



Questions and Answers for Local Agency Guide to Implement Title VI Program (Date of webinar: February 16, 2021)

Q: (General) Is there a place we can go to see the differences between Federal Transit Administration (FTA), Federal Aviation Administration (FAA), and the Federal Highway Administration (FHWA) requirements for Title VI?

A: Please visit the below websites to learn more about the Title VI requirements that apply to Local Program Agencies (LPAs) within each of the corresponding federal branches of the United States Department of Transportation:

- [FHWA Requirements | Caltrans Rail and Mass Transportation | Caltrans](#)
- [Title VI Requirements and Guidelines for Federal Transit Administration Recipients | FTA \(dot.gov\)](#)
- [Title VI of the Civil Rights Act of 1964 \(faa.gov\)](#)

Q: (General) If agencies receive both FHWA and FTA funds, which guidance should the agency use (C4701.1B or 23 CFR 200)?

A: Although the plans are similar, FHWA and FTA are two different federal agencies. It depends on what the issue is as to what guidance LPAs would follow.

Q: (General) Is this training specifically for FHWA?

A: Yes, there may be slight differences in how training to implemented by the Caltrans Division of Rail and Mass Transportation for Federal Transit Administration funds and the Caltrans Division of Aeronautics for FAA funds. For example, Local Assistance uses the Preliminary Engineering Specifications Exhibit 6-A and considers it a tool to mitigate our highest risk area. You may not need to complete this form for other Caltrans Divisions as there are other high-risk factors associated with using other federal branches' funds.

Q: (Slide 5) Did the Civil Rights Act get updated to include disability, age, and sex? Maybe it wasn't necessary because other things did?

A: Yes. While we cannot speak to the intent of other laws that prevent discrimination, agencies need to be mindful the objective of Title VI is to create equity that provides equal participation opportunities for anyone impacted by transportation projects.

Q: (Slide 6) What does it mean, "...whether the activities are FHWA funded or not"? How can they assure that it's not FHWA funded?

A: This means certain phases within a project may not be federally funded. However, once one dollar of federal funds is programmed on an agency's project, the project becomes subject to Title VI provisions. Agencies must determine if Title VI implementation will apply to each phase of these projects.

Q: (Slide 7) My agency has many layers in the organization. Our Title VI Coordinator does not have easy access to the head of the agency.

A: At a minimum, Local Assistance recommends the coordinator have next-level access to the head of the agency's Public Works Department or the agency's Department of Transportation.

Q: (Slide 9) Is the Title VI Coordinator the same as the Title VI Officer?

A: There is no Title VI officer, only a Title VI coordinator.

Q: (Slide 9) Can A Title VI coordinator be a consultant?

A: There is no requirement that the Title VI Coordinator cannot be a consultant. However, the consultant would need to have a responsible position in the organization and easy access to the agency's transportation department head.

Q: (Slide 10) Does the Master Agreement have to be updated with the new information?

A: The Master Agreement will be updated with Appendix E during the next revision.

The Division of Local Assistance endeavors to update Exhibits 12-G and 10-R to include the required federal assurances (Appendices A-E) as well.

Q: (Slide 10) How frequently does the Master Agreement need to be signed? Is it an annual form?

A: Once, when an agency enters into an agreement with Caltrans to administer federal highway funds.

Q: (Slide 10) Is Form 1273 the only form that must be used in our consultant agreements?

A: Form 1273 is for construction only. Please attach Appendices A-E into consultant agreements and Appendices A-E and Form 1273 for construction agreements.

It is also a best practice to attach your agency's nondiscrimination statement as well.

Q: (Slide 10) Is the Form 1273 required only for construction contracts?

A: Yes

Q: (Slide 10) Our agency enters into contracts with prime consultants and prime contractors. We can add FHWA 1273 to this contract. We do not contract with the Prime's subconsultants. How do we ensure the Prime includes Form 1273 with their contracts with subs?

A: Form 1273 is required to be included in all FHWA construction contracts and subcontracts of \$10,000 or more and shall be physically incorporated in each Federal-aid highway construction contract.

