Introduction to Title VI of the Civil Rights Act

Training Overview for SDDOT Sub-recipients
Welcome!

Agenda:

1. General Title VI requirements
2. Sub-recipient Monitoring Plans
3. Limited English Proficiency Plan (LEP)
4. Review of LEP Four-Factor Analysis Plan
Title VI

• “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance.”

42 U.S.C § 2000d, et seq
Race, Color & National Origin: the three *protected classes*

- **Race**
  - U.S. Census categories define race
  - Persons of *any* race are protected classes

- **Color**
  - Discrimination based on skin color or complexion is prohibited

- **National Origin**
  - Foreign born ancestry
Program or Activity
Applies institution-wide

• Title VI applies *institution-wide*; it is *not* limited to the program that receives FTA funding (e.g., planning, capital, operations)

• Examples?

• Are Title VI requirements limited to primary recipients?
Title VI applies to both Recipients & Sub-recipients

- **Recipient:**
  - State DOT
  - Transit Agency
  - Any public or private agency, institution, department or other organizational unit receiving funding from FTA

- **Sub-recipient:**
  - Any entity that receives FTA financial assistance as a pass-through from another entity
FTA Circular 4702.1A

Title VI
Requirements for FTA Recipients
FTA Direct Grant Recipients must meet Title VI obligations defined in the Circular

- FTA Title VI Circular 4702.1A
  - AKA “The Circular”
- Submission Cycle
  - Direct recipients every 3 years
  - MPOs every 4 yrs

Guidelines for All Recipients and Sub-recipients

• Title VI Circular describes:
  – Procedures for:
    • Investigating complaints
    • Recording complaints, investigations, and lawsuits
    • Notifying the public of their rights
    • Conducting EJ analysis in NEPA
    • Strategies for including Minority, Low-Income and LEP (Limited English Proficiency) persons in public transportation decisionmaking processes
    • Ensuring meaningful (language) access for LEP persons
General Requirements for All Title VI Programs

1. **Summary of public outreach and involvement activities**, and description of steps to ensure minority & low-income people had meaningful access to activities

2. **LEP plan**

3. **Procedures** for tracking and investigating Title VI complaints

4. **List of any Title VI investigations, complaints, or lawsuits**

5. **Title VI notice** and instructions on how to file a discrimination complaint
Procedures for Investigating Complaints

Why must I develop complaint procedures?

• Procedures
  o Create uniformity with regard to how the agency investigates and tracks complaints
  o Must be available upon request
Complaint Procedures

• Define what constitutes a complaint
  o Legal bases

• Consider including:
  o Timeframe for accepting complaint
  o Investigation and resolution timeframe
  o Who investigates the complaint
  o Who resolves the complaint
Complaint Procedures (cont.)

Also consider including:

• Reasons for dismissal of complaint
• How to respond: by producing report? by writing letter of finding?
• System for tracking complaints
• Accessibility of complaints (e.g., written, TDY)
• Language assistance measures
• When to send complaints to FTA
Notifying the Public of Rights

THE CITY OF USA

• The City of USA operates its programs without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the City of USA.

• For more information on the City of USA’s civil rights program, and the obligations and procedures to file a complaint, contact 800-656-1234, (TTY 800-656-4567); email title.VIcomplaint@abc.org; or visit our administrative office at 1234 Center Street, Anywhere, CA, 17970. For more information, visit www.city.usa.ca.us

• If information is needed in another language contact, 800-656-1234

MAKE SURE THIS SENTENCE IS ALSO PROVIDED IN THE OTHER LANGUAGE(S)
SDDOT Notice of Public Rights

The South Dakota Department of Transportation provides services without regard to race, color, gender, religion, national origin, age or disability, according to the provisions contained in SDCL 20-13, Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, as amended, the Americans With Disabilities Act of 1990 and Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 1994.

