

## CHAPTER 16 - TITLE VI AND NONDISCRIMINATION PROGRAM REQUIREMENTS

### 16.1 OVERVIEW

The Florida Department of Transportation (FDOT) is the primary recipient of Federal funds, which it then distributes to sub-recipients, defined as a local agency and the local agency's contractors or consultants, to fund local project priorities. In order to receive Federal funds, the Local Agency and their contractors and consultants must comply with Federal and State nondiscrimination authorities, including the statutes; US Department of Justice (USDOJ), US Department of Transportation (USDOT) and Federal Highway Administration (FHWA) regulations, orders and notices; and the policies and procedures implemented by the FDOT as outlined in this chapter. In addition, to maintain Certification in the Local Agency Program (LAP), Local Agencies must submit the [Sub-recipient Compliance Assessment Tool \(SCAT\)](#) once every three years or at the request of FDOT or FHWA (see **Chapter 3, Section 5** of this *Manual*).

### 16.2 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND RELATED STATUTES

FDOT requires its Local Agencies participating in LAP to both comply and demonstrate compliance with Federal and State nondiscrimination authorities.

#### 16.2.1 Scope of Title VI and other Nondiscrimination Authorities

[Title VI of the Civil Rights Act of 1964 \(Title VI\)](#) states that no person should be excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of race, color or national origin in any program or activity receiving Federal financial assistance. Other authorities such as the **Federal Highway Act of 1973**, **Age Discrimination Act of 1975**, **Americans with Disabilities Act of 1990** and the **Florida Civil Rights Act of 1992** forbid discrimination against anyone on the basis of sex, age, disability, religion, or familial status.

#### 16.2.2 Scope of Civil Rights Restoration Act of 1987

The Civil **Rights Restoration Act of 1987 (CRRRA)** provided clarification of the original intent of Congress in Title VI and restored broad institution-wide scope and coverage to all programs and activities of federal-aid recipients and sub-recipients, whether such

programs and activities are federally funded or not. Institutions may include schools and colleges, government entities, or private employers. Regardless of the entity or the program receiving Federal-aid, all must take steps to prevent discrimination and ensure nondiscrimination in all programs, services and activities. Thus, all programs, services and activities of Local Agencies participating in LAP must comply with nondiscrimination requirements, whether or not the individual programs or activities receive Federal funding. [FHWA Notice N 4720.6, September 2, 1992.](#)

## 16.3 ASSURANCES

FDOT will ensure that the Local Agency executes and provides an assurance in the form of the FDOT [Nondiscrimination Agreement](#), per [49 CFR 21](#) and [23 CFR 200.9\(a\)\(1\)](#).

### 16.3.1 Scope of Assurances

Essentially, assurances serve two purposes. First, they provide written commitment from the Local Agency that no person shall on the grounds of race, color, national origin, sex, age, disability, religion or family status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service or activity conducted by the Local Agency or its Contractor(s), regardless of whether those programs and activities are Federally funded or not. Second, assurances serve as a contract agreement for which remedy may be sought for breach.

### 16.3.2 Contract Insertions

The ***Nondiscrimination Agreement*** contains required contract assertions labeled [Appendix A](#). It is important for the Local Agency to ensure that the ***Appendix A*** clauses are included in all LAP contracts, subcontracts and agreements.

## 16.4 IMPLEMENTATION PROCEDURES (23 CFR PART 200)

Compliant implementation of Title VI of the Civil Rights Act and other Federal and State nondiscrimination authorities in LAP is a cooperative effort by FDOT and its Local Agencies.

### 16.4.1 Local Agencies will:

- A. Issue a policy statement, which expresses its commitment to the nondiscrimination provisions of Title VI and other nondiscrimination authorities. The policy statement shall be circulated throughout the Local Agency's organization and to the general public. For convenience, the Title VI policy

- statement can also include disability, rather than establishing ADA as a separate policy. For more information, see **Chapter 3** and the [Civil Rights LAP Handbook](#).
- B. Have a complaint process to respond to complaints about discrimination based on race, color, national origin, sex, age, religion and family status. For convenience, the complaint process may include disability, rather than establishing a separate disability complaint process (disability and ADA requirements are explained in **Chapter 26** of the **Manual**).
  - C. Designate a Title VI/Nondiscrimination Coordinator and publish their name and phone number. This person should have direct access to a responsible agency executive due to their role in recording and investigating complaints received by the agency. **Section 16.5** describes the complaint process in further detail.
  - D. Complete and submit to FDOT the **Sub-Recipient Compliance Assessment Tool (SCAT)** every three years commensurate with certification or upon request by FDOT or FHWA.
  - E. Ensure access to programs, services and activities to those who are Limited English Proficient in compliance with [Executive Order 13166 and related memoranda and directives](#).
  - F. Ensure that Local Agency program projects or activities do not disproportionately and adversely impact minority or low income populations in compliance with [Executive Order 12898](#) and [FHWA Order 6640.23A](#).
  - G. Take action to correct any deficiencies found by FDOT or FHWA within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI/Nondiscrimination compliance in accordance with this agreement. The chief executive officer of the Local Agency shall be held responsible for implementing nondiscrimination requirements.

