

TITLE VI MONITORING AND ENFORCEMENT FOR SUBRECIPIENTS

Lawsuits/Complaints, Notice to Beneficiaries and LEP Requirements – Procedures and Record Keeping

NJ TRANSIT'S RESPONSIBILITIES UNDER Title VI, Notice and Purpose

All recipients of Federal Transit Administration (FTA) funding, such as NJ TRANSIT, must meet the following program requirements, which have been established to conform to the Civil Rights Act of 1964 (Title VI):

NJ TRANSIT must ensure to the FTA that federally supported transit services and related benefits are distributed in an equitable manner with no discrimination on the grounds of race, color or national origin. No person shall be excluded from participating in, or denied the benefits of, or be subject to discrimination under any program, or activity receiving federal financial assistance.

The Department of Transportation (USDOT) regulations implementing Title VI requires the collection of data and other information to enforce the statute. Furthermore, the FTA as part of USDOT has established a program of grantee reviews assessing compliance with all Title VI regulations. The review includes an evaluation of each agency's policies, procedures, and record-keeping. As with most FTA requirements many elements are also passed through to grant subrecipients. It is NJ TRANSIT'S responsibility to ensure that all subrecipients comply with the applicable parts of Title VI.

Your agency/organization are being sent this document because it is a subrecipient under a FTA grant program, whether it is operating funds or an accessible van or minibus, and, therefore, your agency needs to take appropriate actions in order to comply with Title VI requirements. Examples of some of the possible grant programs your agency may be considered a subrecipient under are the Section 5310 (Elderly and Persons with Disabilities), Section 5311 (Rural/Nonurbanized), Section 5316 (New Freedom) or Section 5317 (Jobs Access) Programs. In turn, NJ TRANSIT is required to verify to the federal government that all subrecipients are in compliance.

Monitoring Subrecipients for Compliance

NJ TRANSIT will make periodic on-sight visits using relevant monitoring programs to ensure compliance with the requirements of all project activities, services, project administration and management practices supported with federal funds. Monitoring will include but is not limited to such matters as Financial Control, Procurement, Civil Rights, Maintenance, and Other Federal Provision Requirements. Title VI compliance would be addressed under the Civil Rights section of an on-sight review.

Below are the key elements that an agency must be aware of and in compliance with in order to satisfy federal Title VI requirements.

Lawsuits/Complaints, Notice to Beneficiaries and LEP Requirements – Procedures and Recordkeeping (continued)

This checklist shows Title VI requirements that a subrecipient is responsible for and that NJ TRANSIT will either ask your organization to certify, verify and/or document as appropriate:

TITLE VI COMPLIANCE REPORTING CHECKLIST FOR ALL SUBRECIPIENTS	
1.	Annual Certifications and Assurances are signed and filed with NJ TRANSIT
2.	Subrecipient has a written Title VI Complaint Procedure
3.	Subrecipient has a written Record of Title VI Investigations, Complaints, or Law Suits
4.	Subrecipient has made an effort to review Demographic Data of Access to Services by Persons with LEP (NJ TRANSIT will provide, at a minimum, each county with a set of maps indicating LEP populations)
5.	Subrecipient has Notified Beneficiaries of their Rights Under Title VI by using the NOTICE TO BENEFICIARIES wording provided by NJ TRANSIT and NJ TRANSIT has been notified of the location of notice(s).

What follows is a brief overview of how you as a subrecipient can comply with each of the requirements cited in the table above.

1. Certification And Assurances

Every year, usually in the late fall, NJ TRANSIT mails to subrecipients the annual certifications and assurances published annually in the Federal Register by the FTA. Included in those assurances are all applicable Civil Rights assurances including Title VI. If you are a new subrecipient, NJ TRANSIT will require you to sign the current certifications and assurances before the start of your project or the receipt of your vehicle equipment.

2. Title VI Complaint Procedures. Chapter IV, part 2; 49 CFR 21.9(b);

NJ TRANSIT has developed procedures for investigating and tracking Title VI complaints filed against them and makes their procedures for filing a complaint available to members of the public upon request. NJ TRANSIT encourages its subrecipients to adopt their own Title VI complaint investigation and tracking procedures. NJ TRANSIT will ask subrecipients during a on-site review and/or during the application process if they have written complaint procedures. Such written procedures do not need to be lengthy or complicated but they should be written and formalized. The following guidance is provided to subrecipients in the development of a written complaint procedure:

Who takes discrimination complaints?

