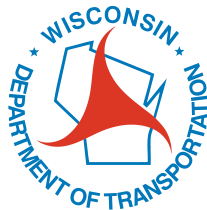


Title VI/ADA/Non-Discrimination Handbook for Transit

Wisconsin Department of Transportation
Division of Transportation Investment Management (DTIM)
Bureau of Transit, Local Roads, Rails and Harbors (BTLR)



All entities who receive Federal Transit Administration (FTA) grant dollars either directly from the FTA or through the Wisconsin Department of Transportation are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the U.S. Department of Transportation's implementing regulations. This handbook provides technical assistance of Title VI and ADA compliance requirements.

January 2023

Contents

Background

Definitions

Recipient Types and Responsibilities

Requirements

- Evidence of Approval of Title VI/ADA/Non-Discrimination Plan **(Plan Template)**
- Notice of Non-Discrimination **(Appendix 1)**
- Complaint Procedure **(Appendix 2)**
- Complaint Form **(Appendix 3)**
- List of Transit-Related Investigations, Complaints and Lawsuits **(Appendix 4)**
- Public Involvement Plan **(Appendix 5)**
- Limited English Proficiency (LEP) Plan **(Appendix 6)**
- Demographic Representation Information **(Appendix 7)**
- Service Policy (*Fixed Route Service Providers only*) **(Appendix 8)**
- Service Standards (*Fixed Route Service Providers only*) **(Appendix 9)**
- Facility Location - Equity Analysis (*Construction Projects only*) **(Appendix 10)**
- MPO Demographic Data and Analysis **(Appendix 11)**

Resources

The **Title VI/ADA/Non-Discrimination Plan Template** and **Appendices** are available on the [WisDOT Transit Title VI/ADA](#) website.

BACKGROUND

The [Title VI of the Civil Rights Act of 1964](#) is a federal law that protects individuals and groups from discrimination on the basis of race, color and national origin in programs and activities that receive federal financial assistance. Specifically, 42 USC 2000d states:

"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."

The [Americans with Disabilities Act \(ADA\)](#) is a federal law that prohibits discrimination against people with disabilities. Specifically, [49 CFR Part 37.5\(a\)](#) states:

"No entity shall discriminate against an individual with a disability in connection with the provision of transportation service."

Requirements

Title VI prohibits WisDOT and entities that receive federal funds via WisDOT from discriminating against the public based on race, color, or national origin. **ADA** prohibits WisDOT and entities that receive federal funds via WisDOT from discriminating against the public based on disability. Other federal non-discrimination legal authorities add protections based on age, sex, and low-income status.

Any entity that receives federal funding from WisDOT for its transportation service, program, or activities, must comply with Title VI and ADA requirements. Moreover, when an agency or unit of government accepts federal funds, all its programs and activities are subject to Title VI and ADA requirements, regardless of their funding source.

Title VI/ADA requirements include:

- ✓ Ensuring the level and quality of services is provided in a nondiscriminatory manner.
- ✓ Making transportation decisions without regard to race, color, or national origin.
- ✓ Ensuring meaningful access to transportation related programs for persons with limited-English proficiency.
- ✓ Developing and implementing a Title VI/ADA/Non-Discrimination Plan.

DEFINITIONS

Color: Skin color or complexion

Disparate Treatment: Refers to actions that result in circumstances where similarly situated persons are intentionally treated differently (i.e., less favorably) than others because of their race, color or national origin.

Limited English Proficient (LEP): Refers to persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well or not at all.

National Origin: Refers to the particular nation in which a person was born, or where the person's parents or ancestors were born.

Race (as defined by the U.S. Census): A social classification of people which includes, at a minimum, White, Black or African American, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander. (Based on the demographics for your area, other races may be included.)

Discrimination: Refers to any action or inaction, whether intentional or unintentional, in any program or activity of a Federal aid recipient, subrecipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.