#### 16.4.2 FDOT will:

- A. Review Local Agency SCAT documents to verify that Local Agencies have current signed nondiscrimination assurances, a sufficient nondiscrimination policy and complaint procedure.
- B. Provide technical and program assistance to those Local Agencies that are unable to demonstrate substantial compliance through the SCAT process.

- C. Review contract and other documents as required to determine compliance with nondiscrimination requirements.
- D. Cooperate and assist in FDOT or FHWA investigations of Title VI or other discrimination complaints filed against Local Agencies, to include docketing complaints, forwarding complaints to the appropriate authority, and conducting site inspections or remediation verification as requested or required.

## **16.5 DISCRIMINATION COMPLAINTS**

Any person who believes that he or she, or any specific class of persons has been subjected to discrimination or retaliation prohibited by Title VI and other nondiscrimination authorities may file a complaint. Local Agencies should follow their posted complaint filing/processing procedures, notifying the FDOT Statewide Title VI/Nondiscrimination Coordinator for any complaints involving LAP projects. However, if at any time a discrimination complaint involving pedestrian or transportation facilities cannot be satisfactorily resolved by the Local Agency, it should forward the entire complaint and investigative file to the FDOT Statewide Title VI/Nondiscrimination Coordinator. FDOT and FHWA are designated nondiscrimination clearinghouses and will either assume jurisdiction for the complaint, or forward it to the appropriate Federal or State authority for further processing.

### **16.5.1 Notification to FDOT**

Whenever possible, the Local Agency will notify the FDOT Statewide Title VI/Nondiscrimination Coordinator within five (5) calendar days of receiving a complaint involving pedestrian or transportation facilities. If possible, the following information should be included in the notification of complaint.

- A. Name and contact information of the Complainant, if available.
- B. Name(s) and contact information of the official(s) alleged to have discriminated
- C. Basis of complaint (race, color, national origin, sex, age, disability, religion, family status).
- D. Date of alleged discriminatory act(s).
- E. Date of complaint received by the Local Agency Title VI/Nondiscrimination Coordinator.

- F. A description of the complaint.
- G. Other agencies (state, local or Federal) where the complaint has been filed, if applicable.
- H. An explanation of the actions the Local Agency has taken or is proposing to take to resolve the complaint.

### **16.5.2 Limitation on Local Agency Complaint Processing**

Because laws may impose time limits on a Complainant's right to file discrimination complaints in State or Federal courts, at no time should the Local Agency's processing of pedestrian or transportation facility complaints extend beyond ninety (90) days without advising the FDOT Statewide Title VI/Nondiscrimination Coordinator.

### **16.5.3 Employment Discrimination Complainants Excluded**

Employment Discrimination Complaints under *Title VII of the Civil Rights Act of 1964*, as amended or other equal employment laws are specifically excluded from **Section 16.5** and should not be provided to FDOT unless specifically requested.

### **16.5.4 Interagency Cooperation**

Where discrimination complaints are received by or assigned to FDOT or FHWA, the Local Agency must fully cooperate with the ensuing investigation. This includes, but is not limited to, adhering to deadlines for production of information; making project or program information available for inspection; cooperating with onsite visits and witness interviews; and engaging in conciliation or resolution conferences, where recommended.

### **16.5.5 Complaint Recordkeeping**

The Local Agency Title VI/Nondiscrimination Coordinator must maintain a log of all discrimination complaints received, even if unwritten or anonymous. The log should include:

- A. Names of Complainants, if available.
- B. Name of Local Agency official or department against which the complaint is filed
- C. Basis of Complaint (race, color, national origin, sex, age, disability, religion or family status)

- D. Dates of alleged discrimination, when the complaint was received by the Local Agency and when FDOT was notified, if applicable.
- E. A brief explanation of resolution or referral action, along with the date the matter was resolved or referred.

## **16.6 SANCTIONS**

In the event the Local Agency fails or refuses to comply with the terms described in this Chapter and the referenced authorities, FDOT may take any or all of the following sanctions:

- A. Cancel, terminate, or suspend the LAP Agreement in whole or in part;
- B. Refrain from extending any further assistance to the Local Agency under LAP with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Local Agency;
- C. Take such other action that may be deemed appropriate under the circumstances, including but not limited to Certification termination, until compliance or remedial action has been accomplished by the Sub-recipient;
- D. Refer the case to the U.S. Department of Transportation for appropriate legal proceedings.

## **16.7 AUTHORITIES AND RESOURCES**

All resources referenced in this Chapter may also be accessed through the [LAP Website](#).

[Authorities and Resources](#)

[Sub-recipient Compliance Assessment Tool \(SCAT\)](#)

[Nondiscrimination Agreement](#)

[Appendix A](#)

[Civil Rights LAP Handbook](#)