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OHIO DEPARTMENT OF
TRANSPORTATION



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TITLE VI CIVIL RIGHTS

STANDARD OPERATING PROCEDURE

John R. Kasich
Governor

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Director

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Deputy Director &
Chief Legal Counsel

An Equal Opportunity Employer and Provider of Services

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February 2013 (Revised)

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For individuals with sensory disabilities, this document is available in large print, audiocassette, or computer disk.

To obtain a copy in one of these alternate formats, please contact:

Ohio Department of Transportation
Division of Chief Legal Counsel & Equal Opportunity
Office of Equal Opportunity
Title VI Program
1980 W. Broad Street, 3rd Floor
Columbus, OH 43223

614-466-3664 – Voice
877-845-5058 – Toll Free
800-750-0750 – Ohio Relay Service

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Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.

President John F. Kennedy

Title VI is sound; it is morally right; it is legally right; it is constitutionally right... What will it accomplish? It will guarantee that the money collected by colorblind tax collectors will be distributed by Federal and State administrators who are equally colorblind... The title has a simple purpose—to eliminate discrimination in Federally financed programs.

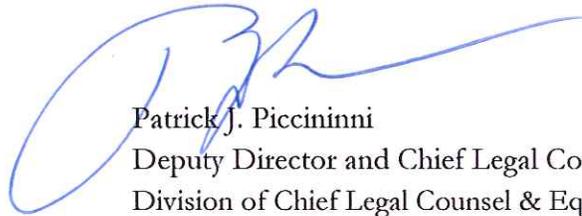
U.S. Senator John O. Pastore
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A special thanks to the Title VI Program Interdisciplinary Team members, Program Area Administrators, District Title VI Liaisons, key program specialists, and Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) representatives. It is with their support and expertise these guidelines were created.

With sincere gratitude, we would also like to acknowledge the Title VI Program staff. Using the empowered team concept, they have diligently made these guidelines a reality.



Jerry Wray
Director
Ohio Department of Transportation



Patrick J. Piccininni
Deputy Director and Chief Legal Counsel
Division of Chief Legal Counsel & Equal Opportunity

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Introduction

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin. Related statutes, which prohibit sex, disability, and age discrimination in the Department's programs, activities, and services, also fall within the purview of the Department's Title VI Program. Hereinafter, Title VI of the Civil Rights Act of 1964, related statutes, and executive orders, will be referred to as Title VI. A complete listing of the nondiscrimination authorities is included as [Appendix Item 1](#).

Additionally, the Department incorporates the principles of Environmental Justice (EJ) (Executive Order 12898) into its programs, policies, and activities to ensure there are no transportation system related disproportionate adverse impacts particularly to low-income and minority populations. Executive Order 13166 on Limited English Proficiency (LEP) is also included to ensure meaningful access is provided to persons who are limited in the English language.

The basic philosophy of Title VI is that people affected by Federal-aid programs should receive the services, benefits, and opportunities to which they are entitled with no difference of treatment because of race, color, national origin, sex, disability, age, or income status.

Title VI issues may arise during any phase of the Federal-aid highway and/or transportation process. For this reason the traditional review approach ("after the fact" or "special reviews") is not as effective in implementing Title VI as the day-to-day approach. Because day-to-day decisions regarding Federal-aid programs are made by non-civil rights personnel at the Department, it is essential that program personnel become familiar with Title VI issues that may arise in their program areas and consider these issues when making decisions on a day-to-day basis.

Policy

It is the policy of the Department that all recipients of Federal funds, including divisions of the Department, Metropolitan Planning Organizations (MPOs), and sub-recipients ensure that they are in full compliance with Title VI and all related regulations and directives in all programs and activities. No person shall, on the grounds of race, color, national origin, sex, disability, age, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of the Department's programs, policies, or activities.

A copy of the Department's policy statement is attached hereto as [Appendix Item 2](#). A copy of the Department's Title VI Policy is attached hereto as [Appendix Item 9](#).

Title VI Specialist. A copy of the Lines of Authority for the Office of Equal Opportunity is attached hereto as [Appendix Item 7](#).

The Title VI Coordinator has easy access to the Director of the Department on Title VI issues and is responsible for monitoring the Department's Title VI activities, as well as preparing required reports.

Interdisciplinary Team

Central Office

Name	Title	Race/Gender	Division
Jana Cassidy	Fiscal Officer 4	White/Female	Finance
Robin E. Fogt	Affirmative Action Officer & Title VII Specialist	White/Female	Chief Legal Counsel & Equal Opportunity liaison for Human Resources
Dushon Johnson	Program Administrator 2	Black/Female	Operations
Sarah E. Johnson	Title VI & ADA/504 Specialist	White/Female	Chief Legal Counsel & Equal Opportunity
Sarah Lee	DBE Program Manager & ADC Supervisor	White/Female	Construction Management
Brett Harris	Compliance and Training Officer	White/Male	Planning – Office of Transit
Aisha Powell	Assistant Legal Counsel	Black/Female	Chief Legal Counsel & Equal Opportunity liaison for Human Resources
Dave Seech	Special Projects Planner	White/Male	Planning – Office of Transit
Jim Viau	Manager, Relocation and Title VI Section	White/Male	Engineering
Julie Walcoff	Safe Routes to School Program Manager	White/Female	Planning
Kimberly A. Watson	Administrator Office of Equal Opportunity Title VI & ADA/504 Coordinator	White/Female	Chief Legal Counsel & Equal Opportunity

