

CHAPTER 9

TITLE VI and NONDISCRIMINATION PROGRAM GUIDANCE FOR METROPOLITAN PLANNING ORGANIZATIONS

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9.1 PURPOSE

This chapter provides guidance for reviewing metropolitan planning process consistency with Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities.

9.2 AUTHORITY

The authority providing for the joint certification of a metropolitan planning organization (MPO), including the area of Title VI, is found in [23 Code of Federal Regulations \(C.F.R.\) 450.334](#) (Self-Certifications and Federal Certifications).

9.3 REFERENCES

This section provides a list of references/definitions from state law, including key procedures and forms related to Title VI and Nondiscrimination for metropolitan planning organizations.

Reference	Description
<i>Nondiscrimination</i>	
20 U.S.C. § 1681 et seq. , Civil Rights Restoration Act of 1987	Clarifies congressional intent to prohibit discrimination in all programs and activities of federal aid recipients, regardless of whether or not they are federally assisted
23 U.S.C. § 324 , Highway Act of 1973	Adds sex as a protected class and authorizes the use of Title VI enforcement measures for sex discrimination
29 U.S.C. § 701 et seq. , Section 504 of the Rehabilitation Act of 1973	Prohibits discrimination based on disability in federal funded programs or services
42 U.S.C. §§ 2000d-2000d-7 , Title VI of the Civil Rights Act of 1964	Provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from, participation in, or be denied the benefits of, or be subjected to discrimination under any program, or activity receiving Federal financial assistance
42 U.S.C. § 6101 et seq. , Age Discrimination Act of 1975	Prohibits discrimination based on age in any federally funded program or activity
42 U.S.C. § 12131 et seq. , American with Disabilities Act of 1990	Prohibits discrimination based on disability in programs or services operated by government entities
49 C.F.R. § 27 , Nondiscrimination Based on Disability in US DOT Assisted Programs	Codifies ADA/504 for U.S. Department of Transportation programs, services and activities
<i>Title VI</i>	
23 C.F.R. § 200 et seq. , State Transportation Agency Nondiscrimination	Codified Title VI for FHWA programs, services and activities

Reference	Description
23 C.F.R. §§ 450.316(b)(2) , Planning Assistance and Standards	Requires that the metropolitan transportation planning process be consistent with Title VI and the Assurance executed by the State
49 C.F.R. § 21 et seq. , Nondiscrimination in DOT Assisted Programs	Codifies Title VI for U.S. Department of Transportation programs, services and activities
Title VI Assurance, DOT 1050.2A	Executed by FDOT secretary committing to Title VI/Nondiscrimination compliance in all programs, services and activities
Title VI/Nondiscrimination Assurance	This agreement can be found in Chapter 3 of the MPO Program Management Handbook, Appendix B
Title VI Program and Related Statues Implementation and Review Procedure, 275-010-010-e	Florida Department of Transportation (2005)
Title VI Implementation Plan	
<i>Disadvantaged Business</i>	
49 C.F.R. § 26 , Disadvantaged Business Enterprise (DBE)	Establishes federal guidelines for DBE participation in U.S. Department of Transportation funded contracts
Disadvantaged Business Enterprise Program Plan , Florida Department of Transportation	
<i>Environmental Justice</i>	
Executive Order 12898 (1994)	Directs federal agencies to address disproportionately high and adverse human health or environmental effects in programs, policies, and activities on minority populations and low-income populations
Executive Order 13166 (2000)	Requires federal agencies to improve access to programs and services for those who are limited English proficient and to provide guidance to federal aid recipients on taking reasonable steps to provide meaningful access for those who are LEP
DOT Environmental Justice Order 5610.2(a) (2012)	Reaffirms DOT commitment to EJ and provides steps to prevent and/or address disproportionately high and adverse effects to minority or low-income populations through Title VI analyses and environmental justice analyses conducted as part of Federal transportation planning and NEPA provisions
FHWA Environmental Justice Order 6640.23A (2012)	Provides FHWA policies and procedures for use in complying with Executive Order 12898
<i>Limited English Proficiency</i>	
Limited English Proficiency Plan, Florida Department of Transportation	

9.4 SCOPE

This chapter is for the use of Department planning staff when reviewing metropolitan planning process consistency with Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities. It is also intended to provide guidance to MPOs on developing and maintaining compliance with nondiscrimination programs and services.

