

15 Minute Manager

Civil Rights

ADOT's and FTA's Civil Rights policies focus on two areas: internal policies and external policies.

Internal policies – the rights of employees through **Equal Employment Opportunities** (Circ. 4704.1A)

The EEO regulations state that employers cannot discriminate on the basis of age, disability, equal pay/compensation, genetic information, national origin, pregnancy, race/color, religion, retaliation, sex, sexual harassment.

External policies – the rights of clients, customers, and contractors through **Title VI, Limited English Proficiency (LEP), Environmental Justice, Americans with Disabilities Act (ADA), and Disadvantaged Business Enterprise (DBE)** programs.

Title VI of the Civil Rights Act of 1964 states that “no person in the United States shall, on the ground of race, color 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” (see 42U.S. Code Section 2000d). This applies to both recipients and sub-recipients. Contractors and subcontractors do not have to prepare or submit their own separate Title VI Programs, but they are responsible for being aware of and complying with the Title VI Program of the recipient with whom they are contracting. The following are general requirements for Title VI programs found in FTA Circular 4702.1B:

- Submission of an annual Title VI certification and assurance to ADOT/FTA (usually as part of your application process);
- Development of Title VI complaint procedures;
- Tracking of Title VI investigations, complaints, and lawsuits;
- Provision of meaningful access to individual with Limited English Proficiency (LEP);
- Notice to the public of protections offered under Title VI;
- Minority representation on planning and advisory bodies; and
- Submission of a Title VI program to ADOT/FTA every three years, including:
 - Summary of public outreach and involvement activities, and a description of steps to ensure that minority and low-income people have meaningful access to activities;
 - LEP plan;
 - Procedures for tracking and investigating Title VI complaints;
 - List of any Title VI investigations, complaints or lawsuits; and
 - Title VI notice and instructions on how to file a discrimination complaint.

Executive Order 12898, "**Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,**" “requires the U.S. Department of Transportation (DOT) and the Federal Transit Administration (FTA), to make environmental justice (EJ) part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and/or low-income populations.”

FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients, contains information that will assist State DOTs, MPOs and transit providers in (1) engaging EJ populations during the transportation decision-making process; (2) determining the impact of projects, policies and activities on EJ populations, and assessing whether those impacts are disproportionately high and have adverse human health or environmental effects; and (3) avoiding, minimizing, or mitigating these negative effects.

The following are the three fundamental environmental justice principles as defined in the FTA circular:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

FTA regulations state that Title VI and environmental justice apply to all U.S. DOT programs, policies, and activities, including, but not limited to: contracting, system planning, project development, implementation, operation, monitoring, and maintenance.

Additionally, the **Americans with Disabilities Act of 1990** guarantees equal opportunity for people with disabilities in employment, public transportation, public accommodations, government services and telecommunications. For purposes of this training, ADA requirements are covered in a separate training module.

A **Disadvantaged Business Enterprise (DBE)** is a small business (see US Small Business Administration for definition) owned and controlled by a socially and economically disadvantaged individual. You must develop a DBE program if you receive FTA planning, capital or operating assistance and you will award prime contracts exceeding \$250,000 in FTA funds in a federal fiscal year. Because ADOT, which is the recipient of FTA funds, exceeds this amount, it must pass on the requirement to its subrecipients (5310 and 5311 organizations who receive funding from ADOT on a competitive basis).

The following 15 Minute training modules make up the Civil Rights training topics. These can be done individually, or if time allows, in part or in whole.

Be sure that your internal policies and plans are up to date, that you are prepared to show how your organization is and will remain compliant, and how employees are responsible for protecting the civil rights of your clients, customers, and constituents.

15 Minute Training Civil Rights Part 1 - EEO

The EEO regulations state that employers cannot discriminate on the basis of age, disability, equal pay/compensation, genetic information, national origin, pregnancy, race/color, religion, retaliation, sex, sexual harassment. Circular 4704.1A

All employment actions/decisions must be made solely based on an employee's or potential employee's ability to perform the essential duties and responsibilities of the position for which they have been or are being hired regardless of their race, color, national origin, religion, sex, age, disability or genetics in all employment practices. These employment actions/decisions include but are not limited to:

- Hiring
- Disciplinary action
- Leave approval
- Receipt of benefits
- Salary compensation
- Training
- Work assignments
- Termination

Ask employees for known or presumed examples of EEO violations. Assure employees that these discussions will remain, "hypothetical", and that if an employee would like to file a formal complaint they may do so after the training.

The organization must have an EEO policy and plan that includes:

- A statement of policy;
- Public notice posting of the EEO policy in public places including places frequented by employees, in job application forms and job announcements, and other locations advantageous to employees and potential employees; and
- Designation of personnel who will be responsible for carrying out EEO policy and procedures and who will:
 - Accept, record, resolve and report any EEO complaints;
 - Analyze EEO utilization;
 - Monitor established EEO goals and timetables;
 - Provide assessment of employment practices; and
 - Monitor and report to the organization, ADOT and FTA the outcomes of the EEO program.