Q: (Slide 10) You specifically stated these forms applied to construction agreements. Are they required on planning agreements?

A: Appendices A–E of the Title VI Assurances need to be attached in all consultant and construction contract documents and agreements if a project is or will be federalized.

Q: (Slide 10) Do these apply to United States Maritime Administration (MARAD) funded contracts too?

A: The MARAD is a Branch within the United States Department of Transportation and would be subject to 49 CFR 21. Please touch base with your federal MARAD administrator to determine their specific Title VI requirements.

Q: (Slide 10) Does attaching LAPM 12-G, which includes "TITLE VI ASSURANCES" to federal-aid construction contracts, satisfy the local agency's requirement?

A: Exhibit 12-G does not appear to be inclusive of all required documentation, including Appendices A-E, which needs to be included in federal-aid construction contracts. The Division of Local Assistance endeavors to revise Exhibit 12-G as a "one-stop-shop" for all federal-aid contract requirements, including Appendices A-E.

Q: (Slide 11) Is Appendix E required for contracts receiving FHWA loans as well?

A: Yes, any form of federal-aid, including loans and grants, must have Appendices A-E attached for all contracts.

Q: (Slide 11) Does Appendix E have to be included in consultant contracts as well for construction management?

A: Yes, any form of federal-aid, including loans and grants, must have Appendices A-E attached for all contracts.

Q: (Slide 11) Do we need to attach Appendices A-E in contracts or just Appendix E?

A: Appendices A-E need to be included in all contracts related to projects that are programmed with federal-aid funds.

Q: (Slide 11) Does that mean we must insert Appendix E for change orders and amendments after 09/20/2020?

A: Federal law requires Appendices A-E to be included in all contracts. Unfortunately, our Master Agreement did not include Appendix E. We recommend adding Appendix E into an amendment if the contract was executed before September 20, 2020.

Q: (Slide 11) Does the DOT Order 1050.2A, including Appendices A-E assurances apply to FHWA TIFIA Loans?

A: Yes, federal-aid funding is defined as a grant or a loan.

Q: (Slide 11) If funds start as FHWA but will be transferred to FTA, do these requirements apply?

A: Yes. Title VI Assurances need to be attached in consultant & construction contracts if a project is or will be federalized. Please refer to [FTA Circular](#) and the Caltrans Division of Rail and Mass Transportation for FTA Title VI Requirements and Guidelines.

Q: (Slide 11) If a project has FTA and FHWA funds, would the higher level of requirements be in effect?

A: It depends on what the issue is as to what guidance LPAs would follow.

Q: (Slide 14) I assume that standard construction signage does not need to be in multiple languages, but just brochures and other temporary/non-standard signage.

A: Yes, that is correct.

Q: (Slide 15) Would you please clarify? The training slide did not say to provide Title VI training to ALL staff, just "Provide Title VI training for its managers, supervisors, and staff with frequent public contact every two years". It did not state for new employees. I believe not all employees have contact with the public.

A: Title VI Training is required for all LPA civil rights officials and employees with public contact. Employees must comply with Title VI in their day-to-day activities and complete Title VI training every two years.

Note: Each local agency must provide regular and comprehensive training in Title VI implementation to all staff. Title VI training is not required for all LPA employees; however, we recommend they provide Title VI training for all employees as a best practice.

Q: (Slide 15) Can we combine Title VI training with Title II (Americans with Disabilities Act) training?

A: That is up to your agency if you wish to teach both the Americans with Disabilities Act (ADA) and Title VI at the same time. The Caltrans Division of Local Assistance also endeavors to host an ADA administration training in Spring 2021.

Q: (Slide 15) Regarding staff training, this slide mentions trainings are required every two years. The citation is 23 CFR 200. Do you know what subsection includes a two-year requirement?

A: The federal regulation within 23 CFR 200.9(b)(9) requires State agencies to train transportation and Civil Rights program staff. The Division of Local Assistance has passed down to our local agencies. While there is no time period associated with the federal regulations for the frequency of training, the Local Assistance Procedures Manual requires Title VI training every two years for new employees and to refresh employee knowledge concerning implementation of the federal Title VI program.

