

## TITLE VI PROHIBITS DESCRIMINATION



#### ON THE BASIS OF:

- Race
- Color
- National Origin
- Sex
- Age
- Income Status
- 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.
- Submitting Title VI assurances: LPAs must submit signed Title VI assurances to MaineDOT annually. They must also include language from USDOT Order 1050.2A in all contracts and agreements.
- Designating a point of contact: LPAs must designate a person responsible for coordinating 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 follow the policies and procedures of MaineDOT and coordinate with the risk-based review process.
- 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
- Environmental Justice Requirements

## 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 a public document that conveys the day-to-day operations of the Title VI Program within an LPA. 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, but 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 a 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, sex, age, disability, limited English proficiency, or income status 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.
- At MaineDOT, these assurances are included in each Local Public Agency Agreement for a specific project.

#### **Three DOT Standard Title VI Assurances**

- 1. Standard and Regulatory Authorities these reference the numerous legal acts, 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. <u>Specific Assurances</u> describe proactive steps your agency must take to ensure nondiscrimination.

<sup>\*</sup> Assurances must by 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:

- 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.).
- 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 Collection**

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**

This section provides the steps the LPA will take if someone alleges discrimination.

Complaint Process and Procedures also addresses 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.



## **Dissemination of Title VI Information**

- The Plan must contain community outreach and public education procedures.
- It also must describe how the public outreach data is collected and analyzed to ensure effectiveness.
- Know Your Rights Pamphlet
- ❖ Nondiscrimination/Title VI Poster

#### NON-DISCRIMINATION/TITLE VI POSTER

tion to investigate and eliminate discrimination when fixand. Any person who believes that he or she s been aggrieved by an unlowful discriminatory practice under Title VI has a right to file a formal int with MaineDOT. Any such complaint must be in writing and filed with the MaineDOT Title

Act of 1990 (ADA) and related federal and state laws and regulations, MaineDOT will make ever ns, services or activities. Because providing reasonable accommodation may require e, organization or resources, MaineDOT asks that requests be made at least five (5)

vices are provided free without charge for individuals with special needs with disabilities. Any feet ill be paid by the recipient or subrecipient. The public will have access to translators, "I Speak Cards", IV/TDD services and vital documents translated when requested.

#### MaincDOT Title VI/ADA Coordinat

Office Phone: (207) 624-3056 TYY: Users Dial MAINE RELAY 711



#### How to File a Complaint





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mainedot.gov





## **Limited English Proficiency (LEP)**

The Plan must explain how LEP populations are identified and how your 4-factor analysis is applied to determine what translations are appropriate.





LEP covers persons who do not speak English as their primary language; and



Have a limited ability to read, speak, write or understand English.



The LPA must take reasonable steps to ensure meaningful access to programs, services, and information for persons identified as LEP.



## Language Assistance Plan (LAP)

Language Assistance Plan must address LEP persons when an agency engages in public outreach events or public meetings. It must be free of charge and consist of both:

<u>Interpretation</u> - Immediate rendering of oral language from the source language into the target language; and

<u>Translation</u> - 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
- 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.

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### 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.

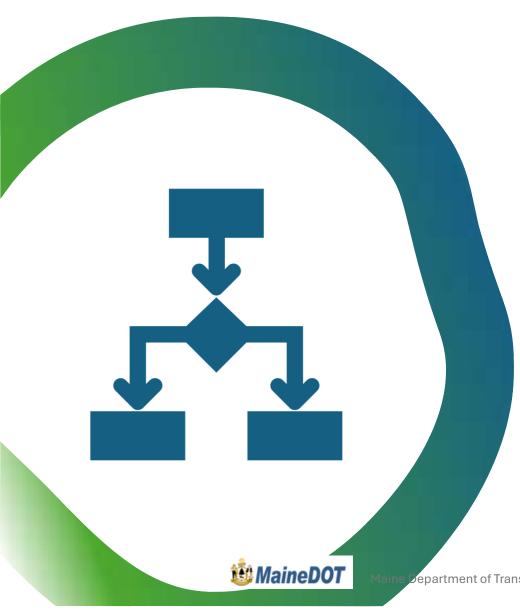


All entities that receive federal financial assistance (recipients) from the Federal Highway Administration (FHWA) are required to create establish and maintain effective internal control over the Federal award that provides reasonable assurance that the entity is managing the award in compliance with 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.