A subrecipient needs to designate who takes Title VI discrimination complaints. It can be someone within the transit operation or, more likely, someone in the subrecipients administrative, human resources or legal department. Policies should be in place that describes how other transit staff persons, including call intake persons, are informed to direct/transfer Title VI complaint calls to the designated Title VI officer for proper log-in of the complaint.

How are discrimination complaints processed?

Once the designated person to take a Title VI complaint receives such a complaint, it needs to be logged into a database under the category "Discrimination/Title VI". It is recommended that the Title VI officer notify the alleging party within five work days of the complaint's receipt. Obviously, an operation receives a variety of complaints, i.e. the bus was late, the driver was rude etc. Those types of complaints are not necessarily Title VI complaints. Therefore, it should be noted in the log which complaints are of a Title VI nature.

3. Procedure for Investigations, Complaints and Lawsuits: **Chapter IV part 3; 48 CFR 21.9(b).**

NJ TRANSIT has developed and maintains a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipient and/or subrecipients that allege discrimination on the basis of race, color, or national origin that includes the following: a) the date of the investigation, lawsuit, or complaint was filed; b) a summary of the allegation(s); c) the status of the investigation, lawsuit, or complaint; and d) actions taken by the recipient or subrecipient in response to the investigations.

How are discrimination complaints handled by a subrecipient?

Case investigation and documentation:

Your Title VI officer should conduct a prompt investigation of each discrimination complaint filed and must develop a complete case record. A complete case record consists of the name and address of all parties interviewed/consulted and a summary of their statements, copies of summaries of pertinent documents, and a narrative summary of all evidence disclosed in the complaint investigation. A written report is to be prepared at the conclusion of the investigation and this shall include: summary of the complaint, description of the investigation, findings and recommendations.

Disposition:

The Title VI officer will present recommendations to the appropriate head of agency or organization for approval of the disposition. If the complaint is determined to be valid, the recommendation will include proposed corrective actions to address the situation. A resolution with no actions will be recommended if the complaint is found not valid or questionable. The Title VI officer will then notify the alleging party about the resolution to the complaint. Proper log of the resolution to the complaint will be kept on file.

Request for reconsideration:

The alleging party may submit a request for reconsideration within a designated time frame (# of days – a minimum of 30 is suggested) from the date the notice of disposition is issued. Appeals should be reviewed within a stated number of days (again 30 days is recommended) of the dated request for reconsideration. The appeal should be heard by the administrative head of the subrecipients' agency.

Monitoring:

The Title VI officer and administrative head of the agency should conduct a periodic review of all Title VI complaints. Meetings can be quarterly, semi-annually or annually. Corrective actions taken at the time of each resolution will be examined at these reviews. The Title VI officer may waive the requirement of a periodic meeting if no complaint or corrective action has been taken during the specified period.

4. Access to Services by Persons with LEP (Limited English Proficiency). Chapter IV, part 4; 49 CFR 21.5(b) and the DOT LEP Guidelines.

NJ TRANSIT is taking reasonable steps to remove barriers for LEP individuals and is developing a Language Implementation Plan pursuant to the recommendations in Section VII of the DOT LEP Guidance. Any LEP individual directly impacted or benefiting from NJ TRANSIT programs should be offered translation proactively as a rule.

As a subrecipient your agency or organization must ensure access to your transportation programs for those passengers with Limited English Proficiency (LEP). A subrecipient must document that they sought out the viewpoints of minority, low-income and LEP populations in the course of conducting public outreach and involvement activities. NJ TRANSIT is required to monitor such outreach done by their subrecipients. Outreach can be done by advertising programs in the local newspaper and regular public meetings, or doing outreach at community based organizations, and making sure there is a channel for feedback from community groups. Each subrecipient should be cognizant of significant populations of LEP individuals in their service area and make every effort to have available program material in alternative languages and the ability to communicate with potential customers in alternative languages with any significant LEP population.

5. Notifying Beneficiaries of their Rights Under Title VI. Chapter IV, part 5; 49 CFR 21.9(d).

NJ TRANSIT has developed a statement for the provision of information to the public regarding their Title VI obligations and to apprise members of the public of the protections against discrimination afforded to them by Title VI.

It is required that every subrecipient develop such a NOTICE TO BENEFICIARIES and display where appropriate.

