

# Oregon Department of Transportation Office of Civil Rights Intermodal Title VI Program

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This document was prepared by the Oregon Department of Transportation, Office of Civil Rights in accordance with the FTA Circular 4702.1B, dated October 1, 2012, and all subsequent FTA guidance.

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## 1. INTRODUCTION

### Oregon Department of Transportation

**VISION:** The Oregon Department of Transportation was established in 1969 to provide a safe, efficient transportation system that supports economic opportunity and livable communities for Oregonians, ODOT develops programs related to Oregon's system of highways, roads, and bridges; railways; public transportation services; transportation safety programs; driver and vehicle licensing; and motor carrier regulation.

**MISSION:** To provide a safe, efficient transportation system that supports economic opportunity and livable communities.

**VALUES:** These are the values that guide our decision making and which we follow in implementing ODOT' mission and goals.

- Safety
- Customer Focus
- Efficiency
- Accountability
- Problem Solving
- Diversity
- Sustainability

### GOALS:

- Improve Safety
- More people and goods efficiently
- Improve Oregon's Livability and economic prosperity.

The Oregon Department of Transportation is dedicated to a well-qualified, diverse workforce representative of the public it serves. Diversity is an ODOT strategic business value taking advantage of diverse, creative thinking, collaboration, and problem solving toward common State and Federal transportation goals.

### ODOT's Office of Civil Rights

The Office of Civil Rights is committed to providing fair and equitable access to ODOT economic opportunities, programs and services. The Office of Civil Rights represents all

modes of transportation including public transit and passenger rail. In 2014 ODOT added Intermodal Civil Rights to the Office of Civil Rights' responsibilities which include the modes of transit and rail. The ODOT Office of Civil Rights' vision is to be a leader in the development of programs that increase opportunities for our workforce and small business stake holders as well as ensure non-discrimination in the projects and services it funds.

### **Public Transit and Rail Division**

ODOT, through the Public Transit and Rail Division (RPTD), will provide the leadership to develop a unified vision for public transportation planning and investment in the state of Oregon. To increase access to alternative transportation by engaging communities at a grass root level in the future of transportation, the division will:

- Support mobility and choice for the Elderly and Persons with Disabilities population,
- Connect transportation services throughout the state,
- Ensure equity and coordination in funding and services to all communities,
- Encourage better transportation choices for the environment,
- Provide leadership, tools and solutions for better access,
- Provide effective and efficient stewardship of state and federal funds, and
- Provide targeted and effective education and technical assistance..

## 2. TITLE VI NONDISCRIMINATION STATEMENT

The following Title VI nondiscrimination statement is posted in Oregon Department of Transportation (ODOT) facilities open to the public, listed on ODOT websites, and available in other languages and formats.

**The Oregon Department of Transportation ensures compliance with Title VI of the Civil Rights Act of 1964, 49 CFR, part 21; dated October 1, 2012, and related statutes and regulations to the end that no person shall 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 from the U.S. Department of Transportation on the grounds of race, color, or national origin; including the denial of meaning access for Limited English proficient (LEP) persons. Moreover, The Oregon Department of Transportation (ODOT) complies with all requirements pertaining to Environmental Justice, (EJ) Executive Order 12898 by ensuring that Minority populations and low-Income Populations are not subjected to disproportionately high and adverse environmental impacts and effects.**

### 3. PURPOSE AND OVERVIEW

The purpose of this plan is to enable the Oregon Department of Transportation, Rail and Public Transit Division (ODOT) and its subrecipients to comply with the guidance and instructions included in the Federal Transit Administration Circular 4702.1B that are necessary to carry out the requirements contained in the Title VI regulations issued by the U.S. Department of Justice (DOJ) (28 CFR Part 42, Subpart F) and the U.S. Department of Transportation (DOT) (49 CFR Part 21), and to administer programs, policies, and activities in a manner that is consistent with the DOT Order on Environmental Justice (Order 5610.2) and the DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005).

Extensive Title VI guidance can be found on the Federal Transit Administration (FTA) website at [http://www.fta.dot.gov/civilrights/civil\\_rights\\_5088.html](http://www.fta.dot.gov/civilrights/civil_rights_5088.html). The FTA has updated the Title VI Circular to 4702.1B. FTA's revised circular provides guidance to grantees on how to comply with Title VI regulations, as well as to ensure grantees provide meaningful language access to persons who are limited English proficient. The circular provides specific compliance information for each type of grantee and provides comprehensive appendices including additional guidance and examples to ensure recipients understand the requirements. Here information can be found on filing complaints, ensuring equity in fare and schedule changes, links to other Federal agencies and groups related to this issue, and links to the various regulations affecting the Title VI requirements.

Note that 49 CFR 21.9(b) requires that recipients record and retain certain information and submit information to FTA as necessary or required. ODOT fulfills this requirement by submitting a Title VI Program to FTA once every three years. Subrecipients of FTA funding through ODOT submit Title VI Programs to ODOT once every three years on a staggered schedule established by ODOT. ODOT provides training and technical assistance, reviews, and approves subrecipient Title VI Programs. Working with the subrecipients to resolve issues and inconsistencies is an ongoing process and is not limited to Title VI compliance. ODOT subrecipients of Federal Transit Administration funding range from a one-person-doing-it-all agency, to small and large urban transit and commuter rail providers. The objectives of this Oregon DOT Intermodal Title VI Program are:

- Ensure that the level and quality of transportation services are provided equitably and without regard to race, color, or national origin. Ensure that the Environmental Justice (EJ), Executive Order 12898 is complied with. Avoid, minimize, or mitigate

any disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations;

- Ensure the full and fair participation of all affected populations in transportation decision making;
- Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations; and ensure that persons with Limited English Proficiency (LEP) have meaningful access to programs and activities that are administered by recipient and subrecipients. And, finally, ensure that recipients and subrecipients are providing services in a non-discriminatory fashion and are informing the public of their rights.

