

# TITLE VI: NONDISCRIMINATION IN THE FEDERAL-AID PROGRAM

## **An Executive Overview**

**Richmond Metropolitan Planning Organization (MPO)**

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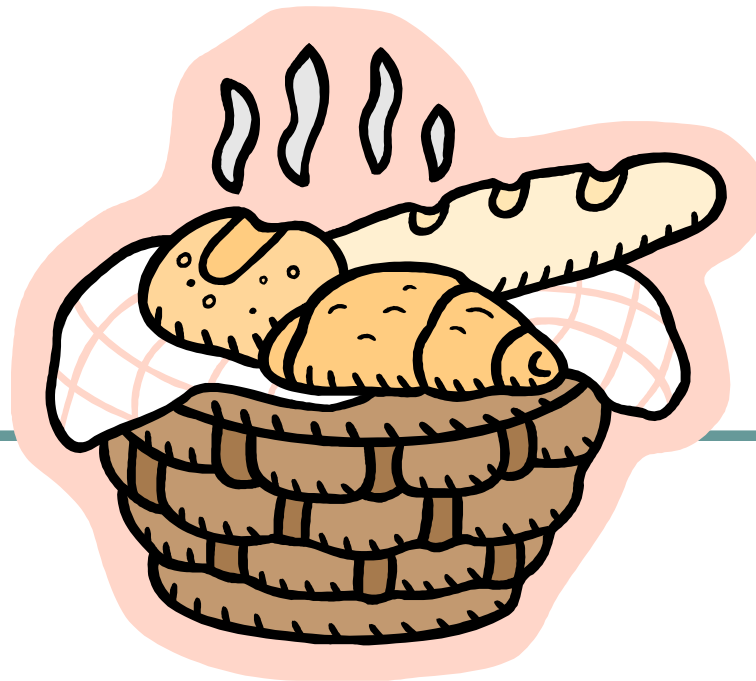
# LEARNING OUTCOMES

**At the end of this training, participants will be able to:**

- Define **Title VI and other nondiscrimination authorities;**
- Explain the **roles and responsibilities** of State DOTs and subrecipients including **Planning Organizations;**
- Identify potential **Title VI Considerations in Planning.**



# PROLOGUE



# TITLE VI BACKGROUND

- Context
- Purpose & Intent



# VIDEO PRESENTATION

- Background & Purpose of Title VI



# TITLE VI PROGRAM PURPOSE

- To ensure **public funds** are not spent in a manner that encourages, subsidizes, perpetuates, or results in discrimination;
- Title VI therefore bars **intentional** (disparate **treatment**) and **unintentional** (disparate **impacts or effects**) discrimination.

# TITLE VI PROGRAM INTENT

- To **eliminate barriers and conditions** that prevent the Title VI Program **protected groups and persons** from receiving **access; participation** and **benefits** from Federally-assisted programs, services and activities.

# FHWA VISION, MISSION & PARTNERSHIPS





# FHWA's VISION

- **The Best Agency & Transportation System in the World**
  - Be the **best agency** in the Federal Government providing the **best service** to the American public;
  - **Safest roads;**
  - **Most excellent pavements & bridges;**
  - **Congestion-free highways;**
  - **Socially and environmentally sensitive.**

# FHWA's MISSION

- **Improving Mobility on our Nation's Highways Through National Leadership, Innovation, & Program Delivery**
  - Constantly **improve free movement** of traffic, people, goods & services;
  - Continually **provide transportation solutions** beyond highways;
  - **Assuming leadership role** in the delivery of transportation programs and products;
  - **Provide new, cost-effective/efficient technology and ideas**;
  - **Be credible, reliable and trusted stewards**;
  - **Engage in sustained efforts to improve**
    - The American & global economy
    - Our way & quality of life
    - Our security

# PARTNERSHIPS

- **State Highway/Transportation Agencies, Local Public Agencies (LPAs), Planning Organizations, etc.**
  - Construct
  - Improve
  - Maintain/Preserve



Interstate motoring network as well as urban and rural roads, tunnels & bridges.

# State Transportation Agencies & Federal-aid Highway Funds

- State Transportation Agencies (STAs) are the **principal recipients** of Federal-aid Highway Funds



- “Any State desiring to avail itself of the provisions of this title shall have a State transportation department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title.” (23 USC 302(a))

- STAs are responsible for construction of all Federal-aid projects



- “The ST[A] has responsibility for the construction of all Federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by a local public agency or other Federal agency.”