Any person who has questions concerning this policy or who believes he or she has been discriminated against should contact the Department’s Civil Rights Office at 605-773-3540.
Public Involvement

• Early, often and continuous
• Provide opportunities for public to get involved in proposed transportation decisions
• Promote inclusive public participation, including low-income, minority and LEP populations
  ○ Refer to list of Interested Parties [SAFETEA-LU, 23 U.S.C. 134(i-j) and 135(f-g)]
Some Public Involvement Tips

- Select accessible meeting times, locations
- Consider providing childcare and food during meetings
- Utilize social media (e.g., Facebook, YouTube) to complement (not replace) other involvement techniques
- Use non-traditional methods (e.g., go to hair salons, street fairs, faith based institutions, etc.)

Read: *How to Engage Low-Literacy and Limited English Proficiency Populations in Transportation Decisionmaking* available online at www.fhwa.dot.gov/hep/lowlim
Sub-recipient Monitoring

• Preaward Checklist (every three years)
  – All Providers Required to do checklist and submit by January 10, 2012
  – Any deficiencies noted will be addressed in writing and time given to get into compliance
  – Rotation will be established and providers notified when required to submit checklist in future
Sub-recipient Monitoring

• Title VI Compliance Review/Reports (every three years)
  – All providers required to complete review report – due by January 10, 2013
  – Copies mailed to Transit Providers in November, 2012
  – Areas of non-compliance will be identified and provider notified
  – Rotation will be developed and providers notified
Sub-recipient Monitoring

• On-Site Reviews – (every three years)
  – Some providers will be selected for on-site versus completing the review form in 2012 to start rotation
  – Rotation will be established and providers notified
Limited English Proficiency (LEP)
Definition of LEP

- **Limited English Proficient (LEP) Persons** are persons for whom English is *not their primary language* and who have a *limited ability to speak, understand, read, or write English*.
- It includes **BOTH** people who reported to the U.S. Census that they *do not speak English well* AND people who reported that they *do not speak English at all*.
LEP-Related Requirements of Title VI

• Title VI and its implementing regulations require that FTA recipients take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are LEP.
LEP Executive Order 13166

- Signed by Clinton August 2000
- Directs Federal agencies to:
  - Examine services we provide
  - Develop and implement a system by which LEP persons can meaningfully access those Federal services
  - Ensure that Federal recipients provide meaningful access to their LEP applicants and beneficiaries
- Failure to ensure opportunities for LEPs to effectively participate in or benefit from Federally assisted programs may constitute national origin discrimination.
Four Factor Analysis for LEP

1) **Number** of LEPs eligible or likely to be encountered by your Federally funded program

2) **Frequency** that LEPs come into contact with program

3) **Nature & importance** of program to LEPs

4) **Resources** available and **costs** to program
Factor 1: Number or Proportion of LEPs

Count LEP persons who are:
• From a particular language group;
• Eligible to be served or encountered.

The greater the number or proportion, the more services needed.
The ability to communicate with government and private service providers, schools, businesses, emergency personnel, and many other people in the United States depends greatly on the ability to speak English. In Census 2000, as in the two previous censuses, the U.S. Census Bureau asked people aged 5 and over if they spoke a language other than English at home. Among the 262.4 million people aged 5 and over, 47.0 million (18 percent) spoke a language other than English at home.

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**Figure 1. Reproduction of the Questions on Language From Census 2000**

11. a. Does this person speak a language other than English at home?
   - Yes
   - No → Skip to 12

b. What is this language?
   (For example: Korean, Italian, Spanish, Vietnamese)

c. How well does this person speak English?
   - Very well
   - Well
   - Not well
   - Not at all

Source: U.S. Census Bureau, Census 2000 questionnaire.
<table>
<thead>
<tr>
<th>Language Group</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spanish</td>
<td>1,182,068</td>
<td>6.66%</td>
</tr>
<tr>
<td>Indo-European</td>
<td>663,874</td>
<td>3.74%</td>
</tr>
<tr>
<td>All Others</td>
<td>395,159</td>
<td>2.23%</td>
</tr>
<tr>
<td>Asian &amp; Pacific Island</td>
<td>69,155</td>
<td>0.39%</td>
</tr>
</tbody>
</table>

Spanish, 1,182,068
Indo-European, 663,874
Asian & Pacific Island, 395,159
All Others, 69,155
Factor 2: Frequency of Contact