Q: (Slide 18) Are the following statements correct?

- **Local Public Agencies (LPAs) cannot investigate their own Title VI complaint.**
- **Local Public Agencies are required to have a specified method to investigate Title VI complaints.**

A: Yes, both statements are correct. LPAs do not investigate their own Federal Highway Administration (FHWA) Title VI complaints and are required to have a process or procedure in place. Please refer to Caltrans Division of Local Assistance "Filing a Title VI Complaint" for more detail.

Q: (Slide 18) Does that mean that Caltrans will investigate based on the policy/method specified by the LPA?

A: Per the FHWA Guidance Memorandum, Processing of Title VI Complaints, dated June 13, 2018, all Title VI complaints received by a sub-recipient are to be forwarded to Caltrans and submitted to the FHWA Division Office. Complaints should be sent within one business day of receipt via email to Title.VI@dot.ca.gov. If FHWA Headquarters Office of Civil Rights (HCR) determines a Title VI complaint against a sub-recipient can be investigated by Caltrans, HCR may delegate the task of investigating the complaint to Caltrans.

Q: (Slide 18) Are these only for complaints related to programs involving FHWA? What about a complaint about our Print & Mail Division, or our Custodial Division? Does FHWA investigate those too?

A: Yes, only FHWA Title VI complaints. For discrimination complaints not involving federal-aid transportation projects, agencies will need to follow appropriate federal, state, and local guidance covering those areas.

Q: (Slide 18) What is the address or contact info to mail complaints to FHWA?

A: The Caltrans Office of Civil Rights (OCR) may review the complaint for completeness and forward it to FHWA. Any complainant may also send their concerns to FHWA directly. Their address is below:

Federal Highway Administration
U.S. Department of Transportation
Office of Civil Rights
1200 New Jersey Avenue, SE
8th Floor E81-105
Washington, DC 20590

Q: (Slide 18) Who will be the point of contact (email) to forward complaints received by a local agency?

A: The Office of Civil Rights (OCR) (Title.VI@dot.ca.gov) will be the point of contact for process complaints received no more than 180 days after the alleged incident. OCR will only process completed complaints, including the complainant's contact information, details of the alleged discrimination, and the complainant's signature. Once the Title VI complaint is received, OCR will determine which federal administering agency has jurisdiction to investigate/process the complaint.

Q: (Slide 18) Do agencies send FHWA Title VI complaints to the District Local Assistance Engineer?

A: Agencies should remit the Title VI complaint to OCR: Title.VI@dot.ca.gov

Q: (Slide 18) Is the FHWA complaint forwarded to Caltrans and does the LPA investigate other Title VI complaints (i.e. FTA, FAA, etc.)?

A: All complaints should be forwarded to OCR: Title.VI@dot.ca.gov

Q: (Slide 18) Does Caltrans then respond to the complainant, or is that still the LPA's responsibility to respond to complainant? Or, does Caltrans respond to the agency, who then responds to the complainant?

A: The Office of Civil Rights will take the local agency complaints and forward them to FHWA. FHWA will either investigate or delegate the review to OCR for their investigation. OCR may follow-up with the complainant if further details are needed.

Q: (Slide 18) Is this only for Title VI complaints related to public works/FHWA funded programs or ALL jurisdiction complaints? Who is the point person to receive the complaints for Caltrans?

A: Any person who believes they have been discriminated against based on race, color, national origin, sex, disabilities, and age by Caltrans or a local agency may file a Title VI complaint by completing and submitting the agency's

Title VI Complaint Form. The [Office of Civil Rights \(OCR\)](#) processes complaints received no more than 180 days after the alleged incident. OCR will only process completed complaints, including the complainant's contact information, details of the alleged discrimination, and the complainant's signature. Once the Title VI complaint is received, OCR will determine which federal administering agency has jurisdiction to investigate/process the complaint.

Q: (Slide 18) Since FHWA included disabilities to the list of protected categories, does this mean that investigations or complaints related to that is also forwarded to Caltrans due to conflict of interest?

