-to-day operations of the Title VI Program within an LPA. The Plan should be user friendly and accessible to members of the public. The plan should detail the who, what, how, when, and why for each LPA's programs and activities in relation to Title VI. The Plan needs to be updated **annually**.



The Title VI Plan is required by 23 C.F.R. § 200.9 and contains **11 elements**. These elements may stand alone, however it is often more useful to address these elements together such as combining data collection and analysis with program area procedures, and LEP procedures rather than as separate and independent elements.

# 11 Essential Elements of a Title VI Plan

1. Policy Statement
2. Standard USDOT Title VI Assurances.
3. Organization & Staffing
4. Program Area Review Procedures
5. Data Collection and Analysis Methods
6. Training Procedures
7. Complaint Procedures
8. Dissemination of Title VI Information
9. Limited English Proficiency
10. Review of Directives
11. Compliance & Enforcement Procedures

# Policy Statement

A policy statement describes an LPA's commitment to not discriminate on the basis of race, color, national origin, or limited English proficiency when carrying out programs or activities conducted by the agency, its contractors, or subrecipients of Federal assistance. The policy statement is signed by the agency's chief executive officer.

# Standard DOT Title VI Assurances

The Plan needs to include a signed copy of the three DOT Standard Title VI Assurances and Appendices A through E, which can be attached as an appendix to the Plan.

## Three DOT Standard Title VI Assurances

1. **Standard and Regulatory Authorities** - these reference the numerous laws, regulations, and Executive Orders that prohibit discrimination. Some authorities prohibit discrimination based on race, color, and national origin while others prohibit discrimination based on age, sex, disability, limited English proficiency and income status.
2. **General Assurances** – assure that LPA’s will not engage in discriminatory practices.
3. **Specific Assurances** - describe proactive steps your agency will take to ensure nondiscrimination.

\* Assurances must be included in all solicitations for bids the affirmation that bidders will receive a fair opportunity.

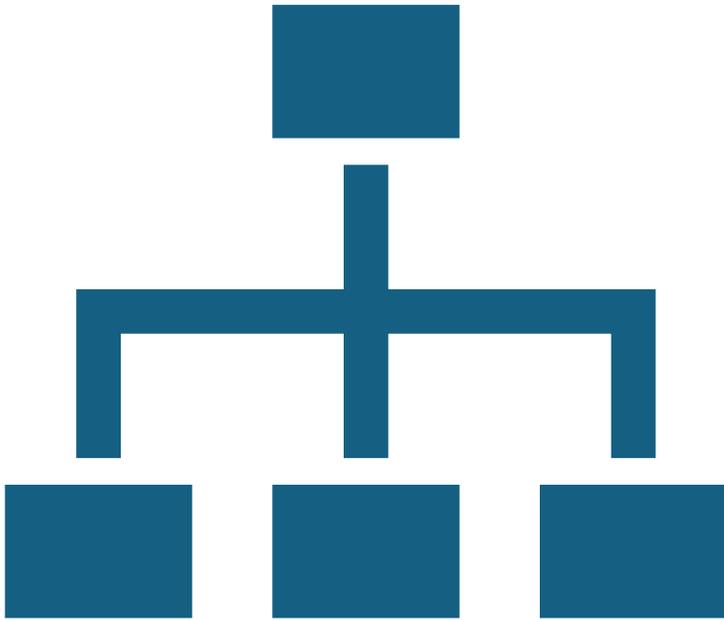


Organization and staffing shows how people in the agency support the program and resolve issues. The Title VI program organization will be managed by its administrator, who has direct access to the chief executive officer and is identified in the policy statement.

**The Organization & Staffing Portion of a Title VI Plan:**

1. Identifies the Title VI Coordinator who has easy access to the head of the agency as well as others who have Title VI responsibilities in the agency (Specialists, Liaisons, etc.).
2. Contains an organizational chart that identifies a Civil Rights Unit, and its placement in the agency.
3. Responsible for initiating and monitoring Title VI activities and preparing required reports (Goals and Accomplishment Report)
4. Responsible for developing Title VI information for dissemination (posting in public areas and on website)

# Organization & Staffing

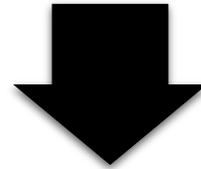


# Program Area Review Procedures

The Plan must contain a brief description of the recipient's program areas, the Title VI responsibilities in each program area and include procedures for conducting internal reviews of the program areas.