(23 CFR 635.105(a))



# Delegation of Project Management Activities

- STAs may delegate Federal-aid project administration and management to **subrecipients** including Local Public Agencies (LPAs)



- “The State highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations of other **governmental entities** for making surveys, preparing plans, specifications and estimates, and for supervising the construction of any projects.” (23 CFR 1.11(b))

# Planning Organizations & Title VI/Nondiscrimination

- **23 CFR 450.334 (a)**

- “For all MPAs, concurrent with the submittal of the entire proposed TIP to the FHWA and FTA as part of the STIP approval, the State and the MPO shall certify at least every four years that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements including:  
(3) Title VI of the Civil Rights Act of 1964 as amended” (42 U.S.C. 2000d-1) and 49 CFR part 21 [[& 23 CFR part 200](#)];

# All Recipients Must Comply with Title VI Requirements

## ● Signed Assurances

(DOT 1050.2A)



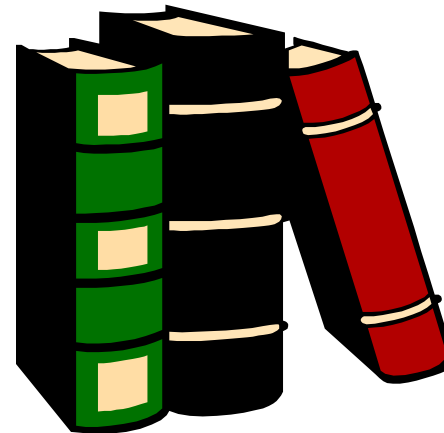
- “every [award of, or] application for Federal financial assistance shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the [award or] application, contain or be accompanied by **an assurance** that the program will be conducted or the facility operated in **compliance with all requirements imposed by or pursuant to this part...**”

(49 CFR 21.7)



# FHWA TITLE VI POLICY

- It is the policy of the FHWA to ensure **nondiscrimination** in all programs and activities receiving financial assistance from the Federal Highway Administration  
(23 CFR 200.7)





# DISCRIMINATION



# WHAT IS IN THE WORD?

- In commonplace usage, “**to discriminate**” means to *differentiate*, to *discern*, to *distinguish*, or to *single out*;
- We “**discriminate**” daily to arrive at almost every decisions we make;
- In the context of civil rights, “**discrimination**” refers to an **unlawful**, **unfair** or **unequal** treatment or impact to an individual (or group) **based on certain distinguishing characteristics**.

# DISCRIMINATION

- That **act** (action or inaction), whether intentional or unintentional, through which a person in the United States solely because of their race, color, national origin, sex, age, disability, etc. is subjected to **disparate [unequal] treatment or impact**, in any program or activity receiving Federal financial assistance from FHWA under 23 USC.

# DISCRIMINATION CONTD.

- Unlawful behavior;
- Insidious & invidious;
- Latent & Patent;
- **Prominent feature in transportation activities;**
- **Preventing discrimination is everybody's responsibility;**
- Ergo, as stakeholders, we have to do everything possible to **prevent, minimize & eradicate** discrimination;
- **Leadership must provide commitment, support, drive, directives and direction.**



# TITLE VI AUTHORITIES


- **Legislative Authorities**

THE UNIVERSITY OF TEXAS AT AUSTIN

YOUR RIGHTS UNDER  
**TITLE VI** OF THE  
CIVIL RIGHTS ACT OF 1964

<p>The University of Texas at Austin provides equal opportunity in all programs that receive federal assistance. Facilities, programs, and services sponsored by The University of Texas are available to all eligible persons regardless of race, color, or national origin.</p> <p style="text-align: right;">— Title VI of the Civil Rights Act of 1964</p>	<p>La Universidad de Texas en Austin ofrece igualdad de oportunidades en todos los programas que reciben asistencia federal. Cualquier persona elegible por La Universidad de Texas tiene derecho a las instalaciones, los programas y servicios que ésta patrocina sin importar su raza, color, o nacionalidad.</p> <p style="text-align: right;">— Título VI del Acta de Derechos Civiles de 1964</p>
<p>If you feel you have been discriminated against in any program because of race, color, or national origin, contact your Title VI coordinator.</p>	<p>Si usted siente que ha sido discriminado en cualquier programa debido a su raza, color, o nacionalidad, póngase en contacto con su coordinador de Título VI.</p>

