

How Effective Is Your Title VI Program?

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**DOES IT ACCOMPLISH
WHAT THE REGULATIONS REQUIRE?**

**U.S. DEPARTMENT OF TRANSPORTATION
CIVIL RIGHTS SYMPOSIUM
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What is Title VI?

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- Federal law
- The essence of the law:



“No person in the United States shall on the ground of race, color, or national origin be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance” (42 USC § 2000d)

What is FHWA's Title VI Program?

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- **System of requirements (23 CFR § 200.5(p))**
- **Not limited only to provisions of Title VI**
- **Includes other civil rights provisions of Federal statutes prohibiting discrimination**
- **Ergo, Title VI/Nondiscrimination Program**



FHWA's Title VI/Nondiscrimination Program

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- **Other Federal statutes & cross cutting authorities:**
 - The 1970 Uniform Act (**42 USC § 4601**)
 - Section 504 of the 1973 Rehabilitation Act (**29 USC § 790**)
 - The 1973 Federal-aid Highway Act (**23 USC § 324**)
 - The 1975 Age Discrimination Act (**42 USC § 6101**)
 - Implementing Regulations (**49 CFR § 21 & 23 CFR § 200**)
 - Executive Order 12898 on Environmental Justice (**EJ**)
 - Executive Order 13166 on Limited English Proficiency (**LEP**)

Other Federal Statutes

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- **The 1970 Uniform Act (42 USC § 4601)**
 - Prohibits **unfair and inequitable treatment of persons** displaced or property to be acquired as a result of Federal-aid programs & projects
- **Section 504 of 1973 Rehabilitation Act (29 USC § 790)**
 - “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.”
- **The 1973 Federal-Aid Highway Act (23 USC § 324)**
 - “No person shall on the grounds 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.”

Other Federal Statutes...

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- **The 1975 Age Discrimination Act (42 USC § 6101)**
 - “No person 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.”
- **Executive Order 12898 on Environmental Justice(EJ)**
 - “Each Federal agency shall conduct its programs, policies, and activities [**including those of recipients (see FHWA Order 6640.23(2)(h))**] that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding **persons (including populations)** from participation in, denying **persons (including populations)** the benefits of, or subjecting **persons (including populations)** to discrimination under, such, programs, policies, and activities, because of their race, color, or national origin.”

Title VI Law Versus Title VI/Nondiscrimination Program

| Title VI of CRA of 1964 Coverage | FHWA Title VI Nondiscrimination Program Coverage |
|----------------------------------|--|
| Race | Race |
| Color | Color |
| National Origin (LEP) | National Origin (LEP) |
| | Handicap/Disability |
| | Sex (Gender) |
| | Age |
| | Low Income & Minorities |

Why the Title VI/Nondiscrimination Program?

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- Ensure **public funds are not spent in a manner that encourages, subsidizes or results in discrimination (PF4PB)**
- **Eliminate barriers and conditions** that prevent “disadvantaged” groups & persons from receiving **access, participation and benefits** from Federally-assisted programs, services and activities

Effective Title VI/Nondiscrimination Program

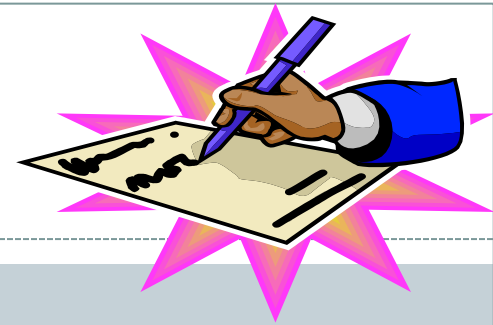
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- **Critical Elements**



- Signed Assurances
- Methods of Administration
 - Minimum requirements
 - Implementation Plan
 - Title VI Agreement
 - The Multidisciplinary Approach
- Adequately Staffed Civil Rights Unit With Title VI Coordinator

Signed Assurances



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- **Each recipient must have signed Standard USDOT Title VI Assurances (USDOT 1050.2)**
- Assurances are **binding legal obligations**
 - Appendix A of Standard Assurances must be attached to every FHWA-assisted contract
- Failure or refusal to furnish required assurances is grounds for termination of FHWA financial assistance **(49 CFR § 13(b) & (c))**

Methods of Administration

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- **System of processes & procedures to:**
 - Implement & enforce Title VI program obligation
 - Guarantee compliance
- **Minimum MOA requirements:**
 - Public outreach & education plan
 - Training program for State & subrecipients' staff
 - Procedures for processing complaints
 - Program to assess & periodically report on Title VI compliance
 - Detailed plans for bringing discriminatory programs into compliance
 - Data collection procedures & methods
- **Methods of Administration contained in Implementation Plans**



Implementation Plans: Key Elements

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- **Signed Policy Statement**
- **Organization & Structure**
 - Title VI Coordinator/Specialist
- **Procedures For Assuring Compliance**
 - Procedures For Community Outreach & Public Education
 - Training & Review Procedures
 - Enforcement & Reporting Procedures
 - Complaints Procedures & Data Collection
- **Standard USDOT Title VI Assurances**



Title VI/Nondiscrimination Agreements

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- An abbreviated Title VI/Nondiscrimination Plan for subrecipients serving a population less than 100,000
- Key Elements include:
 - Assurances
 - Implementing Procedures
 - Complaint Procedures
 - Sanctions
 - Signatures



The Multidisciplinary Approach

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- An approach or system that allows the use of several disciplines to address an issue;
- For our purposes, it is the collaboration and coordination that takes place between the Title VI Coordinator, leadership, and the respective program areas to address nondiscrimination obligations.