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## 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, 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.

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## Additional Title VI & **EEO Program** Requirements



### ions for bid/Requests for Proposals must Solig clude 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. 2 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, 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 that in any contract entered into pursuant to this advertisement, minority business enterprise 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."



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### **FHWA Form 1273**

FHWA Form 1273 is required to be included in all FHWA contracts and sub-contracts.

http://www.fhwa.dot.gov/program admin/contracts/1273/1273.pdf



## **FHWA Form 1273 –** Cont.



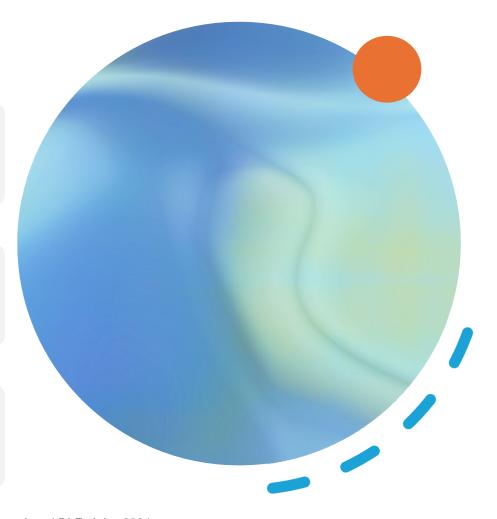
Form FHWA-1273 lists several Federal requirements to be included in federal-aid contracts. Included in this form are the mandated nondiscrimination provisions that apply to all contracts or subcontracts of \$10,000 or more.



Therefore, when your contractor signs the project contract, the nondiscrimination provisions of the Form FHWA-1273 become the contractors 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**

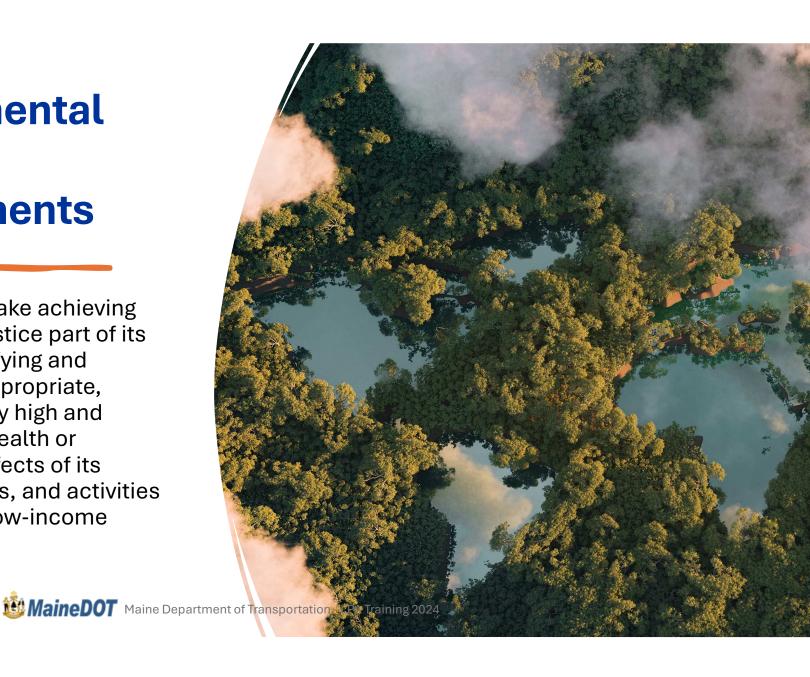
Develop a Title
VI/Nondiscrimination Annual
Work Plan & Accomplishment
Report that documents how the
LPA is effectively implementing
its Title VI/Nondiscrimination
Program.