9.5 CERTIFICATION OF THE MPO PLANNING PROCESS CONSISTENCY WITH TITLE VI

Pursuant to [23 C.F.R. 450.334\(a\)\(3\)](#), the Florida Department of Transportation and each MPO must "...annually certify to the Federal Highway Administration (FHWA) that the planning process is addressing the major issues facing the area and is being conducted in accordance with all applicable requirements of ... Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under [23 U.S.C. 324](#) and [29 U.S.C. 794](#) ..."

9.6 TITLE VI & RELATED STATUTES

NONDISCRIMINATION REQUIREMENTS

Nondiscrimination Agreement	<ul style="list-style-type: none">• Lists the Title VI requirements that an MPO agrees to perform for receiving State Planning (PL) funds
Nondiscrimination Policy	<ul style="list-style-type: none">• MPOs must develop a policy stating they will not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status, and post it for public view
Title VI/Nondiscrimination Coordinator	<ul style="list-style-type: none">• MPOs must appoint a Nondiscrimination Coordinator who has access to the MPO Executive Director when discrimination issues arise
Nondiscrimination Complaint Procedure	<ul style="list-style-type: none">• MPOs must develop and post for public use a procedure for processing discrimination complaints based on race, color, national origin, sex, age and disability
Annual Reviews of Nondiscrimination Program	<ul style="list-style-type: none">• MPOs should review its programs to ensure its services and activities are free from discrimination
Nondiscrimination Training	<ul style="list-style-type: none">• The MPO's Title VI/Nondiscrimination Coordinator should provide periodic staff training in nondiscrimination
Outside Reviews	<ul style="list-style-type: none">• MPOs should be prepared for grant reviews of their nondiscrimination activities by federal funding agencies

9.6.1 NONDISCRIMINATION AGREEMENT

As a sub-recipient of the Florida Department of Transportation, each MPO is required to sign a Title VI and Related Statutes Nondiscrimination Agreement with the State to assure Title VI and related statutes compliance. The form/agreement is entitled [Title VI/Nondiscrimination Assurance](#) and can be found in Appendix A of this chapter.

The Nondiscrimination Assurance acts as the MPO's Title VI commitment pursuant to [23 C.F.R. Part 200](#) and the Federal Highway Administration's Title VI Implementation Guide. It lists all of the Title VI requirements that an MPO agrees to perform in return for receiving Planning (PL) funds from the State, including developing a nondiscrimination policy and discrimination complaint procedure. The Assurance also contains Appendices that must be

included in all MPO bids, contracts, subcontracts and agreements. The MPO is not only responsible for ensuring its own contracting documents have the required insertions, but also that any subcontracts also contain them.

The Title VI/Nondiscrimination Assurance must be signed annually by the MPO's signature authority, and submitted to the Office of Policy Planning. The Districts' Planning staff is encouraged to work with the respective FDOT District's Title VI Program Area Officer in Planning to review the MPOs updated Title VI/Nondiscrimination Assurance annually to ensure compliance with the Title VI Program and Related Statutes.

9.6.2 NONDISCRIMINATION POLICY

MPOs must develop and post for public view a policy that states that the MPO will not discriminate in any program, service or activity on the basis of race, color, national origin, sex, age, disability, religion or family status. While an MPO website is a good repository for this information, it should not be the only location as not all members of the public have computer access [[23 C.F.R. 200.9\(b\)\(3\)](#)].

9.6.3 TITLE VI/NONDISCRIMINATION COORDINATOR

MPOs must appoint a Title VI/Nondiscrimination Coordinator who has easy access to the MPO Executive Director. The Coordinator should be listed in the MPO Public Involvement Plan by name and contact information, and have a responsible position within the organization. While the Coordinator may report to a lower level supervisor in other professional duties, he or she must be able to directly and easily access the head of the MPO when possible discrimination issues arise [[23 C.F.R. 200.9\(b\)\(4\)](#)]. The MPO may find it convenient to demonstrate this easy access through the use of an organizational chart showing direct but dotted line access by the Title VI/Nondiscrimination Coordinator to the MPO Executive Director.

9.6.4 NONDISCRIMINATION COMPLAINT PROCEDURE

MPOs must develop and post for public use a procedure for accepting and processing complaints of discrimination based on race, color, national origin, sex, age and disability [[23 C.F.R. 200.9\(b\)\(3\), \(b\)\(14\) and \(b\)\(15\)](#)].



