



April 16, 2009

To: Transportation Planning Committee

From: Stacy Clauson

Subject: Item 4: Draft Title VI Plan

Action Recommended: Develop recommendations to MPC for approval of draft Title VI Plan.

The purpose of this agenda item is to provide Transportation Planning Committee members an opportunity to provide feedback on the draft Title VI Plan (see Attachment 1) and develop a recommendation to the MPC for approval of a draft Title VI Plan.

Background

As part of the 2007 Central Lane MPO Transportation Planning Certification Review, the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) identified that the Central Lane MPO did not have a Title VI plan or assurances and issued the following corrective action: Within one year, work with ODOT, LTD, FHWA and FTA to develop a Title VI plan or signed Title VI assurances that documents how Title VI policies will be applied and how complaints will be addressed.

As a recipient of state and federal funds, the Central Lane MPO is subject to the provisions of Title VI, including environmental justice. **Environmental Justice** is the fair treatment and meaningful involvement of all people—regardless of race, ethnicity, income or education level—in environmental decision making, including for transportation issues. Further, environmental justice ensures that no population is forced to shoulder a disproportionate burden of the negative human health and environmental impacts of pollution or other environmental hazards.

Federal requirements state that the MPO serves as the primary forum where State DOTs, transit providers, local agencies, and the public develop local transportation plans and programs that address a metropolitan area's needs. MPOs can help local public officials understand how Title VI and environmental justice requirements improve planning and decision making. To certify compliance, MPOs need to:

- Develop good analysis tools to ensure that the long-range transportation plan and the transportation improvement program (TIP) comply with Title VI.
- Identify residential, employment, and transportation patterns of low-income and minority populations so that their needs can be identified and addressed, and the benefits and burdens of transportation investments can be fairly distributed.

- Evaluate and – where necessary – improve public involvement processes to eliminate participation barriers and to engage minority and low-income populations in transportation decision making.

Staff has started to draft a plan for consultation with ODOT and FHWA and our partners (see Attachment 1) and would like to forward this to you for preliminary review and input. This item will be forwarded to the MPC for their review and discussion at their May meeting.

Title VI Requirements

Title VI of the Civil Rights Act of 1964 and other federal nondiscrimination statutes prohibit discrimination based on race, color, national origin, disability, age, gender, or income status in the provisions of benefits and services of programs and activities receiving federal funding. The regulations require:

- A pro-active approach to eliminating discrimination;
- The execution of Title VI Assurances as a condition of federal money;
- An identified Title VI liaison within the agency; and
- A complaint procedure accessible to all parties involved in a project.

The intent is to eliminate barriers and conditions that prevent minority, low income, and other disadvantaged groups and persons from receiving access, participation and benefits from federally assisted programs, services and activities.

To ensure compliance, agencies receiving federal funds must make certain that the method in which their programs or activities are delivered do not deny benefit of or access to those programs or activities because of a person's race, color, national origin, disability, age, gender, or income status.

As part of this effort, the MPO needs to submit a written Non-Discrimination Agreement or Title VI Plan to ODOT, which gives an overview of the MPO's policies and procedures in place to ensure non-discrimination. This Agreement expresses the agency's commitment to ensure non-discrimination based on race, color, national origin, disability, age, gender, or income status within any of its activities, programs or projects. At a minimum, the MPOs Non-discrimination Agreement needs to include the following:

1. A Nondiscrimination Policy Statement and Assurances
 - a. Policy Statement. The policy statement creates the promise to the public that the local agency or any of its sub-contracts will not discriminate on the grounds of race, color, national origin, disability, age, gender, or income status.
 - b. Assurances: The Assurances section requires the local agency to comply with all Title VI Assurances pursuant to 23 CFR 200.9.

2. Designation of a Civil Rights liaison. The designated Civil Rights liaison has the primary responsibility for:
 - a. Developing the MPO Title VI Implementation Plan, if applicable (Note: The MPO can opt to use ODOT's adopted Title VI Plan. We have proposed to develop one to more specifically address the Central Lane MPOs needs);
 - b. Collecting, retaining, and providing requested data and documentation related to the MPO's non-discrimination activities;
 - c. Answering questions regarding compliance efforts;
 - d. Investigating complaints;
 - e. Monitoring and reviewing sub-contractors on federally funded projects; and
 - f. Monitoring internal Title VI compliance and cooperating with FHWA and ODOT reviews to ODOT as needed.

3. A written process for filing a Title VI complaint against the MPO. The local agency must have a written process for filing Title VI complaints.
 - a. The MPO cannot investigate any complaints against the MPO itself, and will forward such complaints to ODOT for prompt investigation.
 - b. The MPO may investigate complaints against sub-recipients (for example, MPO partners), but also needs to forward these complaints and findings to ODOT within 60 days of receipt of the complaint.

