

## SUBCHAPTER C—CIVIL RIGHTS

### PART 200—TITLE VI PROGRAM AND RELATED STATUTES—IMPLEMENTATION AND REVIEW PROCEDURES

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AUTHORITY: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d-4; Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-3619; 42 U.S.C. 4601 to 4655; 23 U.S.C. 109(h); 23 U.S.C. 324.

SOURCE: 41 FR 53982, Dec. 10, 1976, unless otherwise noted.

#### § 200.1 Purpose.

To provide guidelines for: (a) Implementing the Federal Highway Administration (FHWA) Title VI compliance program under Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations, and (b) Conducting Title VI program compliance reviews relative to the Federal-aid highway program.

#### § 200.3 Application of this part.

The provisions of this part are applicable to all elements of FHWA and provide requirements and guidelines for State highway agencies to implement the Title VI Program requirements. The related civil rights laws and regulations are listed under § 200.5(p) of this part. Title VI requirements for 23 U.S.C. 402 will be covered under a joint FHWA/NHTSA agreement.

#### § 200.5 Definitions.

The following definitions shall apply for the purpose of this part:

(a) *Affirmative action*. A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future non-discriminatory practices.

(b) *Beneficiary*. Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted pro-

gram, *i.e.*, relocatees, impacted citizens, communities, etc.

(c) *Citizen participation*. An open process in which the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

(d) *Compliance*. That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.

(e) *Deficiency status*. The interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI Program guidelines, but has not been declared in noncompliance by the Secretary of Transportation.

(f) *Discrimination*. That act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex, or national origin, has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Federal Highway Administration under title 23 U.S.C.

(g) *Facility*. Includes all, or any part of, structures, equipment or other real or personal property, or interests therein, and *the provision of facilities* includes the construction, expansion, renovation, remodeling, alternation or acquisition of facilities.

(h) *Federal assistance*. Includes:

- (1) Grants and loans of Federal funds,
- (2) The grant or donation of Federal property and interests in property,
- (3) The detail of Federal personnel,
- (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and

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(5) Any Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

(i) *Noncompliance.* A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all of the Title VI requirements.

(j) *Persons.* Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: "White not of Hispanic origin", "Black not of Hispanic origin", "Hispanic", "Asian or Pacific Islander", "American Indian or Alaskan Native." Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

(k) *Program.* Includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

(l) *State highway agency.* That department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term *State* would be considered equivalent to *State highway agency* if the context so implies.

(m) *Program area officials.* The officials in FHWA who are responsible for carrying out technical program responsibilities.

(n) *Recipient.* Any State, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term *recipient* does not include any ultimate beneficiary under any such program.

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(o) *Secretary.* The Secretary of Transportation as set forth in 49 CFR 21.17(g)(3) or the Federal Highway Administrator to whom the Secretary has delegated his authority in specific cases.

(p) *Title VI Program.* The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI requirements and regulations shall not be limited to only Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, sex, or national origin in programs receiving Federal financial assistance of the type subject to Title VI itself. These Federal statutes are:

(1) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–d4 (49 CFR part 21; the standard DOT Title VI assurances signed by each State pursuant to DOT Order 1050.2; Executive Order 11764; 28 CFR 50.3);

(2) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601–4655) (49 CFR part 25; Pub. L. 91–646);

(3) Title VIII of the Civil Rights Act of 1968, amended 1974 (42 U.S.C. 3601–3619);

(4) 23 U.S.C. 109(h);

(5) 23 U.S.C. 324;

(6) Subsequent Federal-Aid Highway Acts and related statutes.

### § 200.7 FHWA Title VI policy.

It is the policy of the FHWA to ensure compliance with Title VI of the Civil Rights Act of 1964; 49 CFR part 21; and related statutes and regulations.

### § 200.9 State highway agency responsibilities.

(a) State assurances in accordance with Title VI of the Civil Rights Act of 1964.