MPOs have the flexibility to develop a procedure that corresponds to the organization's operations with two limitations:

1. MPO's administrative processing of complaints should be time sensitive, never exceeding more than 90 days [23 C.F.R. 200.9(b)(15)].
2. Copies of all MPO nondiscrimination complaints should be provided to the FDOT District Title VI/Nondiscrimination Coordinator. The FDOT Coordinator is an important resource who can assist with investigation and resolution. The Coordinator is also responsible for recording, tracking, and reporting complaint status to FDOT Central Office and FHWA [23 C.F.R. 200.9(b)(3)]. Finally, the Coordinator serves as a clearinghouse by transferring to the appropriate authority complaints without jurisdiction or outside FDOT/MPO purview.

9.6.5 ANNUAL REVIEWS OF NONDISCRIMINATION PROGRAM

Before signing annual Certification of MPO Planning Process Consistency with Title VI of the Civil Rights Act of 1964 (See 9.5), the MPO should review each program area (Public Involvement, UPWP, TIP, Bike/Ped Master Plan and LRTP) to ensure nondiscrimination. The MPO should review demographic data, measures of effectiveness matrices, committee reports and other available documentation to ensure that its programs, services and activities in these areas during the year were free from discrimination [[23 C.F.R. 200.9\(b\)\(5\)](#)].

9.6.6 NONDISCRIMINATION TRAINING

The MPO's Title VI/Nondiscrimination Coordinator should provide or arrange for periodic staff training in nondiscrimination. Both FDOT and FHWA can be helpful resources, as can videos and other training aids. The Coordinator may choose to target training to particular areas such as Environmental Justice, Limited English Proficiency, complaint investigation or public outreach, etc. MPOs have flexibility in determining their nondiscrimination training needs and in choosing appropriate resources.

9.6.7 OUTSIDE REVIEWS

MPOs should always be prepared for pre or post grant reviews of MPO nondiscrimination activities by federal funding agencies including but not limited to US Department of Transportation modal agencies [[23 C.F.R. 200.9\(b\)\(13\)](#) and [49 C.F.R. 21.11](#)].

9.7 DOCUMENTATION AND RECORD KEEPING

The easiest and most effective manner of demonstrating compliance is through documentation of nondiscrimination policies, procedures, outreach and other similar information. MPOs may find it useful to keep a nondiscrimination notebook or computer file containing all relevant material.



Some examples of important items the MPO may wish to include are:

- All complaint information, including a tracking log of complainant, date of complaint, basis for complaint and complaint disposition.
- A scrapbook of outreach events intended to increase participation and solicit feedback from low income and minority communities.
- Measures of effectiveness reports detailing representative public involvement.
- Lists of MPO committee members by race, ethnicity, age and whether or not disabled.
- Updated community characteristics surveys showing the MPOs geographic area broken down by socioeconomic factors.
- Community Impact Assessments that evaluate the enhancements and negative impacts of the MPOs plans.
- The MPOs LEP, Title VI, EJ and nondiscrimination assurance documents. Samples of the MPO's meeting advertisements, contracts, and other documents containing nondiscrimination information.
- Records of all internal and external Title VI/Nondiscrimination reviews, results and corrective action, if any.
- Lists of staff nondiscrimination training including the date, number of attendees and the training subject.
- Documents showing strong practices, lessons learned, nontraditional partnerships, etc.

9.8 LIMITED ENGLISH PROFICIENCY (LEP)

[Executive Order 13166](#) as well as Department Of Justice (DOJ) Guidance from August 2000 requires federal agencies and their recipients to take reasonable steps to provide meaningful

access to programs and services for those who are Limited English Proficient or LEP. In order to comply, MPOs must develop and post a written LEP plan that included analysis of four factors.



MPOs must develop an LEP Plan that includes an analysis of four factors:

1. Number or proportion of LEP persons eligible to be served or likely to be encountered by the program or service;
2. Frequency with which LEP individuals come in contact with the program;
3. Nature and importance of the program, activity, or service provided by the program to people's lives; and the
4. Resources available to the recipient and costs.

The vast geography and diversity of Florida means that no one LEP plan can serve for the entire state. MPOs must use the four factors in conjunction with their area demographics, PPP, measures of effectiveness, community partners and funding to determine when and to what extent LEP services are required. Both FHWA and U.S. DOJ have websites that can assist MPOs with plan development. See [FHWA's website for LEP](#) or the [U.S. government's website for LEP](#).