## 4. ROLE OF FTA AND ODOT

### 4.1 Federal Transit Authority's Role

The FTA Office of Civil Rights conducts periodic discretionary compliance reviews of recipients and subrecipients of FTA funding, including transit providers, state Departments of Transportation, and Metropolitan Planning Organizations to determine their compliance with FTA Circular 4702.1B, "Title VI REQUIREMENTS AND GUIDELINES FOR FEDERAL TRANSIT ADMINISTRATION RECIPIENTS."

Compliance reviews also provide technical assistance and make recommendations regarding corrective actions, as deemed necessary and appropriate. Compliance reviews assess the recipient or subrecipient's efforts to meet the requirements under the "General Reporting" and "Program-Specific Reporting" sections of the Title VI Circular and any additional information that is necessary to make a determination that the grantee is in compliance with Title VI.

These reviews are conducted separately from the triennial, state management, or planning certification reviews. These reviews are conducted either as a desk audit or during an on-site visit. They may cover all or a portion of the recipient's or subrecipient's compliance with the Title VI requirements. Such reviews are conducted at the discretion of FTA, and their scope is defined on a case-by-case basis. The selection of recipients or subrecipients for compliance reviews is primarily based on the following factors:

- Lawsuits, complaints, or investigations conducted by organizations other than FTA alleging that the recipient or subrecipient is deficient or non-compliant with Title VI;
- Problems brought to the attention of FTA by other federal, state, or local civil rights agencies;
- Incomplete Title VI program submissions that were previously submitted to FTA by a recipient;
- Title VI findings or recommendations on prior triennial, state management, or planning certification reviews that have not been sufficiently resolved or implemented, or repeat findings in any FTA review concerning Title VI; and
- The length of time since the last compliance review.

After reviewing the recipient or subrecipient's efforts to meet the general requirements and guidelines reporting sections of the circular, FTA will issue findings in a draft report of no deficiencies, findings of deficiencies, or advisory comments. The recipient or subrecipient will

have the opportunity to review and respond to the draft report. After FTA has received and reviewed the agency's response, it will publish a final report that will be provided to the recipient or subrecipient and will also be subject to requests from the public under the Freedom of Information Act (FOIA).

If findings of deficiencies remain in the final report, the recipient or sub -recipient will be required to take corrective action and report on its progress to FTA on a basis deemed appropriate. Once FTA determines that the recipient or subrecipient has satisfactorily responded to the review's findings, it will inform the agency that the review process has ended and release it from further progress reporting in response to the review. Compliance reviews may be followed up with additional reviews as necessary.

In a situation where the recipient or subrecipient fails to take appropriate corrective action in response to the findings of deficiency in the report, FTA may initiate enforcement proceedings that could result in the suspension, termination, refusal to grant or continued federal financial assistance to a recipient or subrecipient or a referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce Title VI of the Civil Rights Act of 1964.

#### **4.2 Oregon Department of Transportation's Role**

ODOT is required to ensure that subrecipients are in compliance with Title VI requirements and demonstrate that subrecipients were selected for funding in a nondiscriminatory manner. The Intermodal Civil Rights Program ensures compliance with a variety of civil rights laws and executive orders that prohibit discrimination in programs and activities receiving direct or indirect federal financial assistance from the Federal Transit Administration (FTA) and/or the Federal Rail Administration (FRA).

Increasingly, ODOT uses multiple revenue sources to support highway, transit and rail activities. The *Intermodal* Civil Rights Program collaborates with other programs in the Office of Civil Rights to optimize compliance with civil rights laws and policies in Oregon's transportation system.

ODOT must and will maintain and provide data and other relevant information as required, including all pertinent data obtained from subrecipients. Onsite Title VI compliance reviews will be periodically conducted, as determined needed and necessary by the ODOT *Intermodal* Title VI office with review of the following areas:

- Inspection of all materials pertaining to implementation of Title VI and verification that all services are being implemented consistent with the updated Title VI program;
- Review any and all Title VI complaints and their outcomes. Make comments and advise subrecipient of any needed follow-up action;
- Inquire about any problems involving service delivery to the minority, low-income, and LEP communities and their possible solution; and
- Review other information necessary for compliance with the Title VI program requirements consistent with FTA Circular 4702.1B, dated October 1, 2012.
- Upon conclusion of review, ODOT will issue a compliance report. This report will contain the subrecipient's state of compliance, including recommendations and corrective actions regarding the Title VI program. Failure to submit requested information might delay consideration of any pending grant or grant application. In addition to the periodic compliance reviews, ODOT will:
  - Provide direction and technical assistance to ODOT subrecipients, cities, counties, metropolitan planning organizations (MPO), and contractors to ensure compliance with Title VI;
  - Ensure that Title VI requirements are included in program area directives to prevent perceived or real discrimination;
  - Attend ODOT public hearings and monitor for adequate participation of communities affected by ODOT activities;
  - Investigate and resolve filed Title VI complaints;
  - Develop and update ODOT's *Intermodal* Title VI Program to reflect organizational policy or implementation changes;
  - Develop and periodically deliver trainings on civil rights topics, including Title VI, Environmental Justice, DBE, and ADA.