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Name	Title	Race/Gender	District
Clark Nash	Transportation Engineer 3	White/Male	1
Kacey Smith	Transportation Engineer 2	White/Female	2
Kristine Rickett	Environmental Specialist 2	White/Female	3
Thomas Wathen	Building Maintenance Superintendent 2	White/Male	4
Amy Toohey	Transportation Technician 3	White/Female	5
Janet Treadway	Management Analyst Supervisor 1	White/Female	6
Lonnie J. Cain	Management Analyst Supervisor 2	White/Male	7
Andy Fluegemann	Transportation Engineer 4	White/Male	8
Joseph Zapata	EEO Contract Compliance Coordinator	Hispanic/Male	9
Tony Durm	Transportation Engineer 4	White/Male	10
Michael Krock	Environmental Specialist 2	White/Male	11
Mark Carpenter	Transportation Engineer 3	White/Male	12

Transportation Review Advisory Council (TRAC)

Established by Ohio Revised Code in 1997, the nine-member TRAC assists in developing a project selection process for the Department’s largest investments. The TRAC, chaired by Director Wray, also approves Major New projects for funding.

The following are the current TRAC members:

Name	Race	Gender
Director Jerry Wray	White	Male
William Brennan	White	Male
Patrick Darrow	Unknown	Male
Jack Marchbanks	Black	Male
Bill Dingus	White	Male
Raymond E. DiRossi	White	Male
Antoinette A. Selvey-Maddox	Black	Female
Chris Kershner	White	Male
David Regula	Unknown	Male

[Source: <http://www.dot.state.oh.us/trac/Pages/Meet%20theTRAC.aspx>]

For more information regarding TRAC, please visit its website at:

<http://www.dot.state.oh.us/trac/Pages/Default.aspx>

**Pre-Grant and Post-Grant Approval Reviews
Monitoring of Compliance by Sub-Recipients**

23 CFR 200.9(b)(13); 49 CFR 21.5

The Department has established and implemented a procedure for conducting pre-grant and post-grant approval reviews of State programs and applicants for compliance with Title VI requirements.

Pre-Grant Reviews: In light of constraints with budget, staff, and time, detailed pre-award reviews of each applicant are not practicable or realistic. Therefore, the Department has developed a desk review for its pre-grant review process. However, if it is deemed necessary, the Department may conduct an onsite review as part of the pre-grant review process. The desk audit will include, in addition to a written assurance of compliance with Title VI and its related statues, the following as part of the application for funds: 1) notice of all complaints filed related to discrimination; 2) a description of assistance applications pending with other agencies and of other federal assistance being provided; 3) a description of any civil rights compliance reviews of the applicant during the preceding two years; 4) a statement as to whether the applicant has been found in noncompliance with any relevant civil rights requirements and/or has any pending noncompliance hearings; 5)

whether the applicant has a process for handling Title VI complaints; a written complaint procedure; 6) whether the applicant has had federal funds suspended for noncompliance within the last ten years; and 7) the name of the individual responsible for handling non-discrimination issues for the applicant. Both the non-discrimination officer and the administrative head will be required to sign a declaration attesting that the information being provided is true, accurate, and complete. The information will be gathered as part of the application process.

Post-Grant Reviews: The Department will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all administrative program requirements. The Department will take corrective action to resolve Title VI issues. When conducting Title VI compliance reviews of its sub-recipients, any deficiencies will be reduced to writing with the remedial action agreed upon by the Department within a period not to exceed 90 calendar days. The Department will seek the cooperation of the sub-recipient in correcting deficiencies, if any, found during the review. The Department will also provide technical assistance and guidance to accomplish the goal of voluntary compliance on the part of the sub-recipient. Sub-recipients placed in a deficiency status will be given a reasonable amount of time, not to exceed 90 calendar days after receipt of a deficiency letter, to correct any deficiencies. As noted above, the sub-recipient will be provided the opportunity to voluntarily correct any identified deficiencies. If a sub-recipient fails or refuses to voluntarily comply with requirements within the time frame allotted, the Department will submit to FHWA or FTA copies of the case file and a recommendation that the sub-recipient be found in noncompliance. A follow-up review will be conducted within 180 calendar days of the initial review to ensure that the sub-recipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the sub-recipient refuses to comply, the Department through FHWA or FTA may initiate sanctions per applicable civil rights statutes and signed agreements.

Post-grant compliance reviews will be conducted to determine a sub-recipient's compliance with Title VI and related statutes. Post-grant reviews are conducted to ensure public funds were not spent in a way that encouraged, subsidized, or resulted in discrimination. The Department will conduct a desk review for its post-grant review process. However, if deemed necessary, the Department may conduct an onsite review as part of the post grant review process. The desk audit will include: 1) a description of any civil rights complaints filed during the course of the project for which public funds were provided and the status of any such complaints; 2) a description of assistance applications pending with other agencies and of other federal assistance being provided; 3) a description of any civil rights compliance reviews of the applicants during the preceding two years; 4) a statement as to whether the applicant has been found in noncompliance with any relevant civil rights requirements during the time period.