All qualified applicants will receive equal consideration for employment and admission without regard to race, color, national origin, religion, sex, pregnancy, marital status, sexual orientation, gender identity, gender expression, age, physical or mental disability, or covered veteran status. Eligibility and other terms and conditions of employment benefits at The University of Texas at Austin are governed by federal and state laws and regulations and this non-discrimination statement is intended to be consistent with those laws and regulations. In accordance with the requirements of Title VI and Title VII of the Civil Rights Act of 1964, Title III of the Education Amendments for 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, and all other applicable laws and amendments, The University of Texas at Austin affirmatively states that it does not discriminate on the basis of race, color, national origin, sex, or disability in its education programs and activities, and this policy extends to employment by the university, inquiries and charges of violation of Title III, state, and federal anti-discrimination laws. Title III (sex), Section 504 (disability), ADA (disability), Age Discrimination in Employment Act (age), Sexual Orientation, or Veteran Status should be directed to the Office of Institutional Equity (OIE) at (512) 471-5889 or equity@utexas.edu. Request for accommodation for disability should be directed to the ADA coordinator at (512) 471-5889.

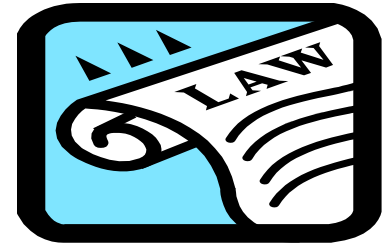


**THE UNIVERSITY OF TEXAS AT AUSTIN**  
OFFICE OF INSTITUTIONAL EQUITY

The University of Texas at Austin  
Title VI Coordinator, Office of Institutional Equity  
301 E. 27th Street, A0400, Suite 4.502  
Austin, TX 78712-1641  
(512) 471-5889

# THE 1964 CIVIL RIGHTS ACT- Titles

- Title I - Voting Rights
- Title II - Public Accommodation
- Title III - Desegregation of Public Facilities
- Title IV - Desegregation of Public Education
- Title V - Commission on Civil Rights
- **Title VI - Nondiscrimination in Federally Assisted Programs & Activities**
- Title VII - Equal Employment Opportunity
- Title VIII - Registration and Voting Statistics
- Title IX - Intervention & Procedure after Removal in Civil Rights Cases
- Title X - Establishment of Community Relations Service
- Title XI - Miscellaneous



# Nondiscrimination & the Federal-aid Program

- Nondiscrimination denotes absence of disparate **treatment** or **impact** in Federally-assisted programs and activities
- Nondiscrimination in the Federal-aid program is governed by:
  - **Title VI of the Civil Rights Act of 1964**
  - **The 1987 Restoration Act and**
  - **Other Nondiscrimination authorities**

# Title VI of the Civil Rights Act of 1964

- 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)

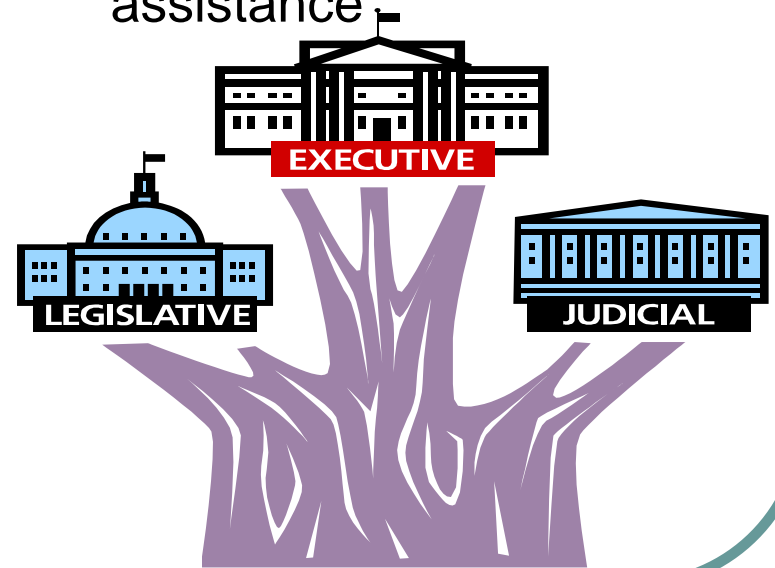


# THE CIVIL RIGHTS RESTORATION ACT OF 1987

- Direct response to **the 1984 Supreme Court decision in the Grove City College vs. Bell case (465 U.S. 555)**
- Restored the original intent of Title VI to **include all programs and activities** of Federal-aid recipients and contractors **whether federally funded or not**



- Federal agency nondiscrimination requirements limited to just those areas of the recipient's operation that directly benefited from Federal assistance.