LEP plans are essentially tools for providing better customer service, obtaining more representative public input and demonstrating Title VI compliance. The Plans should effectively discuss the four factor analysis and list the steps, activities or other resources the MPO uses to provide meaningful access. LEP plans must be available for public access and comment, and should use plain language. Plans should not be needlessly long, or contain so much background or legal information that it creates a barrier to public understanding.

Though not required by the Executive Order or related Memoranda, MPOs may choose to comply with the 'safe harbor' provisions. A safe harbor is a legal presumption of compliance where MPOs translate all vital documents based on the size of an LEP population, 5 percent or 1,000 persons, whichever is less.

However, given the length and scope of MPO vital documents (LRTP, TIP, etc.), full translation could be cost prohibitive. Therefore the MPO should carefully consider the wisdom of safe harbor compliance and whether other reasonable steps might better or more

effectively provide LEP compliance (e.g., translating information sheets rather than the full transportation plan, providing project flyers, using colorful and/or intuitive graphics to provide information, contacting colleges and universities to assist with translation of documents, translating information based on activities or needs in areas with LEP populations, and reaching out to other MPOs that may have resources to share or ideas about reaching LEP populations).

[Note: Oral interpretation services have no safe harbor. Moreover, FDOT requires that, regardless of the LEP plan, that sub-recipients provide oral translation services, free of charge, when requested with reasonable notice.]

Finally, like all nondiscrimination programs and plans, LEP Plans are living documents that must change to reflect changing communities and their needs. As such, the MPO should review its LEP Plan annually to ensure that its four factor analysis remains accurate and that the Plan is effective.

9.9 ENVIRONMENTAL JUSTICE (EJ)

[Executive Order 12898](#), first issued in 1994, was reaffirmed by the White House in 2011. Subsequently, a consortium of federal agencies, including U.S. DOT, participated in a working group to revise and update EJ guidance for its modal agencies and for recipients of federal assistance, including MPOs. The result was the [U.S. DOT Order on EJ, 5610.2\(a\)](#) (May 2012) and [FHWA Order on EJ, 6640.23A](#) (May 2012).



The goals of Environmental Justice remain constant:

- 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.

However, U.S. DOT updated its policy, stating that it will “promote the principles of environmental justice (as embodied in the Executive Order) through the incorporation of those principles in all DOT programs, policies, and activities ... fully considering environmental justice principles throughout planning and decision-making processes in the development of programs, policies, and activities.” The Order also requires the collection and analysis of demographic data (race, color, national origin, and income level) through existing statutory and regulatory authority to ensure that EJ objectives are achieved.



MPOs have two responsibilities with regard to Environmental Justice:

1. **Access to Information:** MPO's must ensure and document early, continuous and meaningful opportunities for involvement by minority and low income communities.
2. **Data Collection and Analysis:** MPOs must scrutinize demographic data to ensure that planning activities will not have disproportionately high or adverse impacts on underserved communities and, where impacts are unavoidable, that documented steps are taken to avoid, minimize or mitigate impacts.

To implement these efforts, the MPO should use all reasonable and available means at their disposal to better understand the demographics and needs of the communities within their areas. Sources of information may include but not be limited to Census and/or American Community Survey data; information collected and maintained by school, emergency and social service providers; religious, community or charitable organizations; planning and/or community development committees and boards; homeowners and civic groups; surveys, blogs and other social media sources.

The MPO will find it helpful to create a Community Characteristics Inventory (CCI) to both better identify underserved communities and potential partner organizations that may serve or have more information about the community. Once complete, the MPO should then use the CCI to analyze transportation plans, listing the benefits and impacts of its plans on the underserved communities, and assessing whether or not they are disproportionately high or adverse.

As with all nondiscrimination programs and activities, MPOs should annually examine their EJ strategy for effectiveness, including ensuring that it captures significant changes in the

area's minority and low income populations. More information on EJ compliance may be found at [FHWA's website on EJ](#).