Dissemination of Title VI Information

23 CFR 200.9(b)(12)

The Department has established and implemented a procedure to outline how Title VI information is prepared and disseminated to the general public and, as appropriate, in languages other than English. Specifically, the Department has developed a brochure entitled “[ODOT’s Commitment to Title VI of the Civil Rights Act of 1964](#)” and a [flyer](#) outlining who to contact should an individual believe he/she has been the victim of unlawful discrimination in violation of Title VI.

The brochure is available in printed form via placement in public areas or upon request and is available via the Department’s Internet website. The flyer is currently placed in public areas and is available via the Department’s Internet website.

The Department’s [Title VI Policy](#) is also available on its website.

In accordance with the Department’s [Limited English Proficiency](#) (LEP) Plan, Title VI information will be translated and disseminated in languages other than English when appropriate and necessary.

Frequency of Review:

The Title VI Coordinator will ensure the Title VI information is current and up-to-date. At a minimum, the information will be reviewed on an annual basis and changes, as necessary, will be made to the information.

Complaint Handling

23 CFR 200.9 (4) (b) (3); 49 CFR 21.11 (b)

The following discussion provides a summary of the Department’s Title VI complaint handling process. Any person who believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by the Department or its sub-recipients on the basis of race, color, national origin, sex, disability, age, or income status may file a [complaint of discrimination under Title VI](#).

Title VI disallows intentional disparate treatment and disparate impacts/effects. A claim of intentional discrimination/dispurate treatment is an allegation that similarly situated persons are treated differently because of their race, color, national origin, sex, disability, age, or income status. To prove intentional discrimination, one must show that “a challenged action was motivated by intent to discriminate.” This requires a showing that the decision maker was not only aware of the complainant’s race, color, national origin, sex, disability, age, or income status; but that the recipient

acted, at least in part, because of the complainant's race, color, national origin, sex, disability, age, or income status.

Disparate impacts/effects cases involve either "individual" or "class" discrimination (or both). For example, if two organizations apply for a grant that is federally funded and one is rejected because the decision maker dislikes membership of the rejected applicant's race, this constitutes disparate treatment. If the decision maker repeatedly rejects applicants representing a particular race, this may indicate class discrimination or a "pattern and practice" of discriminatory conduct by the recipient.

All Title VI discrimination complaints must be forwarded to the Department's Office of Equal Opportunity for investigation and follow-up. The Office of Equal Opportunity will conduct an objective and impartial investigation by collecting factual information and preparing a fact-finding report based on the information obtained during the investigation.

All Title VI complaints are considered to be formal, as there is no Title VI informal process. Complaints must be submitted in writing and signed by the complainant. Complaints filed with the Department need to be sent to the following address:

Ohio Department of Transportation
Division of Chief Legal Counsel & Equal Opportunity
Office of Equal Opportunity
Mail Stop: 3270
1980 West Broad Street, 3rd Floor
Columbus, Ohio 43223

Complaints must 1) be in writing and signed by the complainant; 2) describe the event(s) leading to the discriminatory action; 3) include allegations based on issues involving race, color, national origin, sex, disability or age; and 4) be filed no later than 180 days after:

- The date of the alleged act of discrimination; or
- The date when the person(s) became aware of the alleged discrimination;
- Where there has been a continuing course of conduct, the date on which the conduct was discontinued.

The Office of Equal Opportunity will review the complaint(s) upon receipt to ensure that all relevant information is provided, and the complaint is timely and meets jurisdictional requirements. All Title VI complaints will be investigated unless:

- The complaint is withdrawn; or
- The complainant fails to provide required information after numerous requests; or
- The complaint is not filed timely. Any issues that do not involve discrimination or are not based on membership in a protected basis will be directed to the appropriate entity.

Once a Title VI complaint is received, the Office of Equal Opportunity will initiate an investigation. A letter acknowledging receipt of the complaint will be sent to the complainant and to the Ohio Division of FHWA or FTA depending on which agency has jurisdiction. A letter regarding the complaint will be sent to the complainant upon completion of the investigation. A copy of the complaint and investigatory report will be forwarded to the Ohio Division of FHWA or FTA within 60 days of the date the complaint was received by the Department. A log of complaints will be maintained by the Office of Equal Opportunity and forwarded to the Ohio Division of FHWA or FTA with subsequent Title VI plans or when requested. FHWA or FTA is responsible for making the final determination regarding Title VI complaints.

Data Collection

23 CFR 200.9(b)(4)

The Department is required to develop procedures for the collection of statistical data of participants in and beneficiaries of state highway programs (*i.e.*, relocatees, impacted citizens, and affected communities).

Why collect data?

Data collection provides measurable evidence of the Department's performance related to Title VI for annual reports and demonstrates the Department's efforts to ensure compliance with Title VI.

49 CFR 21.9(b) requires the Department and sub-recipients to maintain records and submit to the Secretary timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Secretary may determine to be necessary to enable the Secretary to ascertain whether the recipient has complied or is complying with the terms and conditions set forth in the Nondiscrimination Agreement for receiving Federal financial assistance. In general, the Department and recipients should have available for the Secretary racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.