## 5. REQUIREMENTS FOR ALL APPLICANTS

All applicants for FTA financial assistance should follow the following procedures to comply with the Title VI regulations. ODOT has and will comply with all requirements for the submission of this Title VI Program and considers that agency implementation of all Title VI Requirements is consistent with the FTA Circular, 4702.1B, dated 8 October 1, 2012. Thus, this submission was prepared in accordance with FTA Circular 4702.1B.

Every application for financial assistance from FTA must be accompanied by an assurance that the applicant will carry out the program in compliance with Title VI of the Civil Rights Act of 1964. This requirement is considered fulfilled when the applicant submits its Annual Certifications and Assurances to ODOT.

For first time applicants, in addition to the certifications and assurances addressed above, entities applying for FTA funding shall provide information regarding their Title VI compliance history if they have previously received federal funding from another federal agency. This shall include a summary of any Title VI compliance review activities conducted in the last three years. The summary should include:

- The purpose or reason for the review;
- The name of the agency or organization that performed the review;
- A summary of the findings and recommendations of the review; and
- A report on the status and/or disposition of such findings and recommendations. This information should be relevant to the organizational entity actually submitting the application, not necessarily the larger agency or department of which the entity is a part.

ODOT will require that all applicants address each of the following issues in the submission of their respective grant applications:

- List all active lawsuits or complaints against the transit provider alleging discrimination on the basis of race, color, or national origin with respect to service or other transit benefits.
- Describe all pending applications for financial assistance currently provided by other federal agencies to the applicant.

- Summarize all civil rights compliance reviews conducted by other local, state or federal agencies during the last three years.
- List the date of the most recent signing of the Annual Certification and Assurances.

ODOT submits its annual Title VI assurances as part of its annual Certification and Assurance Submission to FTA through TEAM-Web. ODOT's most recent submission was on 02/21/2014.

## 6. GENERAL REQUIREMENTS

The following section describes how ODOT fulfills the requirements that all FTA recipients must follow to ensure that their programs, policies, and activities comply with DOT's Title VI regulations. ODOT complied with the FTA Circular 4702.1B dated October 1, 2012 in the preparation of this Title VI Program.

### 6.1 Title VI Assurances

In accordance with 49 CFR Section 21.7(a), every application for financial assistance from FTA must be accompanied by an assurance that the applicant will carry out the program in compliance with DOT's Title VI regulations. This requirement shall be fulfilled when the applicant/recipient submits its annual certifications and assurances to FTA. Primary recipients shall collect Title VI assurances from subrecipients prior to passing through FTA funds. The text of FTA's annual certifications and assurances is available on FTA's website.

ODOT fulfills this requirement by submitting the annual certification and assurances to FTA, and subrecipients are required to submit and certify compliance to all of the appropriate civil rights rules and regulation to ODOT prior to receiving FTA funds. ODOT will submit the annual Certification and Assurance requirement via TEAM-Web.

The Governor of the State of Oregon designated the Oregon Department of Transportation (ODOT) Public Transit Division (PTD) as the administrative agent for the FTA programs:

- Planning (§5305) (§5303 MPO Funding transferred to Federal Highway PL funds for MPO planning activities), (§5304 Statewide planning not transferred),
- Older Adults and Individuals with Disabilities (§5310),
- Small Cities and Rural Areas (§5311), and
- Intercity Bus (§5311(f)),

The Governor designated the small urban transit agencies of the Cities of Bend and Corvallis and the Rogue Valley Transportation District as direct recipients of Formula §5307 funding. In March 2009, the Governor also submitted the required memorandum to the Federal Government in order for Oregon to be eligible to receive American Recovery and Reinvestment Act (ARRA) funds. The §5311 ARRA funds were managed by ODOT PTD.

With the completion of the 2010 Census, three new small urban areas were identified: Josephine County and the Cities of Albany and Wall Walla, WA/Milton-Freewater. The governor also designated them as direct recipients of §5307.

Public Transit Division is also the Oregon state agency in charge of the state's Special Transportation Fund program which is accumulated from a 2 cent tax per pack of cigarettes sold in Oregon. This revenue is dedicated to services for seniors and people with disabilities.

## **6.2 First-Time Applicants**

First-time applicants must submit a Title VI Program that is compliant with this Circular, and submit an assurance that it will comply with Title VI. In addition, and consistent with 28 CFR § 50.3, entities applying for FTA funding for the first time shall provide information regarding their Title VI compliance history if they have previously received funding from another Federal agency.

ODOT is not a first-time applicant. At the date of submittal, ODOT does not have any subrecipients that are first time applicants.

## **6.3 Prepare and Submit and Title VI Program**

Title 49 CFR section 21.9(b) requires recipients to “keep such records and submit to the Secretary timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this [rule].”

FTA requires that all direct and primary recipients document their compliance with DOT’s Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA.

ODOT has complied and will continue to comply with all requirements of Title 49 CFR, section 21.9 (b); as it relates to record keeping and subrecipients’ submission requirements. ODOT will provide FTA with updates or additional information as necessary. This program was approved and evidence of this approval is attached in Appendix A-1.

#### 6.4 Notify Beneficiaries of Protection Under Title VI

Title 49 CFR Section 21.9(d) requires recipients to provide information to the public regarding the recipient's obligations under DOT's Title VI regulations and apprise members of the public of the protections against discrimination afforded to them by Title VI. At a minimum, recipients shall disseminate this information to the public by posting a Title VI notice on the agency's website and in public areas of the agency's offices.