The Traditional Approach

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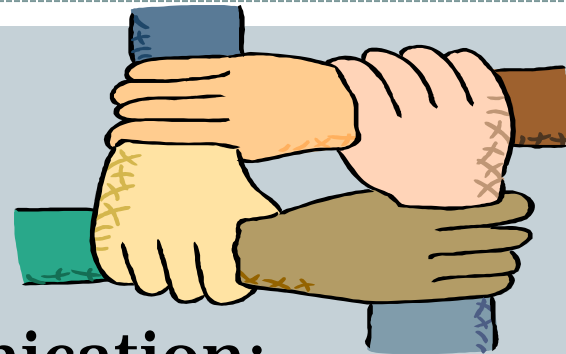
- Compliance-oriented
- Intra-disciplinary
- Absence of systematic interaction or communication
- Reactive – To Regulation or Issue
- After-the-fact Reviews
- Prone to complaints
- Civil Rights Office and/or Specialist overwhelming responsibility
- Less effective



The Systematic Multidisciplinary Approach

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- Both inter and intra-disciplinary;
- **Interactive (Team work);**
- Continuous and Systematic Communication;
- Preventive not reactive;
- Minimizes chances of complaints, project delays and disruptions;
- Reduces vulnerability;
- Allows Program Area personnel to incorporate Title VI program requirements daily & in routine activities



Why the Multidisciplinary Approach?

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- 1) “***Great achievements are not born from a single vision but a combination of many distinctive viewpoints. Diversity challenges assumptions, opens minds and unlocks our potential to effectively solve any problem we may face.***”

- anonymous -



- 2) It generates **synergy**
 - Synergy is the interaction of two or more agents or forces so that their combined effect is greater than the sum of their individual effects.

How Do You Establish A Multidisciplinary Process?

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1. Secure Head of Agency (HOA) support;
2. Create a TEAM involving every program office including HOA or HOA representative;
3. Team meets to:
 - ✦ *Establish objective(s);*
 - ✦ *Identify issue/area of vulnerability or need;*
 - ✦ *Analyze issue and prepare plan of action;*
 - ✦ *Formulate strategies & work the plan (Implementation);*
 - ✦ *Establish roles and responsibilities;*
 - ✦ *Assess plan from time to time and make adjustments;*
 - ✦ *Meet periodically and maintain awareness;*
 - ✦ *Evaluate progress/course of action/results.*

Adequately Staffed Civil Rights Unit

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- **Autonomous Unit**
 - To maintain objectivity and impartiality in meeting nondiscrimination obligations
 - To prevent conflict between programs operational interest and civil rights/Title VI mission
 - To develop, issue and enforce agency-wide policies on nondiscrimination
- **Head of Civil Rights Unit/Office**
 - Access to HOA
- **Title VI Specialist vs. Coordinator**
 - Day to day administration of program
- **Adequate Staff**
 - Sufficiency depends on program implementation demands
 - Well trained, skilled, knowledgeable and experienced staff

Regulations Test

23 CFR § 200 & 49 CFR § 21

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- Signed Assurances (49 CFR § 21.7 & 23 CFR § 200.9(a)(1))
- Methods of Administration (49 CFR § 21.7(b) & USDOT 1050.2 #9)
- Implementation Plan (23 CFR § 200.9 (b)(11))
- Training (23 CFR § 200.9(b)(9))
- Reports (23 CFR § 200.9(b)(10); 49 CFR § 21.9(b))
- Data Collection (23 CFR § 200.9 (b) (4))
- Reviews (23 CFR § 200.9(a) (4); (b) (6), (7), (8) &(13))
- Procedures (23 CFR § 200.9 (b) (3), (13), (14) & (15))
 - Complaint investigation and processing
- Adequately Staffed CR Unit (23 CFR § 200.9(b) (1) & (2))

Title VI Program: Beyond A Bureaucratic Exercise

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- Business & economic necessity;
- Statutory & constitutional requirement;
- Social obligation;
- Moral & ethical imperative;
- Professional & fiduciary responsibility;
- **SJ+FF=ND**
- In short, **IT IS THE RIGHT THING TO DO!**

OPEN FLOOR

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- Questions
- Concerns
- Comments
- Suggestions



THE END

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Merci

Gracias

Vielen
Dank

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THANK
YOU

Obrigado!

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