The Office of Equal Opportunity will collect data to summarize activities that highlight the budget for enforcement of civil rights activities and staffing; the number of recipients monitored (including MPOs, LPAs, and other sub-recipients), including the number of non-compliance findings; complaint processing (the basis of the complaint(s), disposition, number of unresolved complaints); training data for employees, recipients, sub-recipients, organizations, and other entities in the development of skills, knowledge, and understanding of the statute and technical assistance activities that help recipients, sub-recipients, applicants, organizations, and other entities in understanding and complying with Title VI (including LEP). All of this data will be reported in the Department's annual Title VI update.

Additionally, 49 CFR 21.9(d) requires the Department to make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program(s) under which the recipient receives Federal financial assistance, and

make such information available to them in such a manner as the Secretary finds necessary to apprise such persons of the protections against discrimination assured them by Title VI and 49 CFR 21.9(d).

Objective data necessary to identify:

1. Transportation needs of all persons within boundaries of plans or projects.
2. Impacts and persons impacted.
3. Persons to include in the decision-making process.
4. Champions for various modes and transportation options.
5. Strategies to address impacts.
6. Alternatives to modes and locations and types of facilities (transit, light rail, van and carpooling, etc.).
7. Priorities for investments.
8. Sources for financing investments.
9. Strategies to disseminate information.

Based on Title VI implementing regulations, each division is required to:

1. Provide for the collection of data and information to demonstrate effective enforcement of Title VI.
2. Collect data about beneficiaries.
3. Analyze the data and information collected.
4. Eliminate discrimination if any such is found.
5. Take affirmative measures to ensure nondiscrimination.

What types of data and analysis?

Types of data helpful in determining compliance with Title VI and Environmental Justice (EJ) considerations:

Data	Analysis of:
<p>Population</p>	<ul style="list-style-type: none"> • Regional population and growth rates • Regional ethnic composition • Age distribution by race • Number of households by income group • Median household by income • Percent of persons below poverty line • Percent of persons by age group with mobility limitations • Percent of elderly persons • Language(s) spoken • Percent of disabled by types of disability

Mode Choice	<ul style="list-style-type: none"> • Number of trips per person • Percent of households with no automobiles • Percent of households by income groups using various modes of transportation (e.g., bus, carpool, automobile, etc.)
Transportation System	<ul style="list-style-type: none"> • Transportation system congested • Delay as percentage of travel time • Travel time • Exposure to transportation hazards (environmental, safety, crime) • Access to jobs, churches, synagogues, mosques, medical care, schools, emergency services, grocery stores, family
Employment	<ul style="list-style-type: none"> • Present and future location of jobs • Present and future location of housing • Present and future location of low-income communities
Other	<ul style="list-style-type: none"> • Public investment per capital (federal, state, and local)

Analysis:

Type of analysis to address compliance with Title VI:

1. Percent of benefits allocated to persons below poverty line versus persons above poverty line.
2. Distribution of benefits (dollars, facilities, systems, projects) by groups and communities.
3. Impact of investments on income, race, sex, disability, and age groups.
4. Allocation of funds by mode (highway, bus, etc.).
5. Projected population increases versus planned facilities and type of facilities.
6. Language needs assessment.
7. The impact of location of existing or proposed facilities connected with the project.

Type of Performance Indicators:

1. Mobility: Ease of movement of people and goods.
2. Accessibility: Access to opportunities (jobs, medical care, emergency services, family, shopping, entertainment).
3. Environment: Sustainable development and preservation of the existing system and the environment.
4. Cost-effectiveness: Maximized return on investment, direct as well as indirect costs associated with air pollution, congestion delays for individuals/businesses.
5. Reliability: System reliability (probability of arriving at destination or even making the trip).

6. Safety: Physical design and operation of the system (measured in accidents per person mile) also includes security related to criminal activities on highways as well as on transit systems.
7. Equity: Transportation investments and benefits are invested in a manner that meets the needs of all persons.
8. Customer Satisfaction: Increased ability to make trips, improved travel time, safety and security, improved access to system.
9. Livable Communities: Enhancement of living conditions for communities through transportation policies that provide multi-modal options including non-motorized modes.

Where to collect data:

Potential sources of data and analysis tools:

1. Census Data
2. School Districts
3. Transit Ridership Surveys
4. Management Systems (Pavement and Congestion)
5. Land Use Plans
6. Geographic Information Systems
7. Transportation Models
8. Metropolitan Planning Organization Committees (e.g., Citizen Advisory Committees)

How to collect data:

Each division and/or office will develop a process to collect data for the following bases:

Race

1. American Indian or Alaskan native (having origins in any of the original peoples of North America and who maintains cultural identification through community recognition or tribal affiliation).
2. Black (having origins in any of the black racial groups of Africa).
3. Hispanic (of Mexican, Puerto Rican, Cuban, Central of South American, or other Spanish cultures or origins).
4. White (having origins in any of the original peoples of Europe, North America, or the Middle East).
5. Asian Indian (having origins in any of the original peoples of the Indian subcontinents [i.e., India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan]).
6. Chinese (having origins in any of the original peoples of China).
7. Filipino (having origins in any of the original peoples of the Philippines).
8. Guamanian (having origins in any of the original peoples of Guam [i.e., Chamorro]).
9. Hawaiian (having origins in any of the original peoples of Hawaii including peoples who are part-Hawaiian and identified most closely with the Hawaiian category).