RECIPIENT TYPES AND RESPONSIBILITIES

WisDOT: WisDOT, as a *Designated Recipient* of Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) funds for the State of Wisconsin, receives, administers, and allocates funds to subrecipients. Responsibilities include monitoring subrecipients' compliance with Title VI and ADA, collecting Title VI/ADA plan documents, and providing reports directly to FTA.

To track compliance with Title VI/ADA, WisDOT will:

- Document subrecipients comply with the general requirements of Title VI/ADA.
- Collect and store subrecipient's Title VI/ADA plan documents on a schedule set by WisDOT.
- Submit complaints and other Title VI/ADA information to FTA and FHWA as requested.

Subrecipient: Agencies and entities, referred to as "subrecipients" receiving federal transportation funds must develop a Title VI/ADA/Non-Discrimination Plan per [FTA Circular 4702.1B – Title VI Requirements and Guidance for FTA Recipients](#).

Subrecipient responsibilities include:

- Submitting a copy of their Title VI/ADA/Non-Discrimination Plan on a schedule determined by WisDOT.
- Implementing their Title VI/ADA/Non-Discrimination Plan.
- Training employees on Title VI/ADA/Non-Discrimination requirements.
- Reviewing and updating their plan on an annual basis.
- As applicable, meeting with their third-party contractors (transit provider) or lessee on an annual basis to ensure compliance with Title VI/ADA/Non-Discrimination Plan requirements.

Note:

Subrecipients are responsible for ensuring their third-party contractor (transit provider), lessee or any participant at any tier of the federally funded project follows its respective Title VI/ADA/Non-Discrimination Plan and complies with Title VI provisions. A third-party contractor (transit provider), lessee or any other participant at any tier of the Project is not required to prepare or submit a Title VI/ADA/Non-Discrimination Plan. At a minimum, however, such entities are obligated to be familiar with and adhere to the subrecipient's Title VI/ADA/Non-Discrimination Plan and should post the subrecipient's Title VI *Notice of Non-Discrimination* (**Appendix 1**) in their office or vehicles, as applicable.

REQUIREMENTS

Agencies and entities, referred to as “subrecipients” receiving federal transportation funds must develop a Title VI/ADA/Non-Discrimination Plan per [FTA Circular 4702.1B – Title VI Requirements and Guidance for FTA Recipients](#). The Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) have different approaches to civil rights compliance. Subrecipients should know whether they are receiving only FTA funding, FHWA funding, or both.

The table below identifies required Title VI/ADA/Non-Discrimination Plan elements. Subrecipients may be required to provide additional information. Consult the WisDOT Transit Section for guidance on plan requirements. Sample templates are available on the [Transit Title VI/ADA website](#).

Required Title VI/ADA/Non-Discrimination Plan Elements	
FTA Requirements	FHWA Requirements
<ol style="list-style-type: none"> 1. Evidence of Policy Approval 2. Contact Information and Program Administration 3. Policy Statement 4. Public Notice of Non-Discrimination 5. Complaint Procedure 6. Complaint Form 7. Recording and Reporting Civil Rights Investigations, Complaints, and Lawsuits 8. Public Involvement Plan 9. Limited English Proficiency (LEP) Plan 10. Demographics of non-elected boards, advisory councils, or committees 11. Service Policy (<i>for Fixed Route Service only</i>) 12. Service Standards (<i>for Fixed Route Service only</i>) 13. Facility Location Equity Analysis (<i>Construction Projects only</i>) 	<ol style="list-style-type: none"> 1. Resolution Approving Plan 2. Contact Information and Program Administration 3. Policy Statement 4. Non-Discrimination Assurances 5. Public Notice of Non-Discrimination 6. Complaint Procedure 7. Complaint Form 8. Recording and Reporting Civil Rights Investigations, Complaints, and Lawsuits 9. Public Involvement Plan 10. Limited English Proficiency (Plan) 11. Demographics of non-elected boards, advisory councils, or committees 12. Analysis of Demographic Data

SPECIFIC REQUIREMENTS

The [Transit Title VI/ADA website](#) provides sample templates to develop a compliant Title VI/ADA/Non-Discrimination Plan.

