



April 7, 2009

To: Citizen Advisory Committee

From: Stacy Clauson

Subject: Item 7: Primer on Title VI.

Action Recommended: Information only. Staff plans to bring this issue back to a future meeting for review of the draft Title VI Plan.

The purpose of this agenda item is to provide Citizen Advisory Committee members with an overview of the background and key issues associated with Title VI and Environmental Justice as it relates to the Central Lane Metropolitan Planning Organization (MPO) projects and public participation efforts. At the CAC regularly scheduled meeting in May, staff would like to solicit preliminary feedback from the CAC regarding the draft Title VI. A copy of the plan is enclosed as Attachment 1 so that you may begin your review.

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 serve 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 continued to the May CAC meeting to allow for review and discussion of the draft Title VI Plan.

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.

Local agencies receiving federal funds must 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.

Public Participation

Public Participation is a key component of the Title VI Plan. The goal is to be able to show **how** the MPO is ensuring non-discrimination in every stage of the MPOs planning and project activities. With respect to public participation, one of the key objectives is to provide meaningful access to materials and opportunities for Title VI protected groups to voice their input on policies and projects. The CAC has been actively involved in the development of a Public Participation Plan (PPP) which aims to broaden public participation. The PPP outlines a number of different public involvement tools that can be used. As you reflect on the annual review of the PPP as well as the Title VI plan, please consider existing strategies that are in place to solicit and incorporate public involvement, as well as potential new strategies that may be needed to best serve traditionally underrepresented groups. Some key issues to consider include:

- How is the public involvement process sufficient to get all stakeholders involved, including minorities;
- How are public outreach efforts utilizing media, such as print, TV, or radio, to target impacted minority populations;
- What changes have occurred as a result of public involvement, specifically minority involvement;
- Does the MPO have a process for reviewing the public involvement process to determine its effectiveness;
- What types of actions are taken by the MPO to assure that no one has been excluded that wanted to be included;
- Where are the locations of public meetings and are those locations close to transit lines and accessible to the disabled;
- Were the public meetings held in at a variety of times to provide the widest opportunity for involvement; and
- Were key documents and presentations translated?

As you review the draft Title VI plan, please consider any additional actions the MPO could take to improve its outreach to Title VI populations.

Upcoming Training Opportunity

Training regarding Title VI will be offered by ODOT and FHWA on May 15 in Corvallis on the OSU campus (see Announcement in Attachment 2). The meeting is scheduled from 9 am to 4 pm, with a one hour break for lunch. Space will be limited to 40 seats, and there will be a webcast offered for those who are unable to attend. Staff members do plan on attending this meeting. Please consider whether participation by CAC member(s) is desired as well.

Attachments

1. Central Lane MPO Title VI Plan (Draft)
2. Title VI Training Announcement