• Rule of thumb:
  – More contact = More enhanced services

• What data would you analyze?
Factor 3: Nature & Importance of Program

• Rule of thumb:
  – More important = more contact
  – More contact = more likely to need language services

• For LEP persons, what are your most important services?
Community Focus Groups to determine how to deliver info

<table>
<thead>
<tr>
<th>Fares/Tickets</th>
<th>Reg/LIFT/ATP</th>
<th>Behavior Requirements</th>
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<tbody>
<tr>
<td></td>
<td>Directions</td>
<td>Emergency Response</td>
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<tr>
<td></td>
<td>Routes/Schedules</td>
<td>Safety/Security</td>
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<tr>
<td></td>
<td>Service Disruptions</td>
<td>Evacuation</td>
</tr>
<tr>
<td></td>
<td>Emergency Info</td>
<td></td>
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</tbody>
</table>

- Auditory
- Pictogram
- Translated
Factor 4: Resources and Costs

• How much will it cost and what resources will we need to deliver services?
Safe Harbor & LEP Thresholds

• **Safe Harbor**-
  – Requires written translations of vital documents for each LEP group that meets the threshold

• **Safe Harbor LEP threshold**-
  – 5% or 1,000 *individuals*, whichever is *less*

• **Vital documents**
  – Documents critical for accessing recipients services or benefits
  – Letters requiring response from customer
  – Informing customers of free language assistance
  – Complaint forms
  – Notification of rights
How are LEP plans typically implemented?

• Popular Strategies
  o Publishing timetables and route maps in languages other than English
  o Multi-language phone lines
  o Multilingual staff in information booths
  o Pictograms
  o Multi-language announcements at stations and on vehicles
  o Language identification using “I Speak” cards
  o Advertising in ethnic media
LEP – Examples of Language Assistance Resources

- Hire and train bilingual staff to act as interpreters and translators
- Language Line – 1-800-305-9673 (InterpreTALK – billed at $1.95/minute or set up account) to access language assistance
- Identify/share interpreter resources with colleges/universities, hospitals, law enforcement, and minority community organizations
- Find volunteers in the community (makes sure someone trained to translate or interpret)
- Go to www.LEP.gov or http://www.fta.dot.gov/civilrights/sitemap_11704.html
I Speak Cards

1. Arabic
2. Armenian
3. Bengali
4. Cambodian
5. Chamorro
No smoking

Keep feet off seats

Keep pets in carrier (except service animals)

Keep food and drink in closed containers

Fold strollers after boarding
A Model LEP Plan

• Includes Four Factor Analysis
• Provides policies for evaluating language assistance providers
• Notice to public
• Vital Documents
• Staff Training
• Monitoring plan
LEP Summary Points

• Conduct Four Factor Analysis
  o Number
  o Frequency
  o Nature
  o Resources and costs

• Use results of Four Factor Analysis to develop and implement your LEP plan
LEP Plan/Four-Factor Analysis Submissions Timeline

- November 14, 2011 – Provide Training to Transit Providers on Four Factor Analysis & LEP Plans
- November 14, 2011 to May 15, 2012 – Provide one-on-one technical assistance as needed
- May 15, 2012 – Four Factor Analysis and/or LEP Plans Due to SDDOT Civil Rights Office
- May 15, 2012 to August 1, 2012 – SDDOT Staff review submissions
- August 1, 2012 – Written Review Comments Completed and Sent to Transit Providers. Schedule any necessary follow-up meetings with Transit Providers to assist in addressing review comments.
- September 15, 2012 – Deadline for submitting additional information required or to address concerns raised during the review
- September 15, 2012 to October 1, 2012 – Review any follow-up submissions
- October 1, 2012 – Issue written review comments for any follow-up submissions
General Requirements
Summary Points (cont.)

- Title VI program must include:
  - Summary of public outreach and involvement activities
  - LEP plan
  - Procedures for tracking and investigating Title VI complaints
  - List of any Title VI investigations, complaints, or lawsuits
  - Title VI notice and instructions on how to file a discrimination complaint

- For exact language, refer to FTA Circular 4702.1A
Thank you!!

Questions

Departments of Transportation
United States of America
Federal Transit Administration