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- 10. Japanese (having origins in any of the original peoples of Japan).
- 11. Korean (having origins in any of the original peoples of Korea).
- 12. Samoan (having origins in any of the original peoples of Samoa).
- 13. Vietnamese (having origins in any of the original peoples of Vietnam).
- 14. Other.

National Origin

- 1. Born in the United States, Puerto Rico, Guam, the U.S. Virgin Islands, Northern Marianas.
- 2. Born abroad of American parent(s).
- 3. Born outside the United States, Puerto Rico, Guam, U.S. Virgin Islands, and Northern Marianas.

Does this person speak a language other than English at home?

- 1. Yes (what is the language?)
- 2. No

Sex

- 1. Male
- 2. Female

Disabled

- 1. Yes
- 2. No

Age



All of the data collection considerations above apply directly to the Department's programs and when administering new or renewal contracts or applications for grants, permits, or loans, an oversight perspective of sub-recipients must be recognized and applied.

When determining compliance with Title VI, the Department needs to consider the following:

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1. The manner in which services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination.
2. The population eligible to be served by race, color, national origin, sex, disability, age, or income status.
3. Data regarding covered employment, including use or planned use of bilingual public contact employees servicing beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English.
4. The location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination.
5. The present or proposed membership by race, color, national origin, sex, disability, age, or income status in any planning or advisory body which is an integral part of the program.
6. Where location is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color, national origin, sex, disability, age, or income status.

Additional data, such as demographic maps, the racial composition of affected neighborhoods, or census data may be necessary or appropriate for understanding information requirements listed above. This type of data is required, however, only to the extent that it is readily available or can be compiled with reasonable effort.

The Division of Chief Legal Counsel & Equal Opportunity must be promptly notified of any lawsuit filed against any of the Department's programs and its sub-recipients alleging discrimination on the basis of race, color, national origin, sex, disability, age, or income status.

Public Participation Plan

As outlined in the Department's [Public Involvement Guide](#), a living document, it is the Department's policy and commitment to foster public involvement in all of its projects. The Department welcomes everyone, regardless of age, race, color, sex, disability, or national origin (including LEP individuals), to participate in and benefit from its public involvement activities. Special efforts need to be made to engage and involve minority, low-income status, and Limited English Proficient stakeholders. Efforts to involve these effected stakeholders in public participation activities can include both comprehensive measures, such as placing public notices in public areas (e.g., libraries, transit stations, or vehicles), as well as targeted measures to address linguistic, institutional, cultural, economic, historical, or other barriers that may prevent such populations from effectively and meaningfully participating in the decision-making process. Some effective practices include, but are not limited to:

1. Scheduling meetings at times and locations that are convenient and accessible for minority, low-income status, and LEP communities.
2. Employing different meeting sizes and formats.
3. Coordinating with community and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach out specifically to members of impacted minority, low-income status, and/or LEP communities.
4. Considering radio, television, or newspaper ads on stations and in publications that serve these typically underserved communities. Outreach to these populations could also include audio programming available on podcasts.
5. Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.

Demographic Information

Knowing the demographics of the population helps the Department determine what special efforts need to be made to engage and involve minority, low-income status, and Limited English Proficient stakeholders. A [Statewide Demographic Profile](#) was created as part of Access 2040, which is the Department's long-range transportation plan. The Department recognizes that public input from stakeholders is an important element of this process.



Some of the information provided at the outposts for Access Ohio 2040

Limited English Proficiency (LEP) Plan

23 CFR 200.9(b)(12); EO 13166

The Department and those receiving assistance from the federal government must take reasonable steps to ensure that Limited English Proficiency (LEP) persons have meaningful access to the programs, services, and information those entities provide. This will require recipients to create solutions to address the needs of this ever-growing population of individuals for whom English is not their primary language.

Who is a Limited English Proficient Person?

Persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be LEP. These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

Examples of populations likely to include LEP persons who are served or encountered by the Department's recipients and need to be considered when planning language services include, but are not limited to:

- Public transportation passengers
- Persons served by emergency transportation response programs
- Persons living in areas affected or potentially affected by transportation projects
- Business owners who apply to participate in the Department's Disadvantaged Business Enterprise (DBE) program

Who must Comply?

All programs and operations of entities that receive assistance from the federal government (i.e. recipients), including:

- State agencies (*i.e.*, the Department)
- Local agencies
- Private and nonprofit entities
- Sub-recipients (entities that receive federal funding from one of the recipients listed above)
- All programs and operations of the federal government

Four Factor Analysis

The Department has an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important transportation services. The Department has assessed the following four factors:

Factor One: The number or proportion of LEP persons served or likely to be encountered in the eligible service population

In an effort to determine LEP persons in Ohio, the Department collected data from several sources.

In 2010, the U.S. Census reported there were 11,536,504 people living in Ohio. The U.S. Census Bureau, 2011 American Community Survey, estimated 10,836,508 of those are over the age of 5 years. Of that population, 93.3% or 10,114,712 reside in English-only speaking households leaving 6.7% or 721,796 residing in households where another language is spoken in the home. Of that population, 253,293 (2.3%) individuals over the age of 5 years are estimated to speak English less than “very well.” These are further broken down by language spoken:

Spanish	88, 147	0.8%
Other Indo-European languages	83,473	0.8%
Asian or Pacific Island languages	52,630	0.5%
Other languages	29,043	0.3%
<u>Total</u>	<u>253,293</u>	

In order to determine the locations of the largest populations of individuals who speak English less than “well” in Ohio, a review of each county within Ohio was conducted using the above-referenced Census data and/or 2006-2010 American Community Survey.

