

ORANGE COUNTY
TRANSPORTATION AUTHORITY
Title VI Program Plan for
Federal Highway Administration (FHWA)
Funded Projects

Dixie Cochran
Department of Civil Rights
June 30, 2017

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Orange County Transportation Authority
Civil Rights Title VI – Federal Funded Highway Projects
550 South Main Street
Orange, CA 92863

June 30, 2017

Title VI Related Statutes Non Discrimination Policy

Orange County Transportation Authority (OCTA) under Title VI of the Civil Rights Act of 1964 and related statutes, is committed to ensuring that no person is excluded from participation in, or denied the benefits of its services or programs, or otherwise be subjected to discrimination on the basis of race, color, national origin, age, sex, or disability under any program or activity it administers.



DARRELL JOHNSON
Chief Executive Officer

ORANGE COUNTY TRANSPORTATION AUTHORITY

BOARD OF DIRECTORS

EQUAL EMPLOYMENT OPPORTUNITY
NON-DISCRIMINATION POLICY

It is the policy of the Orange County Transportation Authority (OCTA) to provide equal employment opportunity for all qualified persons, regardless of sex, race, color, ancestry, religion, national origin, ethnicity, age (40 and over), disability, sexual orientation, marital status, medical condition, or any other category protected by state or federal employment law. Our commitment includes ensuring a non-discriminatory workplace where individuals are valued for their differences, as well as their similarities.

Every OCTA employee, and every person engaged in business with OCTA, have an on-going responsibility to create a non-discriminatory work environment through their personal conduct.

Responsibility for the implementation of the OCTA Equal Employment Opportunity Non-Discrimination Policy rest with the Department Manager of Labor and Employee Relations. However, all department heads are responsible for carrying out this policy within their department. The Board of Directors expects each department head, manager, and supervisor to ensure compliance with this policy.

A. INTRODUCTION

Orange County Transportation Authority (Authority) is a sub-recipient of financial assistance from Federal-aid programs. Sub-recipients of federal financial assistance are required to comply with various nondiscrimination laws and regulations including Title VI of the Civil Rights Act of 1964. Title VI of the Civil Rights Act of 1964 prohibits discrimination against anyone in the United States because of race, color, or national origin by any agency receiving Federal funds. The Federal-Aid Highway Act of 1973 added the requirement that there be no discrimination on the grounds of sex. The Civil Rights Restoration Act of 1987 defined the word "program" to make clear that discrimination is prohibited throughout an entire agency if any part of the agency received federal financial assistance.

The Authority is to ensure that none of its activities or programs treats any part of the community any differently than another. The Authority expects every manager, supervisor, employee, and vendor and contractor sub-recipient of federal-aid funds administered by the Authority to be aware of and apply the intent of the Title VI of the Civil Rights Act of 1964 in performing assigned duties.

The Federal Highway Administration (FHWA) requires recipients of federal-aid highway funds to prepare and implement a program to clarify roles, responsibilities, and procedures established to ensure compliance with Title VI of the Civil Rights Act of 1964.

The Authority's FHWA Title VI Program Plan for Capital Programs focuses on functional areas with significant public contact responsibilities and provides the policy direction necessary to ensure compliance with Title VI of the Civil Rights Act of 1964.

B. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND RELATED AUTHORITIES

Title VI of the 1964 Civil Rights Act and Related Authorities provides that no person in the United States shall, on the grounds of race, color, sex, age, disability 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 (implementation through 23 CFR 200.9 and 49 CFR 21).

Section 162(a) of the Federal-Aid Highway Act of 1973 (Section 324, Title 23 U.S.C.) added the requirement that there be no discrimination on the grounds of sex.

Section 504 of the Rehabilitation Act of 1973 provides nondiscrimination under federal grants and programs.

The Age Discrimination Act of 1975 (Section 6101-6107, Title 42 U.S.C.) prohibits discrimination in federally assisted programs.

The Civil Rights Restoration Act of 1987, P. L. 100-209 provides clarification of the original intent of Congress in Title VI of the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act 1973 restores the broad, institution-wide scope and coverage of the non-discrimination statutes to include all programs and activities of federal-aid recipients, sub-recipients and contractors, whether such programs and activities are federally assisted or not.

Executive Order 12898 (issued February 11, 1994) addresses Environmental Justice regarding minority and low-income populations. Agencies must develop strategies to address disproportionately high and adverse human health or environmental effects of their programs on minority and low-income populations; promote nondiscrimination in federal programs substantially affecting human health and the environment; provide minority and low income communities access to public information and an opportunity for public participation in matters relating to human health or the environment.