9.10 AMERICANS WITH DISABILITIES ACT (ADA) AND RELATED AUTHORITIES

Assurances

- MPOs must complete a nondiscrimination assurance agreement stating that programs and activities will be conducted in compliance with ADA requirements

Nondiscrimination Policies and Complaint Procedures

- MPOs must develop a nondiscrimination policy and complaint procedure for persons with disabilities

Notice

- MPO documents for public distribution must contain a notification that the MPO does not discriminate in its programs and services

Transition Planning

- MPOs should develop program access plans to ensure that facilities and services are accessible to those with disabilities

MPO programs and services may not exclude from participation in, deny the benefits of or subject to discrimination anyone on the basis of a disability. Moreover, the MPO has the responsibility of providing reasonable accommodation to those with disabilities who require special services to access information or participate in MPO activities. The following are requirements of all government entities, including MPOs:

1. Assurances – [49 C.F.R. 27.9](#) requires all federal aid recipients to complete a nondiscrimination assurance stating that programs and activities will be conducted in compliance with ADA. If the MPO has executed the FDOT Nondiscrimination Agreement (which specifically includes disability), it need not sign a separate ADA Assurance.
2. Nondiscrimination policies and complaint procedures – [49 C.F.R. 27.13](#) requires federal aid recipients to develop a nondiscrimination policy and complaint filing/process procedure for disability. Recipients must also name a responsible person to coordinate disability nondiscrimination activities. While this part only applies to entities with fifteen (15) or more employees, all MPOs are encouraged to comply. Note, if the MPO has a comprehensive complaint policy and procedure that includes disability, and has named a Title VI/Nondiscrimination Coordinator, then it need not develop separate policies and procedures wholly for disability.

3. Notice – [49 C.F.R. 27.15\(b\)](#) requires all publications or other general information for public distribution to contain a notification statement that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and services. Recipients must also provide upon request reasonable accommodation for access to programs and services for those with disabilities. The Department has developed a comprehensive statement for use on all public documents, stating that:

The MPO does not discriminate on the basis of race, color, national origin, sex, age, religion, disability and family status. Those with questions or concerns about nondiscrimination, those requiring special assistance under the Americans with Disabilities Act (ADA), or those requiring language assistance (free of charge) should contact [enter Title VI/Nondiscrimination Coordinator or Public Information Office] at (XXX) XXX-XXXX or coordinator@anympo.org.
4. Transition Planning – MPOs generally do not have control over existing sidewalks or roadways and do not often employ fifty (50) or more employees. Therefore, most MPOs are not required to comply with [28 C.F.R. 35.105](#) or [28 C.F.R. 35.150\(d\)](#). These sections require government entities to conduct self-evaluations of their programs, services and activities, including public rights of way, and develop a transition plan to track and remediate inaccessible features. However, MPOs could develop program access plans to ensure that MPO facilities and services are accessible to those with disabilities. Further, despite size and other factors limiting applicability of the C.F.R., MPOs may serve an essential role in providing technical assistance to local agencies within their jurisdiction and also improve livability for communities that are disabled. Further guidance is expected in the future and will be provided to the MPOs. Examples of assistance that MPOs can provide are:
 - Roadway surveys and other information regarding accessibility and connectivity of sidewalks.
 - Gather and distribute input from partner organizations that serve the community that is disabled.
 - Crash and other data related to high priority pedestrian areas.
 - Safety outreach to schools, neighborhoods, community service groups and other similar organizations.
 - Ensuring that Bike/Ped Master Plans are shared with (or plan input gathered from) public works and maintenance departments of the local agencies within MPO jurisdiction.

9.11 DISADVANTAGED BUSINESS ENTERPRISE (DBE)

[Title 49 C.F.R. Part 26](#) establishes the federal guidelines for participation of Disadvantaged Business Enterprises (DBEs) in U.S. Department of Transportation funded contracts. As a recipient of federal planning funds and because DBE is one of the five core areas of MPO certifications, MPOs are impacted by these requirements [[23 C.F.R. 450.334](#)].

While MPOs may be direct recipients of some modal grants, thereby requiring the development of a DBE Program Plan and goal, all FHWA funding provided to MPOs through FDOT are subject to FDOT's DBE Program Plan. No alternative DBE plan may be used for FHWA funds without express approval from FDOT and FHWA.

Per [49 C.F.R. 26.51\(f\)](#), where State Transportation Agencies achieve their overall goals through race neutral means for two consecutive years, they must continue a race neutral program until they can no longer achieve the approved goal. Since 2000, FDOT has operated an entirely race neutral DBE program in that it achieves DBE goals through the normal competitive bid process. This means that MPOs must ensure that their procurement and contracting documents carefully follow FDOT's specifications and that they do not specify a project goal or contract sanctions for failing to meet DBE availability.