The approach ODOT takes to provide notice to beneficiaries consists of the following primary methods:

- Posting of ODOT's policy statement to the public website,
- Disseminating notices through ODOT's subrecipients for posting and further distribution to community groups and individuals who are known as the subrecipients or included on a subrecipient mailing list,
- Through structured outreach initiatives that ODOT, through the Office of Civil Rights, Public Transit and Rail Division, or other relevant departments conduct to provide notice of projects, grant opportunities and other information, and
- Ensuring that subrecipients of funds administered by ODOT also notify the public that is served by each transit provider.

ODOT and subrecipients of FTA, FRA, FHWA funds or any combination of these funds will disseminate and provide information to the public regarding their Title VI obligations and apprise the public of the protections against race, color, and national origin discrimination afforded to them by Title VI. This information dissemination will be accomplished through measures that can include but shall not be limited to posting the information on the agency's website and in public areas of the agency's offices. The Title VI information will further be posted in all facilities of the subrecipients' establishments; office space, and facilities including vehicles.

ODOT makes available to participants, beneficiaries, and other interested persons the agency's nondiscrimination statement and notice that ODOT complies with Title VI. ODOT's nondiscrimination statement can be found in Chapter 1 of this document. ODOT will make the Title VI procedures available to the public upon request. Also, the Title VI Program will be available on the Oregon Department of Transportation websites and disseminated in other formats upon request. The websites where this is available include:

ODOT Office of Civil Rights:

<http://www.oregon.gov/ODOT/CS/CivilRights/Pages/index.aspx>

ODOT Public Transit and Rail Division:

<http://www.oregon.gov/ODOT/PT/Pages/resources/civil-rights.aspx>

The Title VI Program will be translated into languages other than English, as needed and consistent with the USDOT LEP Guidance and ODOT's language assistance plan (Appendix A-8).

Subrecipients may adopt the Title VI notice developed by ODOT; however, subrecipients will be responsible for notifying their beneficiaries that they may file discrimination complaints directly with the subrecipient. ODOT will provide assistance to subrecipients upon request or as ODOT deems necessary. A copy of the notice in English and Spanish is included in Appendix A- 4.

#### **6.5 Develop Title VI Complaint Procedures and Complaint Form**

In order to comply with the reporting requirements established in 49 CFR Section 21.9(b), all recipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public. Recipients must also develop a Title VI complaint form, and the form and procedure for filing a complaint shall be available on the recipient's website.

FTA requires direct and primary recipients to report information regarding their complaint procedures in their Title VI Programs in order for FTA to determine compliance with DOT's Title VI regulations. ODOT is a primary recipient of FTA funding and in order to reduce administrative burden ODOT's subrecipients may adopt ODOT's Title VI complaint investigation, tracking procedures and complaint form or create their own.

It is ODOT policy and practice to use best efforts in ensuring that all programs, services, activities and benefits are implemented without discrimination and with the inclusion of minority and protected-class interests through its civil rights policies and procedures. ODOT policy, in accordance with Title VI of the Civil Rights Act of 1964, ensures that no person or groups of persons shall, on the grounds of race, color or national origin be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any and all programs, services or activities administered by its departments, agencies or subrecipient organizations. Additionally, related federal and/or state laws provide similar protections on the basis of a person's gender, religion, age, disability, sexual orientation, and other protected characteristics.

The following is a summary of ODOT policy and procedures in intake, response and monitoring of Title VI complaints. See Appendix A-2 for a full copy of the ODOT Compliant Process and Complaint Form.

### **Summary of ODOT Complaint Process**

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin for programs and activities receiving federal financial assistance. ODOT has adopted a Title VI complaint procedure as part of its Title VI Program.

The purpose of the Title VI policy and procedures is to prevent the denial, reduction or delay of benefits to minority and low-income populations, to ensure full and fair participation by affected populations in transportation decisions, and to ensure that policies and programs of ODOT avoid disproportionately negative effects on minority and low-income populations.

Any individual or individuals who believe they have been discriminated against on the basis of race, color, or national origin may file a complaint to the subrecipient, ODOT, or FTA. A formal, signed, written Title VI complaint form must be filed within 180 days of the date of the alleged act of discrimination. Complaints must be filed in person or in writing. When public transportation related complaints are submitted to ODOT, they should be directed to:

Oregon Department of Transportation  
Office of Civil Rights, MS 31  
Attn: Intermodal Civil Rights Manager  
355 Capitol Street NE  
Salem, OR 97301-3871

### **6.6 Record and Report Transit Related Title VI Investigations, Complaints, or Lawsuits**

Over the course of the reporting period since ODOT's previous submission of a Title VI Program to the FTA, the ODOT has received no Title VI investigations, complaints, or lawsuits filed with ODOT or that names the ODOT for alleged discrimination.

ODOT during the 2008-2011 reporting period has received no lawsuits or complaints alleging discrimination on the basis of race, color or national origin with respect to service or other transit benefits in administration of FTA-assisted programs.

ODOT maintains a log of all complaints received whether by phone, email or letter. The log includes the date of any investigation, lawsuit, or complaint that was filed, a summary of the allegation(s); the status of the investigation, lawsuit or complaint; actions taken by the subrecipient in response to the investigation, lawsuit, or complaint, and a summary of all civil rights compliance review activities conducted over the past three years.

The Rail/Public Transit Division mainly receives complaints pertaining to service or the lack thereof, i.e. the bus passed me by, the driver was rude to me, why can't we get more service. These complaints usually come in by telephone and are logged in the complaint file. Occasionally, someone has a complaint related to the American with Disabilities ACT (ADA). Once again, the complaint is recorded, the transit agency is notified and given an opportunity to explain and rectify the situation. The complainant is always given information on how to file a complaint with the FTA and/or the Department of Justice.