# What is FHWA's Nondiscrimination Program?

- **The current FHWA Title VI Program focuses on the provisions of Title VI of the Civil Rights Act of 1964.**
- **Other Nondiscrimination & Cross-cutting Authorities** include:
  - The 1970 Uniform Act (42 USC 4601) - **Persons**
  - Section 504 of the 1973 Rehabilitation Act (29 USC 790) – **Disability**
  - Americans with Disabilities Act of 1990
  - The 1973 Federal-aid Highway Act (23 USC 324) - **Sex**
  - The 1975 Age Discrimination Act (42 USC 6101) - **Age**
  - **Executive Order 12898** on Environmental Justice (**EJ**)
  - **Executive Order 13166** on Limited English Proficiency (**LEP**)



# The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601)

- Prohibits **unfair and inequitable treatment** of **persons** displaced or whose property will be acquired **as a result of Federal and Federal-aid programs & projects**



# Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 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 U.S.C. 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.**”



# The 1975 Age Discrimination Act (42 U.S.C. 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 ORDERS

- Executive Authorities

# EXECUTIVE ORDER (EO) 12898

- Presidential mandate to address equity and fairness toward **low income and minority persons/population**;
- Nondiscrimination authority rooted in Title VI;
- Signed by President Clinton on February 11, 1994





# E.O. 12898 DIRECTS...

- “Each Federal agency [[including recipients \(see FHWA Order 6640.23\(2\)\(h\)\)](#)] shall make achieving EJ part of its mission by **identifying**, and **addressing**, as appropriate, **disproportionately high** and **adverse** human health and environmental **effects** of its programs, policies, and activities on minority populations and low income populations in the United States, D.C., Puerto Rico and Marina Islands.”

# DEFINITION OF EFFECT

- **Adverse**: Totality of significant individual or cumulative human health or environmental effects
- **Disproportionately High**: An effect that:
  - Is predominantly borne by a minority or low income persons/population; or
  - Will be suffered by the minority or low income persons/population...appreciably more severe or greater in magnitude than the adverse effect ... suffered by the non-minority or non-low income persons/population.

# MINORITY & LOW INCOME POPULATIONS

- **Minority** - Black, Hispanic, Asian American, American Indian and Alaskan Native
- **Minority Population** - Any readily identifiable groups of minority persons living in geographical proximity, and geographically dispersed/transient persons similarly affected by a proposed Federal program, policy or activity;
- **Low Income** - Person whose household income (Community or group, whose average household income) is at or below US Department of Health & Human Services poverty guidelines.

# E.O. 12898

- Revives and reinforces Title VI (**Section 2-2**)
- Calls for improved methods in research, data collection, and analysis (**Section 3-3(301)**)
- Triggers a new look at NEPA (**Section 3-3(302)**)
- Encourages participation of impacted persons in all phases of decision-making (**Section 5-5**)
- Appeals for absence of denial, delay and reduction in benefits to Low Income and Minority persons (**#3 of FHWA's Fundamental EJ Concepts**)

# EXECUTIVE ORDER (EO) 13166

- Presidential directive to federal agencies to ensure people who are LEP have **meaningful access to services**;
- Nondiscrimination authority grounded on Title VI;
- Signed by President Clinton on August 11, 2000;
- USDOJ's LEP Guidance pursuant to EO 12250
  - General principles in development of guidance
  - The four factors paradigm

# E.O. 13166 DIRECTS...

- Federal agencies to examine their services, develop and implement processes by which LEP persons can meaningfully access those services;
- Establish guidance on how recipients can provide meaningful access to LEP persons;
- Prepare a plan with consistent standards and steps to overcome language barriers in the delivery of programs and activities;
- Ensure stakeholders have “adequate opportunity to provide input.”

# WHO IS AN LEP PERSON?

- Person who does not speak English as primary language and has limited ability to read, speak, write or understand English;
- Failure to provide LEP person services or meaningful access to services [may] constitute national origin discrimination.

*(Lau v. Nichols, 1974)*

# WHAT IS REQUIRED OF RECIPIENTS?

- Perform Self-Assessment to determine which personnel interact with members of the public;
- Identify LEP Populations State-wide using US Census data (American Community Survey data available annually), [www.census.gov/acs/www/](http://www.census.gov/acs/www/)
- Conduct Four Factor Analysis
- Develop Language Access Plan



Requirements



# ASSESSMENT FACTORS

- **Demography** – Number and/or proportion of LEPs served and languages spoken in service area
- **Frequency** - Rate of contact with service or program
- **Importance** – Nature and importance of program/service to peoples lives (transportation)
- **Resources** – Available resources, including Language assistance services (limited or wide-ranging)

# LEP PLAN OF ACTION

- **Identification** of volume and location of LEPs and LEP Communities
- **Language assistance** measures:
  - Types of languages services available
  - How to respond to LEP callers and in person
  - How to respond to written communication
  - Types of documents/information to translate
- **Staff** – Knowledge of policy and procedures; linguistic diversity and sophistication; cultural sensitivity and communication skills; training and experience
- **Outreach** measures - Notification methods on special language assistance
- **Monitoring and Evaluation of Efforts**

# FHWA's Title VI Program

- **Assures nondiscrimination on the ground of race, color, national origin;**
- Discrimination related to **disability/handicap, sex, age, minority or income status** in programs or activities receiving financial assistance are addressed under their respective nondiscrimination laws and authorities.