Ask if employees know where these postings are and list. Provide corrections and locations.

Hand out your EEO policy and review salient points that employees should be aware of.

Hand out copies of the policy to each person in the training. A cover page should be a receipt stating that the employee has been given a copy and will read it. The employee will sign and date the receipt. Receipts will be collected.

Employees who wish to file a report or complaint of discrimination on the basis of age, disability, equal pay/compensation, genetic information, national origin, pregnancy, race/color, religion, retaliation, sex, and/or sexual harassment may do so by contacting:

Insert your EEO Representative contact information here (it should also be in your handouts).

15 Minute Training Civil Rights Part 2 - Title VI

Title VI of the Civil Rights Act of 1964 states that “no person in the United States shall, on the ground of race, color 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” (see 42U.S. Code Section 2000d and FTA Circ. 4702.1B).

Much like internal EEO policies, the organization must also have Title VI plans and policies that protect people outside of the organization whom the organization serves. The organization must have a Title VI Plan that includes:

- A statement of policy;
- Public notice posting of the Title VI policy in public places including places frequented by customers and clients such as transit stations, lobbies, ticket sales locations, in brochures, rider guides, websites, and on vehicles; and
- Designation of personnel who will be responsible for carrying out Title VI policy and procedures and who will:
 - Accept and record, resolve and report any Title VI complaints;
 - Maintain and update the Title VI plan;
 - Ensure that Title VI policies and procedures are carried out by the organization and its contractors; and
 - Monitor and report to the organization, ADOT, and FTA the Title VI Complaints and their resolution.

Ask if employees have seen Title VI notices and where they are. Provide corrections and locations.

Employees are charged with protecting clients' and customers' rights by assuring that persons are not discriminated against on the basis of race, color, or national origin. Discrimination can come in the form of bullying, segregation, harassment, reduced or non-delivery of service, and many, many others.

Ask for examples of Title VI discrimination

Insert key components of your Title VI policy here. Explain how employees can find a full copy of the Title VI plan on your website and where.

This agency has a complaint policy and procedure for accepting complaints. Should any employee be asked to accept a complaint of discrimination, they must follow the procedures listed in this complaint protocol.

Insert your complaint policy and complaint form here and hand out copies to employees.

Employees who believe that discrimination based on race, color, or national origin has occurred must report it to the Title VI Manager immediately.

Insert your Title VI manager contact information here.

Provide copies of your Title VI Plan to each person in the training. Cover page should be a receipt stating that the employee has been given a copy and will read it. The employee will sign and date the receipt. Receipts will be collected and kept in training file and employee file.

15 Minute Training Civil Rights Part 3 - Limited English Proficiency

Limited English Proficiency (LEP) persons are persons for whom English is not their primary language. They are also limited in their ability to speak, understand, read or write English. If you receive FTA funding, you are required to take reasonable steps to ensure meaningful access to information, services and the benefits of your programs for LEP persons. This can include, but is not limited to, translating service information into commonly spoken languages or using images to convey information instead of words.

The DOT guidance outlines four factors recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
- The frequency with which LEP individuals come in contact with the program.
- The nature and importance of the program, activity, or service provided by the recipient to people's lives.
- The resources available to the recipient and costs.

ADOT and FTA have written guidelines on how to conduct the four factor analysis. [LEP Guidance](#)

The greater the number or proportion of eligible LEP persons; the greater the frequency with which they have contact with a program, activity, or service; and the greater the importance of that program, activity, or service, the more likely enhanced language services will be needed. The intent of DOT's guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small organizations and local governments.

After completing the above four-factor analysis, recipients can determine the appropriate "mix" of LEP services required. Recipients have two main ways to provide language services: oral interpretation either in person or via telephone interpretation service and written translation. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. The languages spoken by the LEP individuals with whom the recipient has frequent contact often determine the languages into which documents will be translated and the types of interpreters provided.

Ask employees what languages are spoken among them. Ask if they know of anyone who speaks another language (other than the one's already listed).

Ask employees to list the circumstances in which they have or may encounter persons with LEP. Determine, for each circumstance, how the employee may successfully address the language barrier.

What tools are presently at your disposal for addressing LEP issues?

What tools could be used for addressing LEP issues? (“I-Speak” cards, translators, picture cards, etc.)

Insert your LEP policy and LAP Plan here and hand out copies to employees.

Insert your Title VI manager contact information here.

Provide copies of your LAP Plan and LEP policy to each person in the training. Cover page should be a receipt stating that the employee has been given a copy and will read it. The employee will sign and date the receipt. Receipts will be collected and kept in training file and employee file.

15 Minute Training Civil Rights Part 4 - Environmental Justice

If we use federal funds to plan, develop, implement, operate, monitor and maintain transportation programming, we must also identify the effects on human health and the environmental effects these programs, policies, and activities have on minority populations and/or low-income populations. FTA Circ. 4703.1

The following are the three fundamental environmental justice principles as defined in the FTA circular:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

FTA regulations state that Title VI and environmental justice apply to all U.S. DOT programs, policies, and activities, including, but not limited to: contracting, system planning, project development, implementation, operation, monitoring, and maintenance.