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.



## **Environmental Justice Requirements**

Each LPA shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.





## **Environmental Justice** Requirements - Cont.

- Integrate the requirements of Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, into the agency's programs, policies, and activities.
- Identify minority and low-income populations affected by a project using the most recent Census data and the definition of low-income as established by the U.S. Department of Health & Human Services.
- Develop public participation procedures to ensure the participation of the identified minority and low-income populations located within the limits of a proposed project.



## **Additional Resources**

- Title VI of the Civil Rights Act of 1964 https://www.justice.gov/crt/fcs/TitleVI
- FHWA's Office of Civil Rights Web site with resources to Title VI program implementation

#### http://www.fhwa.dot.gov/civilrights/

- U.S. DOT regulations for implementing its Title VI nondiscrimination require https://www.ecfr.gov/current/title-49/subtitle-A/part-21?toc=1
- FHWA Title VI Toolkit https://www.fhwa.dot.gov/civilrights/programs/title vix
- FHWA Resources in Data Collection chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.fhwa.dot.gov/civilright programs/docs/ **20VI%2** 0Data%20collection.pdf
- US Census Bureau Data Collection <a href="https://data.census.gov/">https://data.census.gov/</a>
- FHWA Form 1273 http://www.fhwa.dot.gov/programadmin/contract
- MaineDOT' Title VI/Nondiscrimination Annual Work Plan & Accomplis ent Guide https://www.maine.gov/mdot/civilrights/title-vi
- MaineDOT's Title VI/Nondiscrimination Plan https://www.maine.gov/mdot/civilrights/title-vi/



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## **Additional Resources - Cont**

- Civil Rights Program Requirements Overview Video <a href="https://highways.dot.gov/fed-aid-essentials/videos/civil-rights/overview-fhwas-civil-rights-program-requirements-local">https://highways.dot.gov/fed-aid-essentials/videos/civil-rights/overview-fhwas-civil-rights-program-requirements-local</a>
- **Contract Nondiscrimination Requirements Video** <a href="https://highways.dot.gov/fed-aid-essentials/videos/civil-rights/nondiscrimination-requirements-construction-contracts">https://highways.dot.gov/fed-aid-essentials/videos/civil-rights/nondiscrimination-requirements-construction-contracts</a>
- Title VI/Nondiscrimination Assurances Video <a href="https://highways.dot.gov/fed-aid-essentials/videos/civil-rights/title-vinondiscrimination-nondiscrimination-assurances">https://highways.dot.gov/fed-aid-essentials/videos/civil-rights/title-vinondiscrimination-nondiscrimination-assurances</a>
- **Title VI Implementation Plans Video** <a href="https://highways.dot.gov/fed-aid-essentials/videos/civil-rights/title-vinondiscrimination-implementation-plans">https://highways.dot.gov/fed-aid-essentials/videos/civil-rights/title-vinondiscrimination-implementation-plans</a>
- Fundamentals of Title VI Environmental Justice https://www.nhi.fhwa.dot.gov/
- FHWA Manual for Processing External Complaints of Discrimination http://www.fhwa.dot.gov/civilrights/programs/finalcomplaintmanual110410.cfm#sec11
- Environmental Justice Executive Order 12898 <a href="https://www.energy.gov/nepa/articles/eo-12898-federal-actions-address-environmental-justice-minority-populations-and-low">https://www.energy.gov/nepa/articles/eo-12898-federal-actions-address-environmental-justice-minority-populations-and-low</a>
- FHWA Title VI Requirements for Subrecipients chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/https://ftp.txdot.gov/pub/txdot-info/civ/title%20vi/title-vi-requirements-for-subrecipients.pdf



## CIVIL RIGHTS OFFICE

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Disadvantaged Business Enterprise
Environmental Justice
Limited English Proficiency
Title VI Compliance

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In the event that the intended person is unavailable, please feel free to reach out to one of the other members of the Civil Rights Team for assistance.