Evidence of Plan Approval

Subrecipients must provide evidence of plan approval. The document on the Transit Title VI/ADA website titled **Title VI/ADA/Non-Discrimination Plan Template** provides a framework for the plan and includes a plan approval signature page.

Examples of plan approval include a copy of a signed policy statement, board meeting minutes, resolution, or other appropriate documentation showing the board of directors or appropriate governing entity or official(s) responsible for policy decisions, reviewed and approved the Title VI/ADA/Non-Discrimination Plan.

Subrecipients are encouraged to use a log to track/record plan updates and to identify contact information of staff person(s) responsible for civil rights compliance.

Notice of Non-Discrimination

Subrecipients must inform customers and the public of their rights under Title VI/ADA regulations by posting a **Notice of Non-Discrimination**. A sample template is shown in **Appendix 1**. The public notice must include:

- ✓ A statement of Non-Discrimination.
- ✓ Information on how to file a complaint, the location of the complaint form, etc.
- ✓ Information on how to request Title VI/ADA information in another language.

At a minimum, the notice must be posted in the following locations:

- ✓ On the agency's website
- ✓ In a public area of the agency office (reception desk, common area, etc.)

Best practice guidance also suggests posting or printing notices in other areas such as:

- ✓ Inside vehicles (cars, vans, buses, rail)
- ✓ In and around transit shelters and stations
- ✓ Rider guides
- ✓ Bus schedules

Complaint Procedure

Subrecipients must have a procedure for responding to complaints on Title VI/ADA issues. A sample template is shown in **Appendix 2**. The procedure must be made available upon request.

The procedure should include:

- ✓ An explanation of what specific issues are covered by the procedure
- ✓ How to file the complaint (including timelines and access to a complaint form)
- ✓ To whom to submit the complaint
- ✓ How the agency will respond to the complaint (including timelines)
- ✓ If an investigation of the complaint is conducted, how the complainant will be informed of the outcome of the investigation
- ✓ A notice that the customer may file a complaint directly with FTA including FTA contact information (include contact information for FHWA, as applicable)
- ✓ An internal system or log for tracking complaints (issue, dates, findings, etc.)
- ✓ How language access will be provided to LEP populations, meeting the Safe Harbor Threshold.

At a minimum, the **Complaint Procedure** must be available in hard copy in the central office. Subrecipients are encouraged to post a copy of the Title VI/ADA complaint procedure on their website.

Complaint Form

Subrecipients must have a **Complaint Form**. A sample template for developing a Title VI/ADA Complaint Form is shown in **Appendix 3**.

The form must include fields for:

- ✓ The complainant's name and contact information
- ✓ Identification of the Title VI protected classes - (race, color, national origin) and Title II - ADA (disability) involved in the complaint. (The form may include other protected classes such as age and sex, and the complainant can choose one or more of these other protected classes as part of the complaint.)
- ✓ Date(s) of the alleged discrimination
- ✓ An explanation of the alleged discriminatory act or behavior

At a minimum, the **Complaint Form** must be posted on the agency website and made available in hard copy in the central office. The form must also be made available in appropriate languages for LEP populations, meeting the *Safe Harbor Threshold*¹.

List of Transit-Related Complaints, Investigations, and Lawsuits

Subrecipients must maintain a list or log of all complaints, investigations, and lawsuits pertaining to their transportation related activities. **Appendix 4** provides a sample template for tracking Title VI/ADA complaints, investigations, and lawsuits.

The list, updated with all new events filed since the last submission, must be submitted with the Title VI/ADA/Non-Discrimination Plan. The list or log should include dates, a summary of allegation(s), status, actions taken by subrecipient in response, and final outcome (if resolved) for:

- ✓ Complaints naming the subrecipient which are based on disability, race, color, or national origin discrimination allegation(s).
- ✓ Active investigations by FTA or FHWA, the agency itself, or any other entity, which are based on disability, race, color, or national origin discrimination allegation(s).
- ✓ Lawsuits which are based on disability, race, color, or national origin discrimination allegation(s).