Executive Order 13166 (issued August 16, 2000) improves access to services for persons with limited English proficiency. Agencies are directed to evaluate services provided and implement a system that ensures that Limited English Proficiency (LEP) persons are able to meaningfully access the services provided, consistent with, and without unduly burdening the fundamental mission of the local agency. Agencies are directed to ensure that recipients of federal financial assistance provide meaningful access to programs, services, and information to their LEP applications and beneficiaries free of charge. Language barriers have the potential of prohibiting LEP persons from:

- Obtaining services and information relating to transportation services, programs, and projects.
- Taking advantage of the transit systems, which could affect their jobs and social opportunities.
- Understanding the benefits to which they are entitled when their home or business property is acquired through eminent domain.

C. ORGANIZATION, STAFFING, AND RESPONSIBILITIES

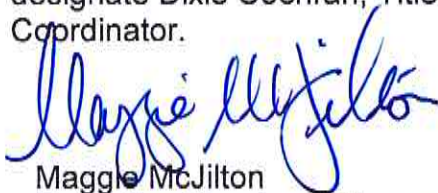
Title VI Coordinator

The Authority's Title VI coordinator is responsible for the overall Title VI program implementation and performs the lead and participatory role in the development and implementation of Title VI program compliance. This Title VI Coordinator is appointed by and reports to the Executive Director of Human Resources and Organizational Development. The Title VI Coordinator provides guidance and technical assistance on Title VI matters and has overall program responsibility for preparing required reports regarding Title VI compliance and initiating monitoring activities including developing procedures and monitoring for:

- Promptly processing and resolving Title VI complaints;
- The collection of statistical data (race, color, national origin, sex, age and disability) of participants in and beneficiaries of the FHWA federal-aid programs, activities, and services;
- The identification and elimination of discrimination when found to exist;
- Promptly resolving areas of deficiency;
- Pre-grant and post-grant approval reviews for compliance with Title VI requirements;
- Conducting annual Title VI reviews of the FHWA federal-aid program areas;
- Ensuring that Title VI requirements are included in policy directives and that the procedures used have built-in safeguards to prevent discrimination;
- Coordinating the development and implementation of Title VI and related statutes training program;
- Providing an annual report of FHWA Title VI accomplishments and upcoming goals including an annual update to the Title VI Program that reflects organizational, policy, and implementation changes;
- Assisting program personnel to correct Title VI problems or discriminatory practices or policies, and when conducting self-monitoring and review activities;
- Developing Title VI information for public dissemination, where appropriate, in language other than English.

D. DESIGNATION OF TITLE VI COORDINATOR

In complying with Title VI of the Civil Rights Act of 1964, and other federal mandates, I hereby designate Dixie Cochran, Title VI Civil Rights Administrator as the FHWA Capital Projects Title VI Coordinator.



Maggie McJilton
Executive Director of Human Resources
and Organizational Development
June 30, 2017

E. FEDERAL – AID TITLE VI IMPLEMENTATION

1. Public Involvement Plan/Outreach Activities

- a. The Authority will develop and publish a Notice to the Public that, as a sub-recipient of federal-aid funds, the federal-aid are an equal opportunity programs and indicating that federal law prohibits discrimination.
- b. The Authority will disseminate Title VI information and related statues to the general public and, where appropriate, in languages other than English stating that the Authority administers programs subject to the nondiscrimination requirements of Title VI, summarizing those requirements, noting the availability of Title VI information from the Authority and state and federal agencies, stating persons' rights under the law, and briefly explaining the procedures for filing complaints. The Authority will develop and publish a Title VI brochure to provide the public with the Title VI information. This brochure will be offered for distribution to the general public and other parties or individuals participating in or otherwise benefiting from federal-aid programs. The brochure will be made available in mediums other than the written word upon request, and the brochure will be periodically reviewed and revisions will be made as appropriate. Where feasible, the brochure and other materials relevant to this FHWA Title VI program will be displayed prominently in reasonable numbers and place. The Authority will also include information on Title VI requirements, complaint procedures and the rights of beneficiaries and other materials which are ordinarily distributed to the public to describe the federal-aid programs and the requirements for participation by recipients and beneficiaries.
- c. Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federal-aid program (e.g., affected by relocation, community meetings, public hearings) needs service or information in a language other than English in order to be effectively informed of or to participate in the program, the Authority shall take reasonable steps, considering the scope of the program and the size and concentration of such population, to provide information in appropriate languages to such persons. The requirement applies with regard to written material of the type which is ordinarily distributed to the public.
- d. OCTA's Civil Rights Title VI program web page contains FHWA Title VI federal-aid program and other information and publications regarding Title VI and related statues. The web page will be accessible to all OCTA employees via the Intranet and to the public via the Internet.
- e. Site and Facility Location- The Authority shall not make a selection of a site or location of a facility for participants in and beneficiaries federal-aid programs if that selection could exclude individuals from participation in, to deny them the benefits of or to subject them to discrimination on the grounds of race, color, age, sex, disability or national origin or could substantially impair the accomplishment of the objectives of non-discrimination on the aforesaid grounds.