# ROLES & RESPONSIBILITIES

- State Transportation Agencies (STAs)
- Subrecipients, including LPAs, MPOs...

# STATE REQUIREMENTS & RESPONSIBILITIES

- **REQUIREMENTS & RESPONSIBILITIES**

- **Signed Assurance**
- Adequately Staffed **Civil Rights Unit**
- Title VI Program **Coordinator** & Title VI **Specialist/Manager**
- **Implementation Plan**
- **Training Program**
- **Develop Procedures**
  - Complaint investigations, reviews & monitoring process
  - Deficiency resolution; data collection and analysis; Outreach/Public Involvement
- **Conduct Reviews**
  - Programs & special emphasis areas
  - Subrecipients & State program directives
  - Pre-award & post-award/grant applications

# SUBRECIPIENT REQUIREMENTS

- **MINIMUM RESPONSIBILITIES**

- Submit annually signed **Assurances**
- Conform to the State DOT's policies and reporting requirements in the State DOT's Title VI Implementation Plan
- Collect demographic data on program participants and beneficiaries
- Designate a responsible point of contact to coordinate Title VI efforts

# Title VI & Major Program Areas

- Title VI/Nondiscrimination is Pervasive
  - Permeates all program areas



# Planning Considerations

- Adhere to Planning Code of Ethics
  - AICP Code of Ethics
    - “... be conscious of the rights of others”
    - “... seek social justice”
    - “... give people the opportunity to have a meaningful impact on development of plans”
    - “... deal fairly with all participants in the planning process”
    - “we shall not unlawfully discriminate against another person.”
  
- Incorporate nondiscrimination aspects in the ten planning factors;
- Tailor plans for local conditions;
- Develop demographic profile which identifies and locates groups;
- Collect, analyze and utilize data;
- Maintain a process to identify and recognize prominent community needs and concerns;
- Maintain an effective public participation and involvement process;
- Conduct outreach and public engagement activities;
- Conduct reviews for compliance and verification;
- Address complaints and concerns promptly.



# TITLE VI PROGRAM SUMMARY

- Not a threat...
- Beyond a bureaucratic exercise

# TITLE VI IS NOT A THREAT

- **It is an opportunity**
  - To **give serious attention to the effects** of transportation decisions on people and communities
  - To **redeem ourselves of oversight and inattention** regarding past and lingering disparate actions towards “disadvantaged” persons, groups, communities and businesses



# BEYOND A BUREAUCRATIC EXERCISE: WHY TITLE VI IS IMPORTANT TO YOU

- Constitutional & Statutory requirement
- Our Professional & Fiduciary responsibility
- Business and Economic necessity
- Civic duty
- Moral & Ethical imperative - **THE GOLDEN RULE**
- In short, **IT IS THE RIGHT THING TO DO!**



# EPILOGUE



# WORDS OF WISDOM

- Injustice to **ANYONE** is a threat to justice to **EVERYONE!**
- Doing the right thing is always the right thing to do!



# REVIEW OF LEARNING OUTCOMES

- Define Title VI and other nondiscrimination authorities;
- Explain the roles and responsibilities of State DOTs and subrecipients including Planning Organizations;
- Identify potential [Title VI considerations in Planning](#).

# OPEN FLOOR

- Questions
- Concerns
- Comments
- Suggestions



# ADDITIONAL RESOURCES

## ● RESOURCES

- Federal-aid Essentials For Local Public Agencies <http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?category=civilrig>
- USDOJ Title VI Manual, <http://www.justice.gov/crt/about/cor/coord/vimannual.pdf>
- Federal Title VI Enforcement to Ensure Nondiscrimination in Federally Assisted Programs, June 1996 – A Report of the U.S. Commission on Civil Rights <http://catalog.hathitrust.org/Record/003102564>
- FHWA Title VI Nondiscrimination in the Federal-aid Highway Program Desk Reference, FHWA-HCR-07-0001



# THE END

*Merci*

Gracias

*Vielen*  
Dank

شكراً

THANK  
YOU

Obrigado!

धन्यवाद

Bedankt