A best practice is to keep an ongoing log of complaints, investigations, and lawsuits. As this information is required to be included in the Title VI/ADA/Non-Discrimination Plan, it is best to maintain this information in a log and/or tracking document.

Public Involvement Plan

The subrecipient must have a written **Public Involvement Plan** which describes the proactive strategies, procedures, and desired outcomes supporting their public participation activities.

Appendix 5 provides a sample template for completing the **Public Involvement Plan**.

Subrecipients are encouraged to annually review and update their **Public Involvement Plan**. A summary of outreach activities and planned future activities are a required element of the Title VI/ADA/Non-Discrimination Plan submittal to WisDOT.

It is imperative to provide opportunities for the public to be involved in proposed transportation decisions. This means adjustments or modifications to programs or services should be made by

¹ The Safe Harbor Threshold provision stipulates that for each LEP group that meets the LEP language threshold (5% or 1,000 individuals, whichever is less, of the population to be served) subrecipients must provide written translation of vital documents for the non-English users.

gathering input with regard to minority and limited-English proficient (LEP) populations, and persons with disabilities.

Subrecipients are allowed flexibility in determining how, when, and how often specific public participation activities should take place and which specific measures are appropriate. Plans should be based on the subrecipient's demographics, service under consideration, programs affected or proposed, resources available, etc., and should adhere to the following:

- ✓ Provide for early, frequent, and continuous engagement by the public.
- ✓ Promote inclusive participation of low-income, minority, LEP individuals and people with disabilities. [FTA Circular, 4703.1- Environmental Justice Policy Guidance for Federal Transit Administration Recipients](#) provides examples of effective public participation strategies.
- ✓ Comply with the public participation requirements of 49 U.S.C Sections 5307(b) as applicable. FTA requires a locally developed process to consider public comment before raising a fare or carrying out a major reduction in transportation service. For guidance see [FTA Fare Equity Analysis](#) materials on the FTA website.

Tips for creating and implementing **Public Involvement Plans**:

- Select accessible and varied meeting locations and times
- Use social media in addition to other resources as a way to gain public involvement
- Employ different meeting sizes and formats
- Consider radio, television or newspaper ads on stations and in publications that serve LEP populations. Outreach to LEP populations could also include audio programming available on podcasts.
- Expand traditional outreach methods by visiting ethnic stores/markets and restaurants, community centers, libraries, farmers markets, local festivals, etc.

Limited English Proficiency (LEP) Plan

Appendix 6 provides a sample template for completing an LEP Plan.

[Executive Order 13166 "Improving Access to Services for Persons with Limited English Proficiency"](#), issued in 2000 states that individuals who do not speak English well and who have a limited ability to read, write, speak, or understand English are entitled to language assistance under Title VI in order to access public services or benefits for which they are eligible. If individuals have a limited ability to read, write, speak, or understand English, they are considered Limited English Proficient (LEP).

The US DOT "[Policy Guidance Concerning Recipients' Responsibilities to LEP Persons](#)" discusses the concept of "safe harbor" with respect to the requirements for translation of written materials. The *Safe Harbor Threshold* is calculated by dividing the population estimate for a language group that "Speaks English less than very well" by the total population of the county. The *LEP Safe Harbor Threshold* provision stipulates that for each LEP group that meets the LEP language threshold (5% or 1,000 individuals, whichever is less, of the population to be served) the subrecipient must provide

translation of vital documents (e.g., Notice of Non-Discrimination, Complaint Procedure and Complaint Form) in written format for non-English speaking persons.

Subrecipients must have a written Limited English Proficiency (LEP) Plan to address its responsibilities relating to the needs of individuals with limited English language skills in accordance with [FTA Circular 4702.1B – Title VI Requirements and Guidance for FTA Recipients](#).