# Data Collection & Analysis Methods

The Plan needs to contain a process for collecting, analyzing, and reporting Title VI data on race, color, and national origin for each of its program areas.



You will need to analyze data collected to determine the effectiveness of outreach methods.

# Staff Title VI Training Procedures

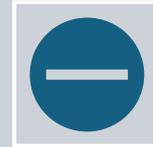


The Plan needs to describe the process the LPA uses to conduct Title VI training of staff members, including managers, supervisors and staff with frequent public contact.



# Complaint Procedures

Process and procedures for handling complaints provide the steps the LPA will take if a member of the community alleges discrimination. Process and procedures also address the actions the LPA will take if a contractor doesn't comply with Title VI program requirements.



All FHWA Title VI complaints received by a local agency are to be forwarded to MaineDOT to submit to the FHWA Division Office.



LPA's do not investigate complaints filed against them.



All complaints must be logged in complaint log.





# Language Assistance Plan (LAP)

LAP addresses LEP customers when an agency engages in public outreach events or public meetings, is free of charge and consists of both:

**Interpretation** - Immediate rendering of oral language from the source language into the target language; and

**Translation** - Rendering of a written text from one language into another language

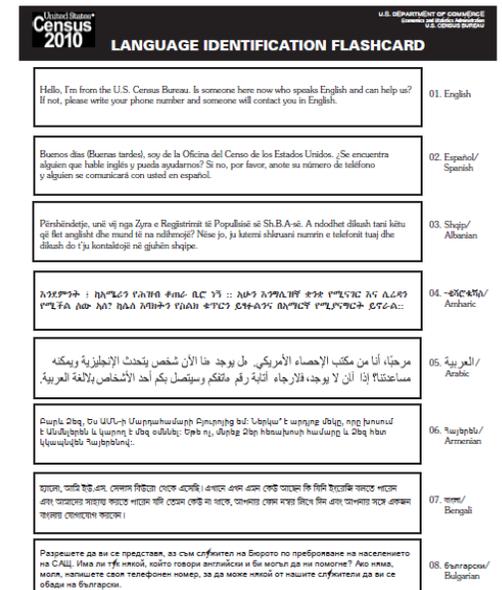




# Language Assistance Plan – Cont.

## Language Assistance Resources Include:

- Bilingual Staff
- “I Speak” Cards or Language Identification Flashcard
- Qualified Interpreters
- Telephone Interpretation



# FOUR FACTOR ANALYSIS

## Factor One

Number/Proportion of LEP Persons in Service Area

- Include data from sources such as Census Bureau, American Community Survey (ACS), etc.
- Include a listing of the counts and percentages of LEP individuals present in your service area by language.
- Identify if any of the LEP languages reach the LEP threshold of 5%, or the Safe Harbor Threshold (1000 persons).

## Factor Two

Frequency of Contact with LEP Persons

- How frequently does your organization encounter LEP persons?
- Are you in contact with LEP persons within a specific language group, and that language is not identified in Factor One?
- Include information gathered from face-to-face meetings with LEP persons or from surveys of LEP persons.
- Include information gathered from interviews with agency staff who typically come in contact with LEP persons.
- Include information kept by your organization on past interactions with members of the public who are LEP.

## Factor Three

Nature & Importance of the Service to LEP Persons

- Provide a brief summary of the services, benefits, and activities offered by your organization.
- Gather input from CBO/FBOs on the importance of this service to LEP persons.

## Factor Four

Resources Available & Overall Costs

- Include a brief summary of the resources available and overall costs of providing language assistance.
- Analyze budget to identify available funding for providing language assistance.



# Review of Directives

The Plan needs to describe how the LPA reviews directives to determine if there are Title VI implications and interpret how directives impact Title VI program areas.

RULE

AUTHORITY

REGULATION

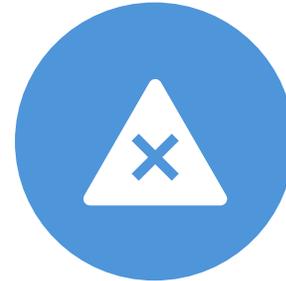
LAW

GUIDELINE

# Review of Directives – Cont.



## Why conduct reviews?



Reviews are the cornerstone of any Title VI Program and the requirements for reviews are woven throughout Title VI as part of an overall oversight program.