A [map](#) showing the percentage of individuals who speak English less than “well” by county is included. The largest population of individuals who speak English less than “well” is located in Holmes County with 15.3% of the population speaking English less than “well.” According to information provided by the Ohio Department of Education, this LEP population is comprised mostly of individuals living in Amish communities. Individuals in these communities speak German (Pennsylvania Dutch) as their first language.¹ A [breakdown](#) of the total LEP population for each county is included.

Although the Amish community makes use of the Department’s roadways, they are unlikely to otherwise engage with the Department. The Amish culture allows them to regulate many of their own activities, and while they are law-abiding citizens, they do not often engage/interact with the government unless it is believed that a government activity may have an impact on the practice of their religion. Because the Amish emphasize the separation of church and state, they often do not serve in public office or participate in political activism. However, the Amish have formed a national steering committee with representatives in various states to work with public legislators when issues arise.² Nonetheless, if a project impacts an Amish community, the Department will make sure to provide information in the language used by those in the Amish community, which is typically German (Pennsylvania Dutch).

¹ Source: <http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?Page=3&TopicRelationID=1539&ContentID=127940>

² Source: <http://www2.etown.edu/amishstudia/government.asp>

The following is a breakdown of significant LEP populations by county, number of LEP individuals, and language spoken:

County	# LEP Individuals	Language Spoken
Ashtabula County, D-4	1,284	Spanish
Butler County, D-8	5,136	Spanish
	1,184	Other Indo-European languages
	2,336	Asian and Pacific Islander languages
Clark County, D-7	1,277	Spanish
Cuyahoga County, D-12	15,211	Spanish
	21,340	Other Indo-European languages
	8,803	Asian and Pacific Islander languages
	4,257	Other
Franklin County, D-6	19,681	Spanish
	9,147	Other Indo-European languages
	12,694	Asian and Pacific Islander languages
	9,541	Other
Hamilton County, D-8	7,464	Spanish
	4,565	Other Indo-European languages
	3,844	Asian and Pacific Islander languages
	1,927	Other
Holmes County, D-11	5,667	Other Indo-European languages
Huron County, D-3	1,425	Spanish
Knox County, D-5	1,131	Other Indo-European languages
Lake County, D-12	2,663	Spanish
	2,617	Other Indo-European languages
Lorain County, D-3	4,269	Spanish
	1,302	Other Indo-European languages

This document has been replaced with the Title VI Program Plan Update 2017.

Lucas County, D-2	3,369	Spanish
	1,410	Other Indo-European languages
	1,810	Asian and Pacific Islander languages
	1,133	Other
Mahoning County, D-4	2,761	Spanish
	1,761	Other Indo-European languages
Medina County, D-3	1,418	Other Indo-European languages
Montgomery County, D-7	3,479	Spanish
	2,341	Other Indo-European languages
	2,327	Asian and Pacific Islander languages
Stark County, D-4	1,750	Spanish
	1,767	Other Indo-European languages
Summit County, D-4	2,603	Spanish
	3,794	Other Indo-European languages
	2,851	Asian and Pacific Islander languages
Trumbull County, D-4	1,680	Other Indo-European languages
Warren County, D-8	1,226	Spanish
	1,065	Other Indo-European languages
	1,146	Asian and Pacific Islander languages
Wayne County, D-3	4,060	Other Indo-European languages

Factor Two: The frequency with which LEP individuals come in contact with the Department’s programs, activities, or services

Historically, the Department has not tracked the frequency in which LEP individuals have come in contact with the Department’s programs, activities or services. The Department ~~has~~ will continue to provide services as needed to enable effective communication with the traveling public.

This document has been replaced with the Title VI Program Plan Update 2017.

The Title VI Coordinator with assistance from the Title VI Specialist and Title VI liaisons will track data as it relates to the frequency with which LEP individuals come in contact with the Department's programs, activities, or services.

It is worth noting, however, that to date, no such encounters have been reported.

Factor Three: The nature and importance of programs, activities or services provided by the Department

Division of Planning:

Office of Environmental Services:

In December 2002, the Department published its [Public Involvement Guide](#), a living document. This document details the Department's commitment and policy to foster public involvement in all of its projects. The Department welcomes everyone, regardless of age, race, color, sex, disability, or national origin (including LEP individuals), to participate in and benefit from its public involvement activities.

Office of Systems Planning and Program Management:

In order to reduce crashes and injuries and save lives, the Department partners with the Department of Public Safety, the public and local, state and federal agencies to promote safe driving behavior through public education.

Office of Transit:

The Office of Transit advocates personal mobility by supporting, coordinating, and funding public transportation as a critical element of a world-class transportation system. To accomplish this mission, the Office provides financial and technical assistance to public transit systems, local governments, and human service agencies throughout the state for the planning, establishment, and operation of public transportation systems.