Although ODOT is not directly responsible for the Tri-County Metropolitan Transportation District (TriMet), which is a direct recipient of FTA funds, the ODOT Office of Civil Rights strives to be aware of civil rights issues across all transportation modes and throughout the state. ODOT is aware that FTA received a Title VI complaint against TriMet, the complaint alleged that TriMet failed to comply with FTA's Title VI Circular when TriMet implemented a change to its transfer policy and did not conduct a fare equity analysis. This complaint was resolved by FTA and a copy of the resolution is included in Appendix A-3.

A sample complaint log is included in Appendix A-5.

## **6.7 Public Participation**

The content and considerations of Title VI, the Executive Order on LEP, and the ODOT LEP Guidance shall be integrated into each subrecipient's established public participation plan or process.

Subrecipients may determine how, when, and how often specific public participation activities should take place, and which specific measures are most appropriate. ODOT and Subrecipients make these determinations based on a demographic analysis of the population(s) affected, the type of plan, program, and/or service under consideration, and the resources available.

Efforts to involve minority and LEP populations in public participation activities can include both comprehensive measures, such as placing public notices at all transit stations, stops, and

vehicles, as well as targeted measures to address linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and LEP persons from effectively participating in a recipient's decision-making process.

ODOT understands and will ensure that inclusive public participation is essential to having a successful and active Title VI program. Effective public involvement provides transportation officials with new and innovative ideas, while also alerting them to potential environmental justice concerns during the project planning phase.

Public participation provides a sense of individual and collective ownership in a project among the public, particularly those in the minority, low-income and LEP community that are often at the mercy of their surroundings. ODOT is committed to a public participation process for its comprehensive constituency and its subrecipients that will provide for early and continuous opportunities for participation by this segment of the population in the transportation decision making process. ODOT strives to employ a public involvement process that will comply with and exceed all requirements of the, FTA Circular, 4702.1B; in that it shall be a living document meeting the spirit and letter of the requirements.

In an effort to more fully integrate into community outreach activities the opinions of minority, low-income and LEP populations, ODOT's public participation program will include:

- Abide by all applicable state and federal laws and rules in implementing public involvement processes for the development and update of planning activities and the processes of selecting and awarding grants.
- Follow the requirements of the Oregon Public Meetings Law for all advisory committees and other public meetings, including requirements such as holding meetings at convenient and accessible locations and times.
- Maintain and utilize as appropriate a broad based statewide list of stakeholders.
- During public involvement processes seek out and consider the needs of those populations traditionally underserved by existing transportation systems, such as low-income and minority populations, who may face challenges accessing employment and other services.
- Employ visualization techniques such as maps, photographs, display boards, scenario building programs and other devices to the maximum extent practicable.
- Provide reasonable public access to technical and policy information used in the development and update of statewide transportation plans.

## 6.8 Meaningful Access to LEP Individuals and Communities

Consistent with Title VI of the Civil Rights Act of 1964, DOT's implementing regulations, and Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency" (65 FR 50121, Aug. 11, 2000), recipients shall take reasonable steps to ensure meaningful access to benefits, services, information, and other important portions of their programs and activities for individuals who are limited-English proficient (LEP).

On December 14, 2005, the United States Department of Transportation (DOT) published revised guidance for its recipients on the Implementation of Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." According to U.S. DOT guidance, Limited English Proficient (LEP) persons are defined as "individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English."

The Oregon Department of Transportation (ODOT) serves a broad and diverse community. Providing practical access to information for all citizens who use ODOT's programs and services is a high priority for the agency. ODOT supports the goals of the DOT LEP Guidance and is committed to taking reasonable steps to provide meaningful access for LEP individuals who use ODOT's services, facilities, and programs, and who attend ODOT's meetings and events.

To ensure that ODOT complies with the requirements of Title VI, Executive Order 13166, and the DOT LEP implementing guidance, ODOT developed and implemented a language access plan that incorporates the necessary elements that the federal guidance identifies for providing language assistance to LEP persons.

ODOT's current LEP Plan was developed in 2012, and the plan is currently being updated with an emphasis on improving translation and interpretation services.

ODOT's 2012 LEP plan is attached in Appendix A.6. and it is also available along with information on the updates to the plan at:

[http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/Pages/tvi\\_lep.aspx](http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/Pages/tvi_lep.aspx)

## 6.9 Minority Representation on Transit-Related Advisory Bodies

Recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar committees, the membership of which is selected by the recipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees.

In 2000, the OTC established the Public Transit Advisory Committee. The purpose of PTAC is to provide advice to OTC and PTD to assist in developing transit policies and programs, and to serve as a forum for discussing and identifying public transportation issues and solutions. Members provide input on public transportation issues of regional and statewide significance. The division administrator determines the agenda for the PTAC.

The committee is a representation of public transportation stakeholders, including: general public providers in urban areas over 200,000 population, urban areas between 50,000 and 200,000, and small communities under 50,000 population; private for profit and intercity bus providers; Indian tribal governments; representatives of the Association of Oregon Counties; League of Oregon Cities; Statewide Independent Living Council; Transportation Options Group of Oregon; Oregon Department of Human Services – Vocational Rehabilitation; Oregon Disabilities Commission; Governor's Commission on Senior Services; and the Oregon Passenger Rail Advisory Council.

PTAC's voluntary self-identity questionnaire:

White (not of Hispanic Origin):	18
Asian or Pacific Islander:	1
Hispanic	1
Total	20

A chart of the PTAC representation and a copy of the Title VI Questionnaire that was distributed to PTAC members are included in Appendix A.7.