A: Yes. Per the FHWA Guidance Memorandum, Processing of Title VI Complaints, dated June 13, 2018, all Title VI complaints received by a local agency are to be forwarded to Caltrans to be submitted to FHWA Division Office. Complaints should be sent within one business day of receipt via email to Title.VI@dot.ca.gov. If Headquarters Office of Civil Rights (HCR) determines a Title VI complaint against a sub-recipient can be investigated by Caltrans, HCR may delegate the task of investigating the complaint to Caltrans.

Q: (Slide 18) How does an LPA determine if a complaint involves a project with mixed federal funding (FTA, FHWA)?

A: Once the Title VI complaint is received, OCR will determine which federal administering agency has jurisdiction to investigate/process the complaint.

Q: (Slide 18) For agencies who receive FHWA funds and receive a Title VI complaint, but not on a FHWA project, do the complaints need to be forwarded to Caltrans (local agency being an agency that doesn't own roads, transit systems, etc. such as a Transportation Authority)?

A: Yes. Once the Title VI complaint is received, OCR will determine the federal administering agency has jurisdiction to investigate or process the complaint.

Q: (Slide 18) If you are not supposed to investigate Title VI complaints, how are you to develop corrective actions? Does Caltrans get back to the agency on the investigation, and what is the timeframe for that?

A: The local agency should not be investigating Title VI complaints for federal highway projects; the requirement is to develop complaint procedures. FHWA or OCR will investigate the complaints. FHWA or OCR will inform the agency of any corrective actions that must be undertaken.

Q: (Slide 18) What kind of data is a local agency supposed to have when just designing and building roads?

A: The local agency will need to collect data to determine if designing and building roads will impact individuals subject to Title VI protections. For example, suppose you're building near a Senior Center that primarily houses Spanish speakers. In that case, you'll need to ensure programming and environmental documents are translatable into Spanish and that any facilities planned to be build will not impact the mobility of individuals with disabilities. The facilities will need to be designed to ensure ADA compliance and vehicle speed limits are appropriate within proximity to the senior center.

Q: (Slide 20) Do you have a sample of the four-factor analysis that must be completed with every project?

A: The Division of Local Assistance does not have a sample of the four-factor analysis at this time. Please see the link below for guidance on the development of a four-factor analysis.

Q: (Slide 21) If you prepare the first factor on your service area, why do you need to conduct the four-factor for each project, and not just for the service area?

A: While the first factor may be the most important, if there will be a planned street closure, the proximity of Limited English Proficiency (LEP) individuals may have trouble understanding why that closure has occurred and any detours they may need to take to reach their destination.

Further, diverse cities such as Sacramento or Hollywood will have various Title VI protected individuals within each service area. Therefore, it is essential to determine how the four-factor analysis will impact each project location. A Four-Factor Analysis conducted for each project will provide more localized and accurate demographics of those affected or involved in the project and the needed outreach.

Q: (Slide 21) Is there a percentage or "magic number" of the demographic that triggers the agency to translate or provide services to LEP? For example, if a community has 10% Spanish speakers, does this trigger language assistance?

A: Yes. Any vital public communication must be translated and accessible to 5% of the population or 1,000 individuals, whichever is fewer.

Q: (Slide 22) Should the Language Access Plan (LAP) be prepared on a project level, or for the agency generally?

A: Limited English Proficiency (LEP) Four-Factor Analysis should be conducted per project. A Language Access Plan (LAP) is a local agency document that contains a comprehensive set of policies and procedures that ensure that limited English proficient individuals will have meaningful access to that agency's programs, services, and products.

Q: (Slide 22) Any recommendations for an interpretation services vendor? Who does Caltrans use?

A: Caltrans uses Language Line Solution and maintains a Volunteer Bilingual List to accommodate LEP individuals and prevent discrimination. All departmental staff have access to the list and can use it at any time for Caltrans-related work. All volunteers can decline any requests they receive that conflict with their job duties and schedule. All volunteers self-identify their certification status and their proficient language(s) and skill(s). If you have a specific language your agency is having trouble translating, please send us a message, or you may reference Language Line Solution to determine if that is an appropriate solution for your agency: <https://www.languageline.com/>

Q: (Slide 22) Does the translator need to be certified?