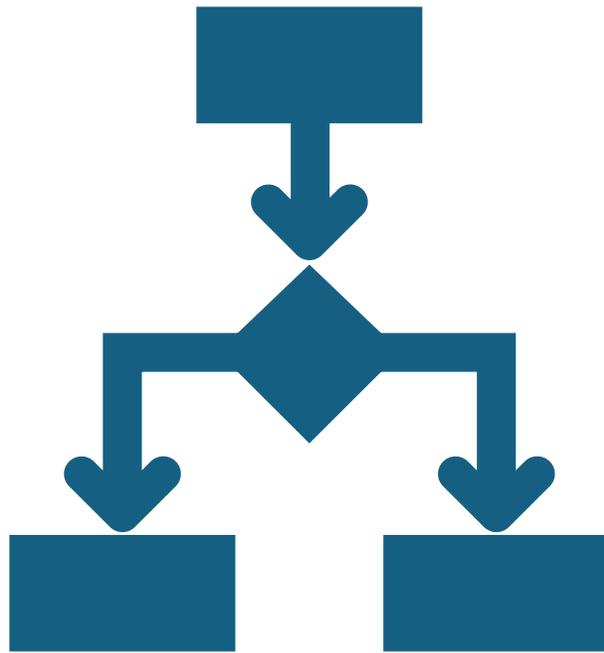


All entities that receive federal financial assistance (recipients) from the Federal Highway Administration (FHWA) are required to create establish and maintain effective internal control over the Federal award that provides reasonable assurance that the entity is managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. 2 C.F.R. §200.303(a).



For Title VI, all recipients are required to create “methods of administration for the program” to give a reasonable guarantee the recipient complies with Title VI. 49 C.F.R. §21.7(b).

# How should reviews be conducted?



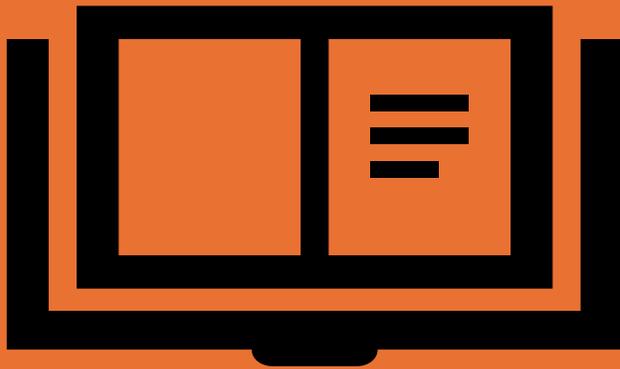
**Reviews are part of a process to:**

- (1) Measure risk and
- (2) Mitigate risk

**Reviews should therefore test two main aspects of compliance:**

1. Whether the recipient's internal controls, themselves, are sufficient and compliant with regulations and other legal standards, and
2. Whether the implementation of the internal controls—actual projects and activities—is sufficient and compliant with regulations and other legal standards.

# Compliance & Enforcement Procedures



The Plan needs to outline Title VI compliance and enforcement procedures to address deficiencies or when noncompliance is determined for a contractor/subcontractor.

By signing the Title VI assurance document as a condition to using Federal funds, LPAs agree to follow their implementation plan, participate in reviews with MaineDOT, and take enforcement actions when required against contractors. Failure to do so may result in a suspension or termination of Federal-aid on any or all federally funded projects. Consult your Title VI implementation plan when preparing for a review or responding to a complaint.

# Additional Title VI & EEO Program Requirements



# **Solicitations for bids/Requests for Proposals must include the following nondiscrimination paragraph from the U.S. DOT Standard Title VI Assurances:**

*“The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”*

# FHWA Form 1273

FHWA Form 1273 is required to be physically attached to all FHWA contracts and sub-contracts.