4. Data Collection. The MPO must collect data supporting the MPOs nondiscrimination activities that are relevant to the MPOs Title VI goals and objectives. This type of information may be requested by FHWA or ODOT to demonstrate compliance. The following types of data are typical of the information requested as part of the annual reporting:
 - a. The number and demographics of impacted and/or benefited neighborhoods.
 - b. The committee or counsel demographics that the MPO works with.
 - c. The number of public meetings, dates held, and steps taken to notify individuals who may be affected by your actions as a result of the meeting.
 - d. Steps taken to meet any Limited English Proficiency (LEP) needs where warranted (interpreters, translators, advertising, or providing printed media in languages other than English, etc.).
 - e. Nature of discrimination complaints (if any) and the resolution.

5. Title VI Standard Language for contracts. This language would communicate the MPOs expectations about Title VI commitments to local agency partners.

6. List of all relevant authorities. The list should contain all the regulations, statutes or orders that create the legal requirements for non-discrimination.

The following are examples of the types of activities that can demonstrate the MPOs commitment to Title VI:

- Representation from a broad range of people on committees that the MPO uses for planning stages;
- A system for recording the diversity found at public meetings;
- A plan for expanding the diversity represented at the meetings;
- Documentation of how multi-cultural opinions are represented in the public process;
- A complaint process that works effectively to give a voice to those believing a harm has occurred against them; and
- A pro-active approach to evaluating projects within the RTP and MTIP to ensure non-discrimination.

How could the Title VI Plan affect MPO Partners?

It is very likely that the member jurisdictions on the TPC have already committed to non-discriminatory policies as part of the Intergovernmental Agreements that are completed for construction projects receiving federal funding. Further, many jurisdictions have already adopted non-discriminatory ordinances within their municipal codes. As a result, it is not anticipated that this plan would impose additional requirements or obligations on local agencies.

The MPO is seeking your assistance in effectively and efficiently integrating non-discriminatory practices into our work by 1) evaluating our current practices and 2) considering how actions can be improved to more effectively integrate Title VI and environmental justice considerations.

The following outlines some of the potential roles for local agency participation:

1. Continue your commitment to non-discriminatory practices.
2. Assist the MPO in collecting statistical data and demographic information, such as:
 - Staff, Board and Program Administration Composition for inclusion into the MPO's annual reporting to ODOT.
 - Statistics on public meeting and hearing participation. The MPO is in the process of developing a comment form that could be used for public meetings. The form includes voluntary disclosure of attendee demographic information. The intent of this form would be to provide relevant information that would assist the MPO and other jurisdictions in assessing the effectiveness of our public outreach efforts. The form is being reviewed by the Citizen Advisory Committee (CAC) and will be shared with TPC members when completed.
3. Assist the MPO in identifying appropriate media sources (print, television, radio, etc) targeted to Title VI protected populations. The MPO is currently working with the

CAC to assess our outreach efforts to traditionally underrepresented communities as part of this effort.

4. Continue to assist the MPO in considering and responding to public input received during the planning and program development stages.
5. Cooperate with MPO and/or ODOT to investigate any Title VI complaints against your local jurisdiction. One of the key elements of a Title VI plan is a written complaint procedure. Please take a look at the drafted procedure contained in Appendix B of the draft plan to determine whether you have any questions or suggestions on the draft procedure.
6. Include language in the intergovernmental agreements completed with the MPO that address your commitment to non-discrimination. The following provides a sample of language that could be included, which still need to be more fully developed:

During the performance of this Intergovernmental Agreement, the [Name of Jurisdiction], for itself, its assignees and successors in interest agrees as follows:

Compliance with Regulations: *[Name of Jurisdiction] agrees to comply with all Federal statutes, regulations, executive orders, and Federal requirements applicable to non-discrimination and environmental justice, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Intergovernmental Agreement.*

Nondiscrimination: *[Name of Jurisdiction], with regard to the work performed under the Intergovernmental Agreement, shall not discriminate on the basis of race, color, national origin, Limited English Proficiency, gender, income, age, or disability. [Name of Jurisdiction] shall not participate either directly or indirectly in the discrimination prohibited by Federal statutes, regulations, executive orders, and Federal requirements.*

7. Assist the MPO in developing evaluation criteria that address issues of non-discrimination and environmental justice when selecting projects to include in the MTIP and Regional Transportation Plan.
8. Complete a self-certification statement indicating your compliance with Title VI requirements, which can be submitted to ODOT as part of the MPO's annual reporting requirements. The following provides a sample of language that could be included:

[Name of Jurisdiction] hereby certifies that the transportation planning process is being conducted in accordance with all applicable requirements of Federal statutes, regulations, executive orders, and Federal requirements applicable to non-discrimination and environmental justice.

Upcoming Training Opportunity

Title VI training will be offered by ODOT and FHWA in May (see Attachment 2). The MPO plans to host a webinar for the May 15th training focused on Title VI and would like to invite anyone interested in this issue to attend. The training is scheduled from 9 am to 4 pm with a 1-hour lunch. The meeting is scheduled from 9 am to 4 pm, with a one hour break for lunch.

Attachments

1. Central Lane MPO Title VI Plan (Draft)
2. Notice for Title VI and DBE Training Information