It is the responsibility of the subrecipient to tell NJ TRANSIT where such NOTICE is posted. Suggested locations are in printed transit schedules/timetables or if you do not have such, brochures that detail services provided by your agency which includes your transit services or at key locations within your agency if your passengers are located or have access to your facility, on vehicles and on your website. Although a **Title VI notice should always be on your website**, for the purposes of FTA transportation programs the notice should also be posted through one of the other ways mentioned above as well. Posting on a website alone is considered insufficient in meeting Title VI NOTICE TO BENEFICIARIES requirements

TITLE VI COMPLAINT FORM

Title VI Complaint Form - The following Title VI Complaint Form for use by customers who wish to file a Title VI transit-related complaint against the FTA subrecipient. The complaint form shall be available on your website. A subrecipient's Title VI Complaint Form shall specify the three classes protected by Title VI—race, color, and national origin—and allow the complainant to select one or more of those protected classes as the basis/bases for discrimination. The Title VI Complaint Form is a vital document.

If any of the Limited English Proficient (LEP) populations in your service area meet the Safe Harbor Threshold as described in the FTA **October 1, 2012 circular 4702.1B Title VI Requirements**, then the procedure should be provided in English *and* in any other language(s) spoken by LEP populations.

Section I:			
Name:			
Address:		Email address:	
Telephone (Home):		Telephone (Work):	
Accessible Format Requirements?	Large Print		Audio Tape
	TDD		Other
Section II:			
Are you filing this complaint on your own behalf?		Yes*	No
*If you answered "yes" to this question, go to Section III.			
If not, please supply the name and relationship of the person for whom you are complaining:			
Please explain why you have filed for a third party:			
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.		Yes	No
Section III:			
I believe the discrimination I experienced was based on (check all that apply):			
<input type="checkbox"/> Race		<input type="checkbox"/> Color	
		<input type="checkbox"/> National Origin	
Date of Alleged Discrimination (Month, Day, Year): _____			
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form.			

Section IV			
Have you previously filed a Title VI complaint with this agency?		Yes	No
Section V			
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?			
<input type="checkbox"/> Yes		<input type="checkbox"/> No	
If yes, check all that apply:			
<input type="checkbox"/> Federal Agency: _____			
<input type="checkbox"/> Federal Court _____		<input type="checkbox"/> State Agency _____	
<input type="checkbox"/> State Court _____		<input type="checkbox"/> Local Agency _____	
Please provide information about a contact person at the agency/court where the complaint was filed.			
Name:		Title:	
Agency:			
Address:		Telephone:	
Section VI			
Name of agency complaint is against:		Contact Person:	
Title:		Telephone:	

You may attach any written materials or other information that you think is relevant to your complaint.

Signature and date required below

Signature _____ Date _____
 Please submit this form in person at the address listed: Milton Hinton, County of Gloucester, 2 S. Broad Street, Woodbury, NJ 08096

EXHIBIT B

The following is information regarding when and how to address LEP requirements.

Transportation for Persons with Limited English Proficiency FTA Circular 4702.1A Updated Federal Guidance and Instruction

Overview of Content

This exhibit is a guide to implementing the provisions relating to service to persons with limited English proficiency in Federal Transit Administration (FTA) Circular 4702.1A, an updated version of the original guidance issued in 1988.

FTA TITLE VI CIRCULAR 4702.1A

This section provides a brief summary to assist a person reading the full Circular and is not a substitute for the full Circular, which includes contact information for readers with questions.

Introduction

Title VI refers to the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. "Since 1972, the Federal Transit Administration has required applicants, recipients and subrecipients of Federal assistance, to certify compliance with the requirements of Title VI as part of the grant approval process for their certifying compliance with the requirements of Title VI. The FTA has revised and updated its *Title VI Circular, 4702.1 in 2007* to incorporate developments in legislation, Executive Orders, DOT directives, court cases that have affected the rights and responsibilities of recipients and beneficiaries." See 72 Federal Register 18733 (April 13, 2007).

www.fta.dot.gov/documents/Federal_Register_Notice.doc

Some Events Since the Original Title VI Circular Was Issued

1991

The Federal Transit Administration was created – replacing the Urban Mass Transportation Administration

Intermodal Surface Transportation Equity Act (ISTEA)

1998

Transportation Equity Act for the 21st Century (TEA-21)

2001

Executive Order 13166, *"Improving Access to Services for Persons with Limited English Proficiency"*

DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons (DOT LEP Guidance)

2005

Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU)

Reissue of DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons (DOT LEP Guidance)

The revised circular, **FTA Circular 4702.1A**, assists FTA recipients and subrecipients in integrating the policies and principles of access to services for persons with limited English proficiency into their programs and activities (as embodied in **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency**) and the considerations expressed in the U.S. Department of Transportation's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient ("LEP") Persons. See 72 Federal Register 18733 (April 13, 2007).