Division of Chief Legal Counsel & Equal Opportunity:

The Title VI Coordinator will work with the Division of Human Resources to maintain a [list of bilingual employees](#) willing to assist the Department in communicating with its internal and external customers whenever the need arises. When interpreter or translation services are required, the procedure will be to contact the Department's Title VI Coordinator. The Title VI Coordinator or support staff will refer to the list of employees who have volunteered to provide language assistance and contact the applicable employee to assist with the need.

Division of Engineering, Office of Real Estate:

Office of Real Estate staff is trained to communicate in a manner that will provide meaningful access to the individual encountered; especially, but not limited to, persons who may be relocated or otherwise displaced. Central Office Real Estate staff is to be contacted if a field agent determines

that a person affected by a highway project would be best served if provided information in a language other than English. Central Office Relocation Staff will be responsible for hiring a qualified interpreter and/or translator to ensure that effective communication has been provided to all individuals.

Factor Four: The resources available to recipient and costs

Utilization of existing employees to serve as interpreters and translators:

With a workforce of approximately 5,129 full-time employees living and working across the state of Ohio, the Department's employees are its greatest resource. The Department will poll its employees to determine who is willing to assist the Department's customers (both internal and external) whenever there is a need for communication skills outside of the English language.

The Title VI Coordinator in conjunction with the Division of Human Resources will maintain a [list of those bilingual employees](#) willing to assist the Department in communicating with our internal and external customers whenever the need arises. Employees will be asked to provide the following information:

1. Employee's work location, including district
2. Contact information (i.e., phone number and e-mail address)
3. Other language(s) spoken proficiently, including sign language
4. Other language(s) for which the employee can translate program materials to or from
5. Employee's comfort level in using the above skills

Annually, the Title VI Coordinator or the Division of Human Resources will poll the Department's employees and make necessary updates to the list.

Cost: Little or no cost above the normal salaries and expenses connected with employment of employees to provide the services associated with the Department's programs, services, and activities.

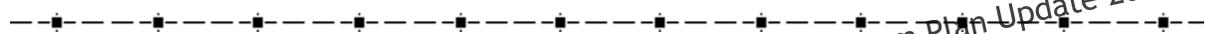
Utilization of State printing services to print brochures in languages other than English:

Types of items printed: Various EEO and EO literature printed in the alternate languages needed.

Cost: Dependent upon type of literature being reproduced.

Public Announcements translated into languages other than English:

When public meetings are planned, public announcements will be published in English and in the language deemed most likely to be encountered in that community. For example, notices may be published in English and Spanish.



Monitoring

Data collection at the Department:

1. The Title VI Coordinator with assistance from the Title VI Specialist will track usage of the Department's employees who are utilized for interpretation or translation. Information to be tracked will include: 1) office or department requesting the service; 2) what service was requested; 3) time involved; and 4) who was able to provide assistance.
2. The District Title VI Liaisons (DTLs) will report occurrences of contact with LEP individuals within their respective division or district. The following table will serve as a template for monitoring and reporting LEP activities for data collection purposes and inclusion in the Department's Title VI Annual Report. A brief description of the service provided should also be included with the table.

Reported LEP Contact

Division/District	Frequency	Activity	Service provided by Department	Used outside interpreter or translator

This data will be included in annual LEP Plan updates.

Annual assessment (of changes in):

1. Current LEP populations in Ohio affected or encountered.
2. Frequency of encounters with LEP language groups.
3. Nature and importance of activities to LEP persons.
4. Availability of resources, including technological advances and sources of additional resources, and the costs imposed.
5. Whether existing assistance is meeting the needs of LEP persons.
6. Whether the Department's staff knows and understands the LEP plan and how to implement it.
7. Whether identified sources for assistance are still available and viable.

Complaint Procedure:

1. Individuals wishing to file an LEP complaint should use the Department's [Title VI Complaint form](#).
2. LEP complaints will be processed following the complaint procedure established for discrimination complaints.

FTA Program-Specific Requirements

FTA C 4702.1B

General Transit Title VI Provisions

FTA Circular 4702.1B went into effect on October 1, 2012. The following demonstrates how the Department is in compliance with the Title VI provisions outlined in the FTA circular.

- Step 1: [Title VI Notice to the Public](#)
- Step 2: [Title VI Complaint Procedures](#)
[Title VI Complaint Form](#)
- Step 3: [List of Title VI investigations, complaints, and lawsuits](#)
- Step 4: [Limited English Proficiency Plan](#)
- Step 5: [A table depicting the membership of non-elected committees and councils](#)
- Step 6: [Public Participation Plan](#)

In addition, as a means of providing technical assistance to its grantees and transit systems, the Office of Transit developed a [Title VI Requirements Checklist](#). The checklist outlines the steps the sub-recipient must take to comply with not only the law but also the spirit of Title VI.

Monitoring

An essential responsibility of the Department as the direct recipient of FTA funds is to monitor the compliance of its sub-recipients. The governing document of the Department's oversight is its State Management Plan (SMP).

The table below lists the dates of the most recent Technical Assistance Program Reviews (TAR) for each sub-recipient and the date of the next scheduled review. The sub-recipients are reviewed on a four-year rotating basis. None of the sub-recipients were found to be in violation of Title VI provisions and

none had open Title VI complaints pending. The [Rural Transit System TAR Questionnaire](#) is included herein.