<http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

FHWA Form 1273 - Revised October 20, 2003

**REQUIRED CONTRACT PROVISIONS  
FEDERAL AID CONSTRUCTION CONTRACTS**

<p><b>I. General</b></p> <p><b>II. Administration</b></p> <p><b>III. Management Practices</b></p> <p><b>IV. Cost/Material and Related Sub-Provisions</b></p> <p><b>V. Contract Work Hours and Safety Standards Act Provisions</b></p> <p><b>VI. Scheduling or Assigning the Contract</b></p> <p><b>VII. Safety Related Provisions</b></p> <p><b>VIII. False Statements Concerning Highway Projects</b></p> <p><b>IX. Implementation of Clean Air Act and Federal Water Pollution Control Act</b></p> <p><b>X. Certifications Regarding Contracted, Suspended, Ineligibility and Subcontract Provisions</b></p> <p><b>XI. Certifications Regarding Use of Contract Funds for Lobbying</b></p> <p><b>XII. Use of United States Flag Goods</b></p> <p><b>ATTACHMENTS</b></p> <p><b>A. Employment and Statute Preference for Acquisition Development Highway System or Acquisition Local Roads Road Contracts (Included in Acquisition contracts only)</b></p> <p><b>C. GENERAL</b></p> <p>1. Form FHWA 1273 must be physically incorporated in each construction contract funded under Title 23, United States Code, as required in 23 CFR 630.1003 (including emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert the form in each submittal and follow requirements in all items for submittals (including purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 630.1003.</p> <p>The applicable requirements of Form FHWA 1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor (over the subcontractor or service provider). 23 CFR 630.1003.</p> <p>Form FHWA 1273 must be included in all Federal aid design submittals, in all submittals and in item for submittals (including purchase orders, rental agreements for supplies or services) in accordance with 23 CFR 630.1003. The contractor shall be responsible for compliance by any subcontractor (over the subcontractor or service provider).</p> <p>Contracting agencies may reference Form FHWA 1273 in submittals for bids to respond to proposals, documents, however, the Form FHWA 1273 must be physically incorporated (and referenced) in all submittals, subcontracts and over the subcontractor (including purchase orders, rental agreements and other agreements for supplies or services needed to a construction contract). 23 CFR 630.1003.</p> <p>2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work</p>	<p>performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate supervision and to all work performed on the contract by placement, station work, or by subcontractor. 23 CFR 630.1003.</p> <p>3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension or debarment in any other action determined to be appropriate by the contracting agency and FHWA.</p> <p>4. <b>Retention of Labor.</b> During the performance of the contract, the contractor shall not use non-Federal labor for any purpose within the limits of a construction project on a Federal aid highway unless it is used performing specialty work as an integral, supervised, essential component. 23 U.S.C. 10804. The term Federal aid highway does not include roadways functionally classified as toll roads or dual route corridors. 23 U.S.C. 101(a).</p> <p><b>5. NONDISCRIMINATION (23 CFR 200.103(a), 23 CFR Part 200, Subpart A, Appendix A, EOC 11268)</b></p> <p>The principal and this section related to 23 CFR Part 200, Subpart A, Appendix A are applicable to all Federal aid construction contracts and local related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 200 are not applicable to related supply, engineering, or maintenance contracts.</p> <p>In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 23 CFR Parts 1020, 1021, 23 U.S.C. 105, Section 104 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 796), Title V of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) and related regulations including 23 CFR Parts 21, 26, and 27 and 23 CFR Parts 200, 230, and 600.</p> <p>The contractor and all subcontractors must comply with the requirements of the Equal Opportunity Clause in 41 CFR 60.140 and, for all construction contracts exceeding \$10,000, the Executive Order Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60.3.5.</p> <p>Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 23 CFR Parts 1020-1021. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 105, Section 104 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 796), and Title V of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) and related regulations including 23 CFR Parts 21, 26, and 27 and 23 CFR Parts 200, 230, and 600.</p> <p>The following provisions adopted from 23 CFR Part 200, Subpart A, Appendix A, with appropriate modifications to the U.S. Department of Labor (LH 2003) and FHWA requirements.</p>
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# FHWA Form 1273 – Cont.