The Limited English Proficiency (LEP) Plan should include the following elements:

1. The results of a *Four Factor Analysis*, including a description of the LEP population(s), served.
2. A description of the following language assistance services:
 - a. How language assistance services are provided.
 - b. How LEP persons are informed of the availability of language assistance services.
 - c. How the language assistance plan is monitored and updated.
 - d. How employees are trained to provide language assistance to LEP persons.

Meaningful Access - LEP Four Factor Analysis

To determine if an individual is entitled to language assistance and what specific services are appropriate, US DOT has provided an assessment tool, the *Four Factor Analysis*. For more information, see [DOT LEP Guidance](#).

The *Four Factor Analysis* must examine demographic data of the service area, the frequency with which the subrecipient encounters LEP persons, the nature and importance of the program and services to LEP persons, and the overall cost to provide LEP assistance.

- ✓ **Factor 1: Demography:** Examine demographic data to discuss the number or proportion of LEP persons served and the languages spoken in the service area. The following are data resources:
 - [County level Wisconsin LEP Demographic Data](#)
 - [US Census Bureau](#)
- ✓ **Factor 2: Frequency:** Discuss how often subrecipient staff or their contractors encounter LEP persons using the subrecipient service or program.
- ✓ **Factor 3: Importance:** Explain the nature and importance of the program, service or activities to LEP persons.
- ✓ **Factor 4: Resources and Costs:** Discuss funding and other resources available for LEP outreach.

Language Assistance Services

Subrecipients are required to describe how language assistance services are provided, how LEP persons are informed of the availability of language assistance services, how the LEP Plan is monitored and updated, and employee training on LEP principles and the LEP Plan.

Demographic Representation Information

Appendix 7 provides a sample template for completing the **Demographic Representation Information** requirement.

Subrecipients with transportation related, non-elected planning boards, advisory councils, or committees selected by the subrecipient must provide data depicting the membership of those organizations broken down by race.

Subrecipients also must include a description of the efforts made to encourage participation of minorities on these boards, councils, and committees.

[Wisconsin County Demographic data by Race](#) is available at on the WisDOT Transit Title VI/ADA website. Or conduct a more refined search using data from the [US Census Bureau](#).

Fixed Route Service Policy

Appendix 8 provides a sample template for completing the **Fixed Route Service Policy** requirement.

Fixed route service is defined as public transit service (other than by aircraft) provided on a repetitive, fixed-schedule basis along a specific route, with vehicles stopping to pick up passengers.

Subrecipients providing fixed route service, as defined above, must determine the distribution of transit amenities or the vehicle assignments for each mode in a non-discriminatory manner. Subrecipients must develop policies to ensure service is not distributed on the basis of race, color, or national origin.

Effective practices to fulfill the service policy requirement include developing written policies covering each of the following service indicators:

1. *Vehicle Assignments*

- ✓ The process for placing transit vehicles into service depots and on routes throughout the transit provider's system. Policies may be based on vehicle type and service type.

2. *Transit Amenities*

- ✓ Items of comfort, convenience and safety which are available to the general riding public such as seating, shelters, canopies, signs, maps, schedules, escalators, elevators, and waste receptacles. Although there may be different policies for different modes of transportation, amenities policies address how these amenities are distributed within a transit system in a way that ensures all riders have equal access to the amenities.

Fixed Route Service Standards

Appendix 9 provides a sample template for completing the **Fixed Route Service Standards** requirement.

Fixed route service is defined as public transit service (other than by aircraft) provided on a repetitive, fixed-schedule basis along a specific route, with vehicles stopping to pick up passengers.

Subrecipients providing fixed route service, as defined above, must determine the frequency of service, age, and quality of vehicles assigned to routes, quality of stations serving different routes, or the location of routes in a non-discriminatory manner. The subrecipient must not make service decisions on the basis of race, color, or national origin.

