

## **Fact Sheet on Title VI and Environmental Justice in Transportation**

### **What is Title VI and Environmental Justice?**

**Title VI of the Civil Rights Act of 1964:** Requires that no person in the United States shall on the grounds of race, color, national origin, gender, age, or disability be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under any program or activity of federal aid recipients, sub recipients or contractors.

**Executive Order 12898 of 1994:** Directed every Federal agency to make environmental justice part of its mission by identifying and addressing the effects of all programs, policies and activities on “minority populations and low-income populations.”

Title VI of the Civil Rights Act of 1964 (a.k.a. “Title VI”) established a standard that outlawed discrimination in the conduct of all Federal activities. In the 1990s, individuals both inside and outside government became increasingly concerned by the high and adverse environmental impacts of private or governmental actions that fall disproportionately on populations protected by laws such as Title VI. As a result, Executive Order 12898 responded to this concern by instituting the term *environmental justice* to ensure that everyone within the United States received equal protection under the country’s laws. Hence, Executive Order 12898 directed each Federal agency to review its procedures and to make environmental justice part of its mission by identifying and addressing the effect of all programs, policies, and activities on minority populations.

There are three fundamental principles at the core of environmental justice:

- ◆ 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.
- ◆ To ensure the full and fair participation by all potentially affected communities in the transportation decision-making and implementation process.
- ◆ To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Some transportation practitioners are concerned that environmental justice is a new requirement thrust upon State and local governments. The truth, however, is that **any recipient of Federal-aid have long been required to certify, and the US DOT must ensure, nondiscrimination under Title VI of the Civil Rights Act of 1964** as well as many other laws, regulations, and policies.

### **What are the Regulations?**

ODOT, local governments, and any other public agency such as INCOG, that is a “primary recipient” or “sub-recipient” of Federal transportation funds is required by not only the aforementioned regulations but other US DOT statutes and regulations to ensure nondiscrimination in all of its programs and activities. All agencies are called upon to treat everyone in a “fair and equitable” manner. Every member of the “recipient organization” is responsible for implementation and monitoring compliance with the Title VI Program.

Listed below are other federal acts, authorities, guidelines, regulations, and executive orders in regards to equal treatment and nondiscrimination.

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### *Nondiscrimination Statutes*

**Title VI of the Civil Rights Act of 1964**, 42 USC 2000, provides in Section 601 that: “No person in the United States shall, on the ground of race, color, or national origin, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

**Section 504 of the Rehabilitation Act of 1973**, 29 USC 790, provides: “No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.”

**Age Discrimination Act of 1975**, USC 6101, provides: “No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

**23 USC 324** provides: “No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Title or carried on under this title.”

**The Civil Rights Restoration Act of 1987**, P.L. 100-209, provides: Clarification of the original intent of Congress in Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. It also restores the broad, institution-wide scope and coverage of the nondiscrimination statutes to include all programs and activities of Federal-aid recipients, sub-recipients, and contractors, whether such programs and activities are Federally assisted or not.

**Title II of the Americans with Disabilities Act of 1990**, P.L. 101-336, provides: “No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or local government.”

### *Nondiscrimination Executive Orders*

**E.O. 12250**: DOJ Leadership and Coordination of Nondiscrimination Laws

**E.O. 12898**: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

### *Nondiscrimination Regulations*

**28 CFR 35**: DOJ regulations governing Nondiscrimination on the basis of disability in State and Local Government Services

**28 CFR 36**: DOJ regulations governing nondiscrimination on the basis of disability in public accommodations and commercial facilities

**28 CFR 41**: Implementation of Executive Order 12250, Nondiscrimination on the basis of handicap in federally assisted programs

**28 CFR 42, Subpart C**: DOJ's regulation implementing Title VI of the Civil Rights Act of 1964

**28 CFR 50.3**: DOJ's Guidelines for enforcement of Title VI of the Civil Rights Act of 1964

**49 CFR 21**: DOT's Title VI regulation

**49 CFR 27**: DOT's regulation implementing Section 504 of the Rehabilitation Act of 1973

**23 CFR 200**: FHWA's Title VI regulation

**23 CFR 1235**: FHWA and NHTSA joint regulation governing Uniform System for Parking for People with Disabilities

### *Nondiscrimination Directives*

**DOT ORDER 1000.12**: Implementation of the DOT Title VI Program

**DOT ORDER 1050.2**: Standard Title VI Assurances

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### **Which Groups are Addressed?**

*Title VI, Executive Order 12898, and the US DOT Order on Environmental Justice* ensures protection from discrimination on the basis of race, color, national origin, age, sex, disability, or level of income.

### **How Does Title VI and Environmental Justice Apply to Transportation?**

Concern for environmental justice should be integrated into every transportation decision from the first thought about a transportation plan to post-construction operations and maintenance. The *US DOT Order* applies to all policies, programs, and other activities that are undertaken, funded, or approved by FHWA, FTA, or other US DOT components:

- Policy Decisions
- Systems Planning
- Metropolitan and Statewide Planning
- Project Development and Environmental Review under NEPA
- Preliminary Design
- Final Design Engineering
- Right-of-Way
- Construction
- Operation and Maintenance

*Any recipient of  
Federal-aid must certify  
nondiscrimination!*

All contractors, subrecipients, and vendors are required to comply with Title VI and other related federal regulations. Contracts with INCOG's Transportation Planning Division include Title VI responsibilities, non-compliance sanctions, and related information. Contractors, subrecipients, and vendors are required by this contract to comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation. The contractor, subrecipient, or vendor agrees to not directly or indirectly discriminate on the grounds of race, color, national origin, sex, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractors are required to include this information in all subcontractor solicitations and contracts. Sample contract language is available in the document Required Contract Provisions Federal-Aid Construction Contracts, which can be obtained from the ODOT Office of Civil Rights.

### **What Are Other Communities Doing in Addressing Title VI/EJ Policies?**

Most community Title/EJ Plans (also known as Non-Discrimination Compliance Plans) have the following five components.

#### **Legal Summary of Regulations**

A description of non-discrimination and a brief summary of federal and state regulations and policies related to non-discrimination.

#### **Data Collection**

Statistical data on race, color, national origin, English language ability and gender of participants in, and beneficiaries of programs. Data collection usually occurs annually and is reviewed annually to ensure sufficiency of the data in meeting Title VI/EJ requirements.

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### Compliance Report

As part of a Title VI assurance plan, most communities insert specific language, (see example below), in all solicitations for bids for work or material subject to the Title VI/EJ Regulations and in all proposals for negotiated easements:

“The City of ABCville, Oklahoma, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 242, 42 USC 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 gender, disability, race, color or national origin in consideration for an award.”

### Annual Reports and Public Dissemination

Most communities participate in annual Self Certification Documentation inclusive of a review of Title VI accomplishments during the year and a review of program areas. Such documentation is then forwarded to the state's department of transportation. In addition, the city disseminates Title VI/EJ Program Information to all of its employees and makes such information available to the public. Public dissemination includes inclusion of Title VI/EJ language in contracts and publishing a Title VI/EJ Policy Statement on the city's internet website.

### Complaint Procedure

Establish a complaint process whereby citizens are properly notified of their rights and the process for filing a nondiscrimination complaint. Such procedures also outline responsibilities of the city executives in addressing such complaints. Complaints may also be filed directly with the Federal Highway Administration.