A: A translator does not need to be certified by the American Translators Association, but having translators certified would be a best practice to limit any liabilities.

Q: (Slide 23) If Caltrans has different language lists are you willing to share that list?

A: Caltrans **Volunteer /Certified Bilingual List** and Language Line Solutions are for internal use only.

Q: (Slide 25) Are all agencies that receive federal funds required to have a plan in place?

A: Yes. The local agency shall develop a written Title VI plan for implementation, which sets out its priorities and procedures. This plan shall be available to the public. It shall address matters such as the method for selecting departments for compliance reviews, the establishment of timetables and controls for such reviews, the procedure for handling complaints, the allocation of its staff to different compliance functions, the development of guidelines, the determination as to when guidelines are not appropriate, and the provision of civil rights training for its staff.

Q: (Slide 25) Do all questions 23-32 on the Preliminary Environmental Study (PES) exhibit need to be answered as yes, or only one of them to trigger Title VI implementation?

A: If only one question is answered yes, it may trigger the need to implement Title VI provisions. Please consult with your District Senior Right-of-Way Agent and Senior Environmental Planner.

Q: (Slide 25) What kinds of questions are 23-32 of the PES that would trigger these requirements?

A: Relocation, land use, and community impacts.

Q: (Slide 25) Do we still need to contact the Caltrans District Senior Environmental Planner and District Senior Right of Way Agent even after the PES and National Environmental Protection Act have already been approved?

A: Yes. Please keep them in the loop.

Q: (Slide 25) Is there a requirement for all agencies to have an Implementation Plan in place?

A: Yes, any agency that receives federal transportation funds must have a Title VI Implementation Plan in place to ensure they will comply with Title VI requirements.

Q: (Slide 25) If no Implementation Plan is in place, is there a specific date that an agency needs to have the plan implemented?

A: There is no date requirement to have an Implementation Plan in place, but milestones need to be developed concerning when the Implementation Plan will be developed. The milestones should cover the development of a Language Efficiency Plan and the frequency of when data collection needs to be performed, as the population changes over time.

Q: (Slide 26) You say the agency head needs to approve/sign/etc. What if there is a board that governs the agency? Do they have to approve, or does only the Director of the agency need to approve the Title VI plans?

A: It will up to the agency's discretion on who they need to approve/sign the plan.

Q: (Slide 26) Can you provide the code section citation for the requirements for the Goals & Accomplishments (G&A) report, please? I'm not finding it in the citation for 23 CFR 200.

A: 23 CFR 200.9(b)(10)

Q: (Slide 26) Would Caltrans be willing to provide feedback on an agency's G&A Report?

A: As time permits, we may be able to provide recommendations.

Q: (Slide 26) Are there any penalties for local agencies who do not complete the G&A report?

A: Without a G&A annual report, it's very difficult for the agency to organize and determine what they must do to comply with and implement the provisions of Title VI. While the Division of Local Assistance is not currently assessing any penalties, it will require corrective action if we do not locate a G&A report during a Title VI program review.

Q: (Slide 26) Does the Title VI G&A document apply to agencies that do not receive federal highway funding? Is it applicable to agencies that receive only FTA funds through Caltrans (e.g. 5311)?

A: The G&A report applies to both FHWA and FTA.

Q: (Slide 26) Do you have an example of a Goals and Accomplishments report?

A: Please refer to the attached example that Caltrans submitted to FHWA. Remember, local agencies **do not** need to submit a Goals & Accomplishments report to Caltrans or FHWA; it should serve to be incorporated as objectives (goals) and results (accomplishments) within the agency's Implementation Plan.

Q: (Slide 26) It would be helpful if Caltrans can provide a more in-depth training for specific topics like G&A report, LEP, etc. Maybe a working webinar that would provide communication between each other.

A: There may be a potential need for such training in the future. Please don't hesitate to contact the Title VI DLA contacts if you have any further questions.

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Mission: "Provide training and guidance to improve stakeholder processes."

Vision: "Strengthen partnerships and Civil Rights through excellent customer service and user-friendly communications."