Effective practices to fulfill the Service Standard requirements include:

- Vehicle load
- Vehicle headway
- On time performance
- Service availability

For guidance on how to set system-wide service policies and standards see [FTA Circular 4702.1B – Title VI Requirements and Guidance for FTA Recipients](#), Chapter IV-4, Section 4. Requirement to Set System-Wide Service Standards and Policies and Appendix G.

Facility Location – Equity Analysis

Appendix 10 provides a sample template for completing the **Facility Location Equity Analysis** requirement.

Subrecipients planning to acquire land to construct certain types of facilities must not discriminate on the basis of race, color, or national origin, against persons who may, as a result of the construction, be displaced from their homes or businesses. “Facilities” in this context does not include transit stations or bus shelters, but instead refers to storage facilities, maintenance facilities, and operation centers.

Prior to the actual construction of a facility there are many steps involved in the planning process. It is during these planning phases that attention needs to be paid to equity and non-discrimination through equity analysis. The analysis must be done before the selection of the preferred site (**Appendix 10**).

Note: Even if facility construction is financed with non-FTA funds, if the subrecipient organization receives *any* FTA dollars, it must comply with this requirement.

Key points:

- The subrecipient shall conduct an equity analysis during the planning stage of the project to ensure a location is selected in a non-discriminatory manner.
- When evaluating locations, the subrecipient must investigate other facilities that have been built in the area with similar impact to determine if there are any cumulative adverse impacts.
- If the selected location of the constructed facility results in “disparate treatment” the subrecipient must show substantial legitimate justification for the facility location and provide evidence why there are no alternative locations.

MPO Demographic Data, Analysis and Procedures

Subrecipients that are Metropolitan Planning Organizations (MPO) receiving federal planning dollars from WisDOT are required to submit a Title VI/ADA/Non-Discrimination Plan to the State. If the MPO is a direct recipient, the MPO is also required to submit additional information to FTA.

Appendix 11 provides information for completing the *MPO Demographic Data, Analysis, and Procedures* requirement of the Title VI/ADA/Non-Discrimination Plan.

For MPOs, in addition to items/appendices 1-7 (and items/appendices 8 and 9 if the MPO is a provider of fixed route public transportation), the MPO shall also include the following information:

- A demographic profile of the metropolitan area that includes identification of the locations of minority populations in aggregate.
- A description of the procedures by which the mobility needs of minority populations are identified and considered within the planning process.
- Demographic maps that overlay the percent minority and non-minority populations as identified by Census or ACS data, at Census tract or block group level, and charts that analyze the impacts of the distribution of State and Federal funds in the aggregate for public transportation purposes, including Federal funds managed by the MPO.
- Analysis of the demographic maps that identifies any disparate impacts on the basis of race, color, or national origin, and, if so, determines whether there is a substantial legitimate justification for the policy that resulted in the disparate impacts, and if there are alternatives that could be employed that would have a less discriminatory impact.

Note:

In addition to the FTA requirements above, MPOs are required to submit FHWA required elements as shown on page 5 of this document. Consult the WisDOT Transit Section for guidance on Title VI/ADA/Non-Discrimination Plan requirements.

RESOURCES

Please see the websites below for more information.

WisDOT guidance

- [WisDOT Transit Title VI/ADA Compliance](#)
- [WisDOT Department Title VI Office](#)

Federal legal authorities

- [FTA Circular 4702.1B](#) (Title VI)
- [FTA Circular 4703.1](#) (Environmental Justice)
- [49 C.F.R. 21](#)
- [Executive Order 13166](#) (LEP)
- [Executive Order 12898](#) (Environmental Justice)

Federal guidance

- [US DOT LEP guidance](#)
- [FTA resource page](#)
- [FHWA resource page](#)

Training Links

- [FTA Title VI training page](#)
- [FTA Title VI training video](#)
- [FHWA Title VI PowerPoint presentations](#)

Other helpful resources

- [US Census Bureau](#)