Environmental Justice, with regard to transit/transportation planning, development, and provision includes four steps:

- Demographic Data gathering that describes who lives and works in your community and their mobility needs;
- Public Engagement planning and implementation that is inclusive, accessible, and meaningful (message, distribution, timing, collection of comments);
- Analysis based on demographic data and information gained from public engagement; and
- Project planning in response to findings and analysis with continued public input.

Effective Environmental Justice planning takes into consideration the **environmental** (the natural and social environments including health issues, environmental degradation, displacement, etc.), **financial** (job access, economic vitality, etc.), and **social** (community cohesion, denial of benefits, etc.), and determines if the adverse effects are disproportionately high. If so, the planning must seek ways to reduce or mitigate these adverse effects.

Environmental Justice engagement does not end with completion of a planning or implementation process but, rather, continues with monitoring and surveying the demographic characteristics of transit customers, service performance and customer experience.

With employees, determine if your organization is adequately engaged in Environmental Justice Activities.

Who is responsible for making sure that employees across departments is aware of and in compliance with Environmental Justice policies? Does that person have adequate training?

Determine if Environmental Justice analysis was considered when developing services. If not, what type of adverse impact might there be or have been? Was it disproportional?

List planning and service change projects that are in process or planned in the upcoming year. What demographic data needs to be collected? What public engagement activities will need to take place? Who will oversee Environmental Justice activities for those projects? Is it your policy that all projects must have an internal Environmental Justice review?

If applicable, insert your Environmental Justice coordinator information here.

Provide copies of your Environmental Justice Demographic Data and Public Outreach Plan to each person in the training. Cover page should be a receipt stating that the employee has been given a copy and will read it. The employee will sign and date the receipt. Receipts will be collected and kept in training file and employee file.

15 Minute Training Civil Rights Part 5 - Disadvantaged Business Enterprise (DBE)

A DBE is a small business (see US Small Business Administration for definition) owned and controlled by a socially and economically disadvantaged individual. ADOT requires that sub-recipients collect and report data on procurement solicitations and contracts. The AZDOT 5310 and 5311 Program Guides outline the requirements. ADOT's goal is:

- To ensure nondiscrimination in the award and administration of USDOT-assisted contracts in the Department's construction, procurement and professional service contracts in the areas of highway, transit and airport financial assistance;
- To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
- To ensure that the DBE participation is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
- To help remove barriers to the participation of DBEs in USDOT-assisted contracts; and
- To assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

DBE Data Collection

LPAs and sub-recipients agree to collect information regarding solicitations in which a DBE contract goal has been established. Information to collect includes: names and contact information of DBE firms that will participate in the contract; a description of the work that each DBE will perform; the dollar amount of the participation of each DBE firm participating; written and signed documentation of commitment to use a DBE subcontractor whose participation is being used to meet a contract goal; written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment; and if the contract goal is not met, evidence of good faith efforts.

DBE Reporting

LPAs and sub-recipients are to report on Coordinated Mobility funded projects (other than vehicle purchases) with competitive contracting opportunities outside the organization (such as operating and mobility management) through the Arizona Local Public Agencies DBE Reporting System at www.arizonalpa.dbesystem.com

The sub-recipient must complete semi-annual report data for ADOT to use in a report to FTA by May 1st of each year for the October 1st through March 31st report period and by November 1st of each year for the April 1st through September 30th report period. ADOT then prepares and submits the semi-annual report to FTA.

DBE Compliance

A sub-recipient must complete and have its executive officer sign a sub-recipient DBE Program Compliance Statement. By signing the statement, the LPA/sub-recipient agrees to: use solicitation language provided by ADOT defining DBE requirements for all construction, professional services, and procurement contracts; submit DBE goal requests using the ADOT DBE Goal Request Form; conduct post-award monitoring and reporting using the online DBE data collection and reporting system

(<https://arizonalpa.dbesystem.com>); ensure commercially useful function compliance post-award; and designate a single point of contract for DBE compliance purposes.

Share the name of the person in your agency who is the designated DBE single point of contact? (Make sure this person is aware of their responsibilities and determine if this person received the necessary training to complete the DBE data collection and reporting requirements)

Share with employees the data that is reported in the LPA system with regard to your transit related contracts. If this training is for administrative personnel only, also provide information on how to access the LPA System.

Ask employees how the organization could better encourage DBE participation.

Discuss whether or not your current vendors might qualify as DBEs? Ask how you will encourage their participation?

Discuss whether or not there should be internal policies on how to balance monetary savings, Local First, and DBE goals. Do you have a policy to always negotiate with local providers to offer or bid with state-rate prices?

Discuss the use of “piggy-back” contracts and whether your organization is using them properly. (See FTA Procurement guidelines Circ. 4220.1F)

Resources:

[RTAP FTA Civil Rights](#)

[FTA 4702.1B Title VI](#)

[FTA 4704.1A EEO](#)

[FTA 4710.1 ADA](#)

[FTA 4703.1 Environmental Justice](#)