SFY 2012 Rural Transit Program TAR Schedule

Transit System	TAR Scheduling Deadline	Date of TAR Site Visit *	Report Issue Deadline
Chillicothe Transit System (CTS)	9/6/11	9/21/11	9/30/11
Athens Transit	10/1/11	10/15/11	10/31/11
Seneca County Agency Transportation (SCAT)	11/1/11	11/15/11	11/30/11
Delaware Area Transit Agency (DATA)	12/1/11	12/15/11	12/31/11
Greenville Transit System (GTS)	1/6/12	1/18/12	1/31/12
Hancock Area Transportation Services (HATS)	2/1/12	2/15/12	2/27/12
Mid-Ohio Transit Authority (MOTA)	3/1/12	3/15/12	3/31/12
Monroe County Public Transportation (MCPT)	4/1/12	4/15/12	4/30/12
Bowling Green Transit	5/1/12	5/15/12	5/30/12
Wilmington Transit System	6/1/12	6/15/12	6/30/12

* Actual date(s) of the site visit will be negotiated with the system. Site visit may include a second half day depending on travel time.

In addition to the TAR reviews, the Department has taken the following actions within the past three years to enforce and monitor Title VI compliance on the part of its sub-recipients:

- Collection of Title VI “clients served” data and information on compliance techniques from sub-recipients as a part of the Department’s Section 5311 Grant Proposal process. (SFY 2010-2012)
- Required posting of the Department’s Title VI complaint procedures with federal and state contacts at public places within sub-recipient service areas including waiting areas, buses, public buildings, etc. (SFY 2010-2012)
- Collection and review of sub-recipient Limited English Proficiency plans as part of the Department’s Section 5311 Grant Proposal process. (SFY 2010-2012)

Project Selection Criteria and Funding Distribution

As outlined in the Office of Transit's Management Plan for Public Transportation in Nonurbanized Areas (FEA Section 5311 (Rural Transit) Program document, in calendar year 2009, the Department implemented a proposal review process. The Department posts the Rural Transit Program (RFP) on the Office of Transit website in July. The Rural Transit Program Federal and State funding is determined after project proposals are received and evaluated as described below. All proposals are reviewed and evaluated first in relation to the state standard established for each performance measure listed below:

- 1) Percent of General Public Ridership
- 2) Passenger Trips Per Hour
- 3) Cost Per Vehicle Mile
- 4) Cost Per Passenger Trip

The performance measures are tracked against the state standard established calendar year 2009 (using 2008 data) and evaluated every three years.

Operating Funding decisions are made based upon four considerations:

- 1) Current Budget variances and invoices
- 2) Availability of local match
- 3) Justification of expenses in the application budget
- 4) Amount of federal funding reimbursed for eligible expenses from the most recent full year of expenses

Capital funds are awarded on a discretionary basis. Systems are required to submit a capital and operating plan every two years; all capital requests must be consistent with the plan. Capital projects are prioritized in the following order with 1 being high priority down to 6 least priority: 1) Vehicles; 2) Communication Equipment; 3) IT Equipment; 4) Safety/Security; 5) Facility Acquisition, Construction and Rehabilitation/Renovation; 6) Other.

The Department requires submission of a two year capital and operating application by March 1 of each even year. An amended capital and operating application is due every odd year within the two-year cycle. Operating requests must be within a system's annual funding distribution. Requests for additional funding for system expansion above a system's funding distribution are considered on a case-by-case basis. Capital requests must be supported by and justified in the capital and operating plan.

Requests for Section 5311 funding for new system start-ups are considered on a case-by-case basis, as funds are available. New systems are awarded funds for their first two years of operation based on their estimate of operating expenses. For the third year and beyond, new systems receive funding distribution as described above.

All applicants are required to submit Title VI documentation annually. Applicants must annually reaffirm their compliance with Title VI. Applicants are also reviewed in this area every three years

as part of their Technical Assistance Review. See Section O for specific Title VI Program compliance.

Applicants whose service areas are within a Metropolitan Planning Organization's (MPO's) planning jurisdiction must provide its capital and operating projects for inclusion in the MPO's Transportation Improvement Program (TIP).

Access 2040 and Public Transportation

As noted in the [Technical Memorandum](#) prepared by CDM Smith for the Department, the 2040 Access Ohio Long-Range Transportation Plan (AO40) is a multi-year strategic plan that sets forth the direction for future transportation corridors for the State of Ohio. Public transportation is a major component of this plan that continues to become a more important modal choice for many residents. Public transportation empowers individuals to be independent, seek and retain employment, access medical care, and gain access to new opportunities.

Demographic Information

A [Statewide Demographic Profile](#) was created as part of Access 2040. As stated in the profile, an important part of creating a long-range plan is understanding the demographics of the population that the plan will cover. Understanding demographic changes is useful in determining the change in land use and transportation demand across the state expected over the life of the plan. Knowing the demographics of the population helps the Department determine what special efforts need to be made to engage and involve minorities, low-income status, and Limited English Proficient stakeholders, as outlined in the Department's [Public Participation Plan](#).

The Department also created a [demographic profile](#) and a [means of transportation profile](#) for the State of Ohio.