- f. Upon request from persons served by or participating in federal-aid programs administered by the Authority, the Authority will provide sign language interpreters and make information available to the public in alternate formats, such as Braille. English, Spanish, and Vietnamese solicitation notices to the public and will be incorporated into all Public Involvement Plan/Outreach materials.

2. Authority Programmatic Activities

a. Limited English Proficiency Program

In accordance with Executive Order 13166 (“Improving Access To Services For Persons With Limited English Proficiency”), the Authority will develop an evaluation and implementation program to ensure that Limited English Proficiency (LEP) persons who are served by federal-aid programs administered by the Authority are provided, free of charge, meaningful access to programs, services, and information to without unduly burdening the fundamental mission of the Authority. Specifically, the LEP program will address language barriers that could prevent LEP persons from obtaining services and information relating to services, programs, and projects; taking advantage of the transit system, which could affect their jobs and social opportunities; and understanding the benefits to which they are entitled when their home or business property is acquired through eminent domain.

For federal-aid programs administered by the Authority, the Authority has conducted an LEP Needs Assessment using the four factor analysis recommended by the United State Department of Transportation to identify reasonable steps to ensure meaningful access to its programs and activities by Limited English Proficiency (LEP) persons in accordance with the guidance describes in Attachment A.

b. Environmental Justice in Minority and Low-Income Populations.

In accordance with Executive Order 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”) the Authority will develop strategies to address disproportionately high and adverse human health or environmental effects on minority and low-income populations, to promote nondiscrimination in federal-aid programs substantially affecting human health and the environment, and to provide minority and low-income communities access to public information and an opportunity for public participation in matters relating to human health or the environment.

c. Site and Facility Location

The Authority shall not make a selection of a site or location of a facility for participants in and beneficiaries of the Authority’s Federal-aid programs if that selection could exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination on the grounds of race, color, sex, age, gender or national origin or could substantially impair the accomplishment of the objectives of non-discrimination of the aforesaid grounds.

d. Data Collection

The Authority will gather, analyze, and maintain statistical data on race, color, national origin, sex, age, and disability of participants in and beneficiaries of the Authority's Federal-aid programs, (e.g. relocates, affected populations, and participants) to determine the investment benefits and burdens to the eligible population, including minority and low-income populations. Data gathering procedures will be reviewed regularly to ensure sufficiency of the data administration. The Authority will regularly analyze and evaluate the data collected and data-gathering procedures to determine the effectiveness of outreach methods in meeting the requirements of the Title VI program to ensure that no group is excluded during the decision making process or is not given an opportunity to voice their opinions or concerns. Data collection shall be conducted in accordance with the guidance described in Attachment B.

e. Complaint Process

The Authority will ensure that no employee or agent of the Authority or other person shall intimidate, retaliate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege to file a complaint, or because an individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing arising thereunder. If any individual believes that he/she or any other federal-aid program beneficiaries has been subjected to unequal treatment or discrimination on the grounds of race, color, national origin, sex, age or disability, may exercise their right to file a complaint with the Authority within 180 days of the incident.

The Authority has developed a procedure for prompt processing and disposition of Title VI complaints that incorporate appropriate due process standards and which provide for the prompt and equitable resolution of complaints that allege discrimination on basis of race, color, national origin, age, sex, or disability. The procedures provides for the identification of each complaint by race, color, age, sex, disability or national origin; the nature of the complainant; the dates the complaint was filed and the investigation completed; the disposition; the date of the disposition; and other pertinent information.