Circular Introductory Material (Chapters I and II)

Chapter I of the Circular, **How to Use This Circular**, is a concise, two-page (I-1 & I-2) explanation of which sections apply to different FTA applicants, recipients, and subrecipients, with a **Reference Chart** (page I-3) that displays which chapters pertain to whom.

One of the circular's five objectives is to ensure meaningful access to programs and activities by persons with limited English proficiency (Page II-1, Chapter II, Overview)

Definition of Limited English Proficient (LEP) Persons: persons for whom English is not their primary language and who have a limited ability to speak, understand, read, or write English. It includes people who reported to the U.S. Census that they do not speak English well or do not speak English at all. See Chapter II, 6.n.

Definition of national origin means "the particular nation in which a person was born, or where the person's parents or ancestors were born." See Chapter II, 6.s.

General Requirements And Guidelines (Chapter IV)

The general requirements presented in Chapter IV, including the reporting requirements, apply to agencies that provide demand-response transportation that is available to the general public (FTA'S Section 5311, Section 5316 (New Freedom), Section 5317 (JARC) or, in the case of services funded under FTA's Section 5310 program, is open to eligible older adults and individuals with disabilities. The requirements of this chapter also apply to providers of fixed-route transportation. See 72 Fed. Reg. 18736.

Requirement to Provide Meaningful Access to LEP Persons

FTA subrecipients are required to "take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP)." See Chapter IV, 4.

Bases for appropriate language assistance. "Appropriate language assistance should be based on the subrecipient's analysis of the number of LEP people eligible to be served or likely to be encountered by a program, activity, or service; the frequency with which those people come into contact with the program; the nature and importance of the program, activity or service to people with LEP; the resources available to the agency; and the cost of providing language assistance." See 72 Fed. Reg. 18740.

Developing a Language Implementation Plan

The most complete way subrecipients can ensure that LEP persons have meaningful access to their programs and activities by developing and carrying out a language implementation plan pursuant to the recommendations in Section VII of the **DOT LEP Guidance**. See Chapter IV, 4.a.

Subrecipients Without a Language Implementation Plan

Most FTA subrecipients in New Jersey, such as those serving very few LEP persons or those with very limited resources, will choose not to develop a written LEP plan. **However, subrecipients who do not have a written LEP plan must still meet the underlying obligation to ensure meaningful access by LEP persons to their program or activities.** In cases where no written plan exists, NJ TRANSIT may request during on-site reviews or otherwise documentation that the subrecipient has taken steps to ensure meaningful access. See Chapter IV, 4.b.

Guidance on Promoting Inclusive Public Participation

To integrate the considerations expressed in the *DOT LEP Guidance* into community outreach activities, subrecipients should seek out and consider the views of LEP populations as they conduct public outreach and involvement activities. See Chapter IV, 9.

EXHIBIT C
NOTICE TO BENEFICIARIES

Requirement to Notify Beneficiaries of Protection under Title VI

To comply with 49 CFR 21.9(d), subrecipients are required to provide information to the public regarding their Title VI obligations and the public's protections against discrimination under Title VI. Recipients and subrecipients that provide transit service must disseminate this information to the public. See Chapter IV, 5.

Document translation. Notices detailing a subrecipient's Title VI obligations and complaint procedures should be translated into languages other than English, as needed and consistent with *DOT LEP Guidance*. See Chapter IV, 5,b.(3)

Subrecipients. To reduce administrative burden, subrecipients may adopt the Title VI Notice developed by NJ TRANSIT (See attached). Nonetheless, the NJ TRANSIT should be modified so that subrecipients also notify their beneficiaries that they may file discrimination complaints directly with the their own agency. See Chapter IV, 5,b(4).

Program-Specific Requirements and Guidelines, Chapter Vi, 2.A-C

In summary, in order to comply with Title VI requirements NJ TRANSIT is committed to providing the following assistance to subrecipients:

- a. *Sample notices* to the public informing beneficiaries of their rights under Title VI and procedures on how to file a Title VI complaint.
- b. *Sample procedures* for tracking and investigating Title VI complaints filed with a subrecipient.
- c. *Demographic Information* on the race, income, and English proficiency of residents served by the recipient. (This information will assist the subrecipient in assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.)

This document is intended to achieve the goals of providing such assistance.