### **6.10 Assistance to Subrecipients**

ODOT complies with and ensures that all reporting requirements and assistance to the subrecipients is consistent FTA guidance and Oregon policy. Recently, ODOT hired a dedicated Intermodal Civil Rights team to work on civil rights issues associated with FTA and FRA funding. The Intermodal Civil Rights team covers all elements of ODOT's Title VI program, DBE program, and other Civil Rights compliance. The program covers the requirements, procedures, actions and sanctions through which ODOT enforces its adherence to Title VI.

The Intermodal Civil Rights staff is responsible for developing, implementing, coordinating, monitoring and ensuring compliance with the regulations in day-to-day management as well as the annual reporting as required by law. The team will be involved with various stages of planning and project development to assist in preventing and/or correcting discriminatory

practices. The team will work with the subrecipients and ODOT Regional Transit Coordinators to develop a training program that both complies with federal requirements as well as tailors to the needs of the various agencies.

The Intermodal Civil Rights staff in coordination with Rail and Public Transit Division staff assists subrecipients to meet federal Title VI compliance. Since resources are generally limited for these subrecipient public transportation providers, ODOT provides templates and other documents for the subrecipients to use in order to develop a Title VI plan, conduct a self-assessment, develop an LEP plan and identify the LEP and low-income populations within their jurisdiction. ODOT will also organize, conduct and lead training efforts in order to provide more direct guidance and answer remaining questions that may be region-specific.

The Intermodal Civil Rights staff will also work with the subrecipients to provide ongoing technical assistance and training on all aspects of Civil Rights compliance and monitoring in an effort to improve consistency throughout the state and to integrate the work of civil rights across all modes and funding sources provided via the Oregon Department of Transportation.

#### **6.11 Monitoring Subrecipients**

In accordance with 49 CFR 21.9(b), and to ensure that subrecipients are complying with the DOT Title VI regulations, primary recipients must monitor their subrecipients for compliance with the regulations. Importantly, if a subrecipient is not in compliance with Title VI requirements, then the primary recipient is also not in compliance.

The ODOT Intermodal Civil Rights Manager and staff, in collaboration with the Public Transit and Rail Division, the FTA, FRA and/or the FHWA, will conduct these compliance reviews of all MPOs, and other transit providers that are subrecipients of USDOT funding through ODOT. ODOT staff will have ongoing review and documentation of subrecipient Title VI plans and other reports to determine if agencies are in compliance with Title VI.

A schedule is being developed for periodic subrecipient reviews and training.

#### **Compliance Site Reviews**

The purpose of the on-site review is to assess how the agency's management is complying with Federal and state laws, rules, requirements, and regulations. The overall goal of the program is to improve the agency's compliance with applicable regulations while strengthening managements' abilities in these areas.

The Public Transit Division's Compliance Monitoring Program Field Guide is designed to assist the Division and public transportation providers assess how transit agencies in Oregon meet the varied compliance requirements imposed by the Federal Transit Administration and Oregon DOT. ODOT contracts with a private company to conduct compliance reviews of all subrecipients; reports are then issued to ODOT staff and the reviewed subrecipient indicating areas of concern and/or lack of compliance. The goal is to review each subrecipient every three years.

The site review checklist and compliance guide can be accessed at the following hyperlinks:

ODOT's Site Review Checklist:

<http://www.oregon.gov/ODOT/PT/resources/guidance-library/site-review-checklist.pdf>

ODOT's Compliance Field Guide:

<http://www.oregon.gov/ODOT/PT/resources/guidance-library/compliance-field-guide.pdf>

## **6.12 Location of Facilities**

The Title 49 CFR Section 21.9(b)(3) states, "In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part."

ODOT shall comply with all requirements of determining any site or location of facilities in accordance with the requirements of Title VI and the guidance of the FTA circular. The location of projects requiring land acquisition and the displacement of persons from their residences and businesses will not be determined on the basis of race, color, or national origin.

ODOT fully understands that for the purpose of this requirement, "facilities" does not include bus shelters, as these are transit amenities and are covered in Chapter IV of the Circular, nor does it include transit stations, power substations, etc., as those evaluated during project development and the NEPA process.

ODOT implements this requirement understanding that facilities included in this provision include, but are not limited to, storage facilities, maintenance facilities, and operations centers.

ODOT will comply with requirement by implementing the following initiatives with all contracted subrecipients.

ODOT requires all subrecipients to complete a Title VI equity analysis during the planning state with regard to where a project is to locate or sited to ensure the location is selected without regard to race, color, or national origin. When necessary, needed, and required, ODOT and/or subrecipients will engage in outreach to persons potentially impacted by the placement of new facilities. The Title VI equity analysis will compare the equity impacts of various alternatives, and the analysis will occur before the selection of preferred sites.

ODOT will evaluate the location analysis of any new facilities for subrecipients; and give due attention to other facilities that may have similar adverse impacts in a particular area to determine if there are any cumulative impact. Additionally, analysis of Census Tract and block groups will take place to ensure that the proper evaluation is always given to possible localized impacts.

If ODOT determines that any project location will possibly result in a disparate impact on the basis of race, color, or national origin, the project will only be located in that particular location of legitimate justification can be assessed for such location; and where there are no alternative location that would have a less disparate impact on the basis of race, color, and national origin. ODOT will also demonstrate through conclusive analysis and consideration that the analysis of the alternative would have less of a disparate impact on the basis of race, color, or national origin, and will ensure implementation of the least discriminatory alternative.

### **6.13 Information Available Upon Request**

FTA may request, at its discretion, information other than that required by the Circular in order for FTA to investigate complaints of discrimination or to resolve concerns about possible noncompliance with DOT's Title VI regulations.