The Authority maintains records of each such complaint and its disposition. The identity of complainants shall be kept confidential except to the extent necessary to carry out an investigation, hearing, or judicial proceeding arising thereunder. A copy of the complaint, together with a copy of the Authority's report of investigation, shall be forwarded to Caltrans and FHWA offices.

f. Learning and Development

The Authority will provide training on Title VI and its related statutes, including the Executive Order on Limited Proficiency, for managers, supervisors, and staff with frequent public contact in the administration of Federal-aid programs.

g. Title VI Construction Contract Provisions

The Authority shall include the provisions indicated in Appendix A of Exhibit B of the "Administering Agency-State Agreement for Federal-Aid Projects Master Agreement" of the Local Assistance Program Manual (LAPM) in contracts and agreements, where applicable, between the Authority and contractors.

Federal-aid construction contracts must include provisions, which require compliance with Title VI. The specific contract provision language is included in the Federal Highway Administration (FHWA) Form 1273 that is physically inserted in the Federal-aid construction contract (See Chapter 12, "Plans, Specifications and Estimate", of the LAPM).

The "Local Agency Construction Contract Administration Checklist" (Exhibit 15-A of the LAPM), confirms that DBE and labor/EEO compliance requirements are performed and documented in the project files. Exhibit 15-A of the LAPM documents that the local agency will meet all of the requirements prior to the award of a construction contract. (See Chapter 15, "Advertise and Award Project", of the LAPM).

The "Resident Engineer's Construction Contract Administration Checklist" (Exhibit 15-B of the LAPM), is completed by the local agency Resident Engineer. The purpose of this checklist is to assist the local agencies in administering federal-aid highway construction projects. It also provides a record that the EEO/Wage Rate/False Statements posters are being posted at specific locations, that employee interviews will be conducted in accordance with the Labor Compliance/EEO interview form, and the DBE requirements are met. The local agency submits Exhibit 15-B, along with the Award Package shortly after award of the construction contract (See Chapter 15, "Advertise and Award Project", of the LAPM).

h. Consultant Procurement

The Authority contracts contain the following language regarding Compliance with Civil Rights Laws

Compliance with Civil Rights Laws

"No person in the United States shall, on the grounds of race, color, or national origin, age, sex, or disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance."

3. Program Assessment

The Authority will perform a periodic assessment of each of the Public Involvement Plan/Outreach Programmatic Activity areas in relation to the major federal-aid program areas to determine the effectiveness in ensuring that no person, shall on the grounds of race, color, national origin, sex, disability or age be excluded from participation in, be denied the benefits

of, or be otherwise subjected to discrimination under any federal-aid programs or activities it administers. Title VI compliance issues, if found to exist, will be addressed by immediate action or by revision of or addition of Public Involvement Plan/Outreach Programmatic Activity areas.

4. Annual Work Plan

The Authority will develop an annual report of its FHWA Title VI accomplishments and upcoming goals including an update to the Title VI Program that reflects organizational, policy and implementation changes, and a Work Plan outlining Title VI monitoring and review activities planned for the coming plan year.

Attachment A

LIMITED ENGLISH PROFICIENCY NEEDS ASSESSMENT GUIDANCE

The Orange County Transportation Authority, as a sub-recipient of Federal-aid funds from the United States Department of Transportation, is required to take reasonable steps to ensure meaningful access to its programs and activities by Limited English Proficiency (LEP) persons. While designated to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:

- (1) number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the Authority;
- (2) frequency with which LEP individuals come in contact with the program, activity, or service;
- (3) nature and importance of the program, activity, or service to people's lives; and
- (4) resources available to the Authority and costs.

The intent of this guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, small local governments, or small nonprofit organizations. After applying the above four-factor analysis to the various kinds of contracts a recipient has with the public, the Authority may conclude that different language assistance measures are sufficient to ensure meaningful access to the programs, activities, and services it offers. The Authority has flexibility in addressing the needs of the LEP populations it serves in order to not diminish, nor minimize the obligation that those needs be addressed.

Attachment B

DATA COLLECTION GUIDANCE

Applicants, recipients, and sub-recipients of Federal-aid funds are required to provide relevant and current Title VI information. Examples of data and information which, to the extent necessary and appropriate for determining compliance with Title VI, are as follows:

- 1) The manner in which services are or will be provided by the program in question, and 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, and national origin;
- 3) Data regarding covered employment, including use or planned use of bilingual public-contact employees serving 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 had 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 and national origin, in any planning or advisory body which is an integral part of the program;
- 6) Where relocation is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color or national origin.
- 7) Where additional data, such as demographic maps, the racial composition of affected neighborhoods or census data, is necessary or appropriate, for understanding information required in Item (2) above, agencies shall specify, in their guidelines or in other directives, the need to submit such data. Such additional data should be required, however, only to the extent that it is readily available or can be compiled with reasonable effort.