MPOs in Florida are not certifying members of the Unified Certification Program (UCP), and therefore need only determine that DBE contractors and subcontractors are certified as DBEs in the area of work required by the MPO. MPOs should check FDOT's [Florida Unified Certification Program \(UPC\) Disadvantaged Business Enterprise \(DBE\) Directory](#) to ensure certification or contact FDOT's supportive services providers for more information. FDOT's [Equal Opportunity Office DBE](#) website also has relevant contact information.

9.11.1 DBE CONTRACT ASSURANCES

Under [49 C.F.R. 26.13](#), MPOs are required to have a signed policy statement expressing their commitment to DBE participation. A sample statement is included in Appendix B at the end of this chapter. MPOs are required to sign the statement on an annual basis. The same federal regulation, [49 C.F.R. 26.13\(b\)](#), requires that each contract that an MPO signs with a consultant and/or subconsultant include the following assurance:

"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of [49 C.F.R. Part 26] in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

APPENDIX A

Title VI/Nondiscrimination Assurance

Please locate the official [Title VI/Nondiscrimination Assurance](#) form on the FDOT OPP Metropolitan Planning website.

Pursuant to Section 9 of US DOT Order 1050.2A, the _____ assures the Florida Department of Transportation (FDOT) that no person shall on the basis of race, color, national origin, sex, age, disability, family or religious status, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Florida Civil Rights Act of 1992 and other nondiscrimination authorities be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity.

The _____ further assures FDOT that it will undertake the following with respect to its programs and activities:

1. Designate a Title VI Liaison that has a responsible position within the organization and access to the Recipient's Chief Executive Officer.
2. Issue a policy statement signed by the Chief Executive Officer, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the Recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.
3. Insert the clauses of *Appendices A and E* of this agreement in every contract subject to the Acts and the Regulations
4. Develop a complaint process and attempt to resolve complaints of discrimination against sub-recipients. Complaints against the Recipient shall immediately be forwarded to the FDOT District Title VI Coordinator.
5. Participate in training offered on Title VI and other nondiscrimination requirements.
6. If reviewed by FDOT or USDOT, take affirmative action to correct any deficiencies found within a reasonable time period, not to exceed ninety (90) calendar days.
7. Have a process to collect racial and ethnic data on persons impacted by your agency's programs.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal funds, grants, loans, contracts, properties, discounts or other federal financial assistance under all programs and activities and is binding. The person whose signature appears below is authorized to sign this assurance on behalf of the Recipient.

Dated _____

by _____, Chief Executive Officer

APPENDICES A and E

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- (1.) **Compliance with Regulations:** The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- (2.) **Nondiscrimination:** The Contractor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3.) **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- (4.) **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.

- (5.) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the *Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* may determine to be appropriate, including, but not limited to:
- a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of the contract, in whole or in part.
- (6.) **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- (7.) **Compliance with Nondiscrimination Statutes and Authorities:** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation

Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

APPENDIX B –

Disadvantaged Business Enterprise Utilization

Please locate the official [Disadvantaged Business Enterprise Utilization](#) form on the FDOT OPP Metropolitan Planning website.

It is the policy of the _____ that disadvantaged businesses, as defined by [49 C.F.R. Part 26](#), shall have an opportunity to participate in the performance of MPO contracts in a nondiscriminatory environment. The objectives of the Disadvantaged Business Enterprise Program are to ensure non-discrimination in the award and administration of contracts, ensure firms fully meet eligibility standards, help remove barriers to participation, create a level playing field, assist in development of a firm so it can compete successfully outside of the program, provide flexibility, and ensure narrow tailoring of the program.

The _____ and its consultants shall take all necessary and reasonable steps to ensure that disadvantaged businesses have an opportunity to compete for and perform the contract work of the (insert name of MPO) in a non-discriminatory environment.

The _____ shall require its consultants to not discriminate on the basis of race, color, national origin, and sex in the award and performance of its contracts. This policy covers in part the applicable federal regulations and the applicable statutory references contained therein for the Disadvantaged Business Enterprise Program Plan, Chapters [337](#) and [339](#), Florida Statutes, and [Rule Chapter 14-78, Florida Administrative Code](#).

Chairperson	Name of MPO	Date
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