ODOT shall comply with any and all requests from the FTA for any additional information required to resolve concerns about possible noncompliance with the DOT's Title VI regulations.

## 7. REQUIREMENTS FOR STATES

ODOT receives Federal Financial assistance from the FTA and will implement the general requirements and guidelines outlined in Chapter III of FTA Circular 4702.1B as noted and recorded. ODOT is not a provider of fixed route public transportation.

### 7.1 Prepare and Submit and Title VI Program

ODOT will comply with Title 49 CFR Section 21.9(b) by submitting reports to the FTA in order to ascertain and establish compliance with the DOT Title VI regulation. Moreover, ODOT will establish, maintain, and have available “racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.

As a primary/designated recipient, ODOT will submit this updated Title VI program to the FTA regional civil rights officer every three years. As a State Department of Transportation (DOT), ODOT’s governing entity is the state’s Transportation Director and the Oregon Transportation Commission, and appropriate attached documentation is included. As a Direct and Primary Recipient, ODOT will comply with all requirements consistent with FTA Circular 4702.1B in monitoring, reporting, and submission of appropriate Title VI Programs from subrecipients.

- a. ODOT will comply with all requirements of Chapter III of the Title VI Circular dated October 1, 2012
- b. Since ODOT is not a transit provider of fixed route public transportation services, Chapter IV of the Title VI Circular is not applicable; however, ODOT will ensure that fixed route subrecipients comply with these requirements.
- c. ODOT has developed and will continue to update demographic profiles of minority and low income populations in aggregate. (Appendix A.8.)
- d. ODOT has also developed demographic maps that overlay the percent of minority and non-minority populations that have been identified by data from the 2010 US Census and American Community Survey. For the best representation of the distribution of transit funds within Oregon, ODOT used county level data for this Title VI report; however ODOT has accessed and will use this data at other levels for ongoing, internal analysis. (Appendix A.8.).

e. ODOT did not identify any evidence of disparate impacts on the basis of race, color, or national origin. If further analysis or significant changes in population or policy occur, ODOT will re-analyze the data. If there are any possible significant perceived or real disparate impacts, ODOT will develop and employee alternatives that would have a less discriminatory impact

f. The ODOT statewide transportation planning process include, outreach, public involvement and participation, conducting outreach meeting and sessions to ensure that such sessions are accessible to LEP and Minority Populations. The Oregon Transportation Commission approved an update to ODOT's Public Involvement Policy on May 28, 2009. The updated policy establishes the following policy and core implementation actions to assist in meeting state and federal public participation requirements for statewide planning processes and the Statewide Transportation Improvement Program (STIP) development. The updated policy includes the following regulation:

“Maintain and utilize as appropriate a broad based statewide list of stakeholders including but not limited to: individuals and organizations that are interested in or affected by transportation decisions such as members of the public; freight shippers; private providers of transportation; representatives of users of public transportation; representatives of users of pedestrian walkways and bicycle transportation facilities; representatives of the people with disabilities; providers of freight transportation services; other interested parties; and organizations who are interested in or affected by transportation decisions including, but not limited to, representatives of: Indian tribal governments; populations traditionally underserved by existing transportation systems such as low-income minority populations; and others who may face challenges accessing employment and other services.”

The 2009 update to the policy is included in full in this document as Appendix A.9, along with specific requirement of the ODOT Public Transit and Rail Division. More information about the ODOT's public involvement policies and processes is available on the web at:

<http://www.oregon.gov/ODOT/pages/involvement.aspx>.

g. The procedure utilized by ODOT to pass through FTA financial assistance includes, but is not limited to the following; to the maximum extent possible without any regard to race, color, or national origin, ODOT's pass through of funding is based on funding availability, subrecipient's

individual requests, and an individual evaluation and assessment of need based on ridership and population served. Moreover, ODOT selects a cross population representative of the community that will receive the funding to ensure equity and elimination any perceived, real, bias or discrimination in the selection process.

**h.** The procedures and assistance used by ODOT to assist potential subrecipients in applying for funding, including efforts to assist applicants that would serve the minority population; include, conducting individual and collective workshops, seminars, and training sessions to ensure that all interested applicants are provided all needed and necessary training and information in a nondiscriminatory manner to the minority population; and that the assistance is provided to whomever makes a request for same.

## **7.2 Planning**

The following section discusses program-specific requirements to which ODOT adheres in its oversight of the administration of FTA-funded programs, including for Elderly Individuals and Individuals with Disabilities (§5310), Rural and Small Urban Areas (§5311), Job Access and Reverse Commute (§5316), and New Freedom (§5317).

ODOT understands and complies with conducting planning consistent with 49 U.S.C Section 5304, Statewide Transportation Planning, as well as subpart B of 23 CFR part 450, Statewide Transportation Planning and Programming. ODOT further understands and complies with the requirement to collect Title VI programs from subrecipient transit providers as appropriate.

The collection of the Title VI Programs is generally collected electronically and ODOT maintains records of all approved Title VI programs and the status of all Title VI Programs under review or revision. Among the steps that ODOT has taken to comply with all applicable Federal requirements include:

- ODOT analyzed regional demographic data to identify minority populations within the non-urbanized areas of the state.
- When needed, ODOT provides local service providers and agencies with data to assist them in identifying minority populations in their respective areas or other technical assistance.
- ODOT strives to ensure that members of minority communities are provided with the full opportunities to engage in the statewide transportation planning processes.

