



May 12, 2009

To: Citizen Advisory Committee
From: Stacy Clauson
Subject: CAC Agenda Item #5: Draft Title VI Plan

Action Recommended: Make recommendations to the Metropolitan Policy Committee regarding the draft Title VI Plan.

The CAC received an introductory primer at your April meeting that provided a brief introduction to Title VI and its applicability, overviewed the MPOs current practices and initiated the discussion of needed additional strategies. At your meeting on May 20th, staff would recommend that the CAC continue the discussion from the last meeting and make a recommendation to the Metropolitan Policy Committee regarding the draft Title VI Plan.

Draft copies of the Title VI Plan were provided in your April meeting packet materials. Please be sure to bring this copy with you to the May meeting to use in the review of the Plan.

Background

As a recipient of state and federal funds, the Central Lane MPO is subject to the provisions of Title VI, including environmental justice. Title VI refers to Title VI of the Civil Rights Act of 1964 and the intent of this provision 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.

Any entity that receives federal financial assistance must comply with the provisions of Title VI. Compliance entails ensuring that the methods in which 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.

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.

To certify compliance with these provisions, 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 public involvement processes and make necessary improvements to eliminate participation barriers and to engage minority and low-income populations in transportation decision making.

The Title VI Plan addresses how the MPO is integrating nondiscriminatory practices into its transportation planning, public participation, and decision making. The MPO, as a prior recipient of federal funds, has already committed itself to these practices and continues to take actions to assure non-discrimination in its programs and activities. This proposed plan provides an opportunity to document these activities, communicate with policy makers and the public, and to identify opportunities to expand current efforts.

Developing the Draft Title VI Plan

Staff has been developing the Draft Title VI Plan over the past few months. This work has primarily consisted of documenting current processes and tools. Staff has also considered existing tools that can be used to provide meaningful access as well as how actions can be improved to more effectively integrate Title VI considerations.

The draft Title VI Plan was developed in consultation with representatives from the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Oregon Department of Transportation Office of Civil Rights staff. Staff has also consulted with the members of the Transportation Planning Committee who have been provided an opportunity to review and comment upon the draft plan. The Plan will be brought forward to the TPC for additional review after the Citizen Advisory Committee (CAC) completes their review of the plan.

Public Review

The MPC-approved Public Participation Plan does not specifically identify the public involvement tools to be utilized for the Title VI Plan. Based upon a review of tools and approaches used for other plans, staff is recommending the following tools be used for providing public review opportunities for the Title VI Plan:

- A 30-day public comment period;
- Notice to interested parties;
- Notice in the Register-Guard;
- Web notice; and
- Citizens Advisory Committee (CAC) review and comment

A 30-day public comment period for the Draft Title VI Plan began on Friday, May 8th and run until Monday, June 8th at 5:00 pm. A large number of transportation stakeholders, including representatives from different organizations representing traditionally underrepresented groups, have been included in the public notification. The Draft Title VI Plan has also been posted on the MPO's website.

Staff will summarize any public comments that it receives before the CAC's May meeting.

Please note that staff has received a number of initial suggested word choice and grammar changes from CAC Member Sarah Strand and has incorporated those into the draft. Ms. Strand did include several comments that are more policy oriented that staff recommends that the CAC discuss, including:

- What segments of the population should be listed as Title VI protected groups? The draft Title VI Plan covers those segments of the population that are specifically identified in Federal rules and regulations. There was a suggestion to add "English language ability." Staff believes that this has been addressed through other provisions, including national origin provisions.
- To what degree should the MPO ensure that individuals with limited English proficiency are provided with access to translated materials? There was a suggestion to add a Spanish language translation on the website that LCOG consistently reviews. As part of the implementation of the draft Plan, staff is investigating opportunities to link to translation services provided on the State of Oregon's website.
- What information should be contained within the abbreviated notice that is proposed to be included on public notices and other outreach materials (see Item 6 on Page 29)? There was a recommendation to include information on the populations covered and include plainer English. In response, staff has proposed the following alternative language:

The Central Lane MPO fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations. These provisions require the fair treatment and meaningful involvement of all people—regardless of race, color, national origin, disability, age, gender, or income status. For more information, or to obtain a Title VI Complaint Form, see <http://www.thempo.org/> or call (541) 682-6512.

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.

Upcoming Training Opportunity

Title VI training will be offered by ODOT and FHWA in May. The MPO plans to host a webinar on May 15th for training focused on Title VI and have invited a number of interested parties to attend, including members of the Citizen Advisory Committee. The training is scheduled from 9 am to 4 pm with a 1-hour lunch.

Requested Actions

Staff is requesting the following CAC action:

- Make recommendations to the Metropolitan Policy Committee regarding the draft Title VI Plan.

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