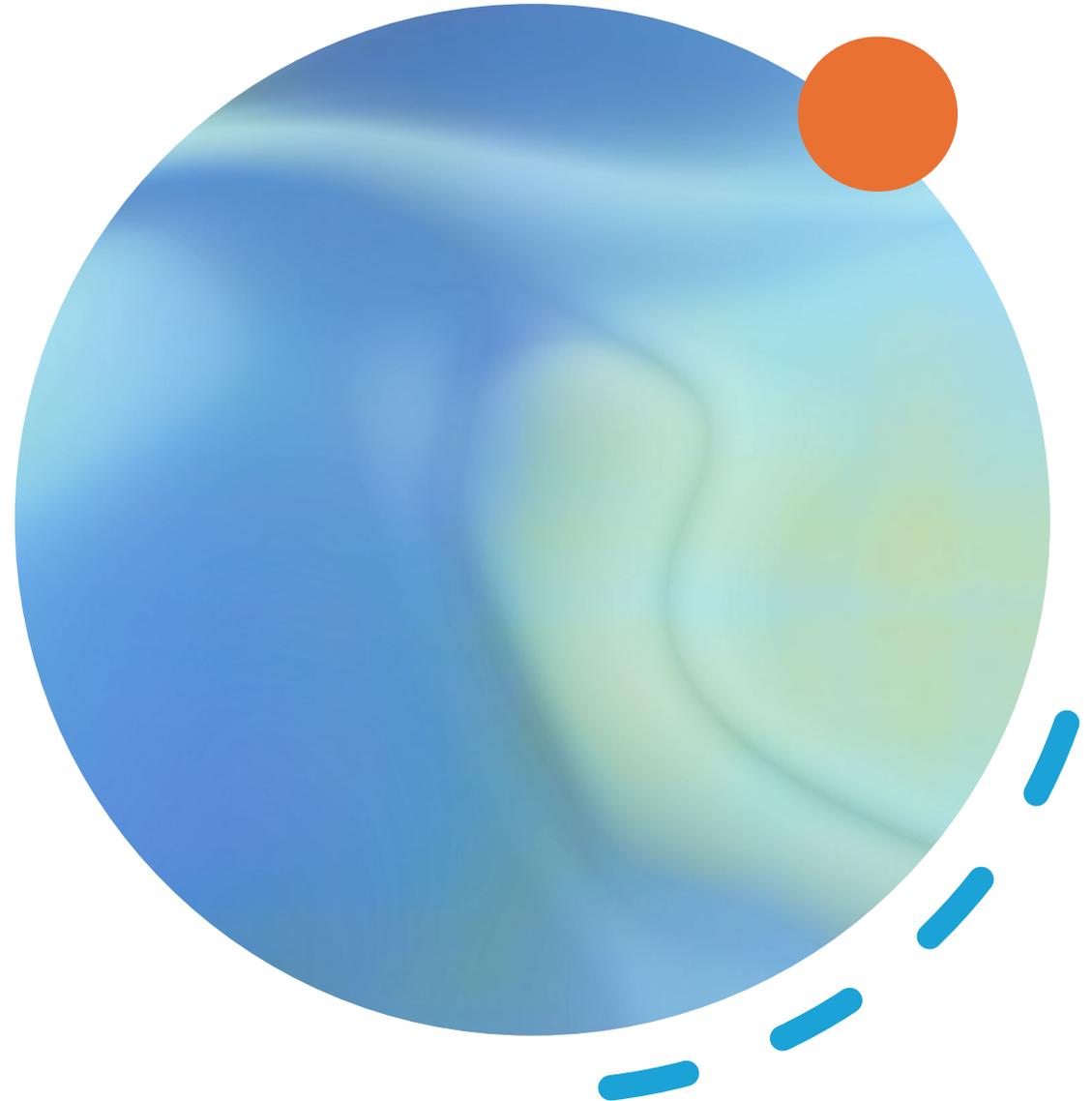
Form FHWA-1273 lists several Federal requirements to be included in federal-aid contracts. Included in this form are the mandated nondiscrimination provisions that apply to all contracts or subcontracts of \$10,000 or more.



Therefore, when your contractor signs the project contract, the nondiscrimination provisions of the Form FHWA-1273 become the contractor's equal employment opportunity and affirmative action standards.



In addition, the contractor must insert these same nondiscrimination provisions in any subcontract associated with the project.



# Annual Reporting

Develop a Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report that documents how the LPA is effectively implementing its Title VI/Nondiscrimination Program.

The Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report should provide an overview of an LPA's current policies, procedures, and practices to ensure nondiscrimination.

**Thank You!**

**Please contact the  
MaineDOT Civil Rights  
Office with any  
questions.**



**MaineDOT**

Maine Department of Transportation - LPA Training 2024