- ODOT will provide ongoing monitoring of activities and technical assistance as needed to subrecipients in regard to ensuring comprehensive Title VI compliance when there are transfers of FTA, FHWA, FRA or other federal funds.

### **Demographic Profile**

To aid in its statewide oversight of FTA funded programs, ODOT developed a set of demographic maps and summary statistics using data from the 2010 U.S. Census, the American Community Survey, and the Oregon Public Transportation Information System (OPTIS).

These data have been used to illustrate the distribution of transit funds in Oregon, in relation to the distribution of populations as minority, low-income, or both minority and low-income. For the purposes of the maps and charts, minority areas are defined in accordance with the FTA Title VI Circular 4702.1A as areas where the percentage of minority residents exceeds the percentage minority population for the area as a whole.

In order to analyze of any potential impacts of the distribution of State and Federal funds in the aggregate to support public transportation in Oregon, ODOT staff choose to present the analysis in this Title VI program at the county level, rather than census tract. This decision was made because for the majority of public transit providers in Oregon, county or multi-county populations most closely align with the population the served by the providers. For the purpose of the chart and maps, the minority population includes in the aggregate: African Americans, Asians, American Indians and Alaskan Natives, Pacific Islanders, people of Hispanic or Latino origin, other non-white races, and persons of two or more races.

In the analysis of any potential impacts identified in the charts and maps, ODOT does not identify any evidence of disparate impacts on the basis of race, color, or national origin. If further analysis or significant changes in population or policy occur, ODOT will re-analyze the data. If there are any possible significant perceived or real disparate impacts, ODOT will develop and employee alternatives that would have a less discriminatory impact.

The maps and chart illustrating this data is included as an attachment to this document in Appendix A.8.

## Statewide Transportation Planning Process

The Oregon Transportation Plan (OTP), adopted September 20, 2006, is the state's long-range multimodal transportation plan. The plan addresses the future needs of Oregon's airports, bicycle and pedestrian facilities, highways and roadways, pipelines, ports and waterway facilities, public transportation and railroads through 2030. It establishes a vision of a balanced, multimodal transportation system and provides a framework for policy objectives.

The plan emphasizes maintaining the assets in place, optimizing the existing system performance through technology and better system integration, creating sustainable funding and investing in strategic capacity enhancements. The Plan provides the framework for prioritizing transportation improvements based on varied future revenue conditions, but it does not identify specific projects for development.

The transit modal plan, called the Oregon Public Transportation Plan (OFTP), develops the OTP goals and objectives related to the public transportation system, including public transit, special needs transportation, transportation options and intercity bus. Public Transit Division's programs are designed to implement the OFTP. The OFTP was originally adopted in 1997, and is currently being updated.

The FTA requires that each state adopt policies and procedures to be used in administering the FTA Sections 5310, 5311, 5316 and 5317 grant programs. The document describing the adopted policies and procedures is referred to as the "State Management Plan". This document is the State Management Plan adopted by the Oregon Department of Transportation Public Transit Division for the FTA programs.

The current edition of the State Management Plan for Public Transportation Programs was updated and made available in May 2012. The 2012 Edition updates the 2009 publication and incorporates policy changes or program additions made in partnership with the Public Transportation Advisory Committee and other stakeholders since the last edition. The plan is available for download on ODOT's website:

<http://www.oregon.gov/ODOT/PT/resources/guidance-library/state-management-plan.pdf> .

## 7.3 Requirements for Program Administration

In accordance with 49 CFR Section 21.5, the general nondiscrimination provision; ODOT shall document that FTA funds are passed through to subrecipients without regards to race, color, or national origin and will ensure that minority populations are not denied the benefits of or

excluded from participation in the programs. Additionally, ODOT shall prepare and maintain the following information and other records, all of which can be provided to FTA upon request.

- a. A record of funding requests received from private non-profit organizations, state or local governmental authorities, and Indian tribes. The record shall identify those applicants that would use grant programs funds to provide assistance to predominantly minority population. The record shall also indicate which applications were rejected and accepted for funding.
- b. A description of how ODOT develops its competitive selection process or annual program of projects submitted to FTA as part of its grant applications. This description shall emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority populations, including Native Americans tribes, where present. Equitable distribution can be achieved by engaging in outreach to diverse stakeholders regarding the availability of funds, and ensuring the competitive process is not itself a barrier to selection of minority applicants.
- c. A description of the agency's criteria for selecting entities to participate in an FTA grant program.

Furthermore, when a subrecipient is also a direct recipient of FTA funds, that is, applies for funds directly from FTA in addition to receiving funds from the state, the subrecipient/direct recipient reports directly to FTA and the state as designated recipient is not responsible for monitoring compliance of that subrecipient/direct recipient. Where there is a supplemental agreement signed by both entities in their roles as designated recipient and direct recipient relieves the State as designated recipient of this oversight responsibility.

ODOT administers Federally-funded transit programs, including Section 5310, Elderly Individuals and Individuals with Disabilities Program and Section 5311 Non-urbanized Area Formula Program. All applications to each of these programs are treated equitably and reviewed using the same procedures, described in the following sections.

Through annual grant agreements, §5311 subrecipients agree to comply with all applicable civil rights statutes and regulations. These include Title VI of the Civil Rights Act, Equal Employment Opportunity, and Americans with Disabilities Act. Each recipient must have a signed DOT Title VI Assurance and FTA Civil Rights Assurance on file with ODOT.

Through biennial grant agreements, Section §5310 subrecipients agree to comply with all applicable civil rights statutes and regulations.

The goal of this program is to improve mobility for elderly individuals and individuals with disabilities in all areas—urbanized, small urban, and rural.