(1) Title 49, CFR part 21 (Department of Transportation Regulations for the implementation of Title VI of the Civil Rights Act of 1964) requires assurances from States that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied

the benefits of, or be otherwise subjected to discrimination under any program or activity for which the recipient receives Federal assistance from the Department of Transportation, including the Federal Highway Administration.

(2) Section 162a of the Federal-Aid Highway Act of 1973 (section 324, title 23 U.S.C.) requires that there be no discrimination on the ground of sex. The FHWA considers all assurances heretofore received to have been amended to include a prohibition against discrimination on the ground of sex. These assurances were signed by the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. The State highway agency shall submit a certification to the FHWA indicating that the requirements of section 162a of the Federal-Aid Highway Act of 1973 have been added to its assurances.

(3) The State highway agency shall take affirmative action to correct any deficiencies found by the FHWA within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with State-signed assurances and required guidelines. The head of the State highway agency shall be held responsible for implementing Title VI requirements.

(4) The State program area officials and Title VI Specialist shall conduct annual reviews of all pertinent program areas to determine the effectiveness of program area activities at all levels.

(b) *State actions.* (1) Establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the State highway agency. This unit shall contain a Title VI Equal Employment Opportunity Coordinator or a Title VI Specialist, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports.

(2) Adequately staff the civil rights unit to effectively implement the State civil rights requirements.

(3) Develop procedures for prompt processing and disposition of Title VI and Title VIII complaints received directly by the State and not by FHWA. Complaints shall be investigated by

State civil rights personnel trained in compliance investigations. Identify each complainant by race, color, sex, or national origin; the recipient; the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition; the date of the disposition; and other pertinent information. Each recipient (State) processing Title VI complaints shall be required to maintain a similar log. A copy of the complaint, together with a copy of the State's report of investigation, shall be forwarded to the FHWA division office within 60 days of the date the complaint was received by the State.

(4) Develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of State highway programs, *i.e.*, relocatees, impacted citizens and affected communities.

(5) Develop a program to conduct Title VI reviews of program areas.

(6) Conduct annual reviews of special emphasis program areas to determine the effectiveness or program area activities at all levels.

(7) Conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds.

(8) Review State program directives in coordination with State program officials and, where applicable, include Title VI and related requirements.

(9) The State highway agency Title VI designee shall be responsible for conducting training programs on Title VI and related statutes for State program and civil rights officials.

(10) Prepare a yearly report of Title VI accomplishments for the past year and goals for the next year.

(11) Beginning October 1, 1976, each State highway agency shall annually submit an updated Title VI implementing plan to the Regional Federal Highway Administrator for approval or disapproval.

(12) Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English.

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(13) Establishing procedures for pregrant and postgrant approval reviews of State programs and applicants for compliance with Title VI requirements; *i.e.*, highway location, design and relocation, and persons seeking contracts with the State.

(14) Establish procedures to identify and eliminate discrimination when found to exist.

(15) Establishing procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary, all within a period not to exceed 90 days.

### § 200.11 Procedures for processing Title VI reviews.

(a) If the regional Title VI review report contains deficiencies and recommended actions, the report shall be forwarded by the Regional Federal Highway Administrator to the Division Administrator, who will forward it with a cover letter to the State highway agency for corrective action.

(b) The division office, in coordination with the Regional Civil Rights Officer, shall schedule a meeting with the recipient, to be held not later than 30 days from receipt of the deficiency report.

(c) Recipients placed in a deficiency status shall be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies.

(d) The Division Administrator shall seek the cooperation of the recipient in correcting deficiencies found during the review. The FHWA officials shall also provide the technical assistance and guidance needed to aid the recipient to comply voluntarily.

(e) When a recipient fails or refuses to voluntarily comply with requirements within the time frame allotted, the Division Administrator shall submit to the Regional Administrator two copies of the case file and a recommendation that the State be found in noncompliance.

(f) The Office of Civil Rights shall review the case file for a determination of concurrence or nonconcurrence with a recommendation to the Federal Highway Administrator. Should the Federal Highway Administrator concur with the recommendation, the file is re-

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ferred to the Department of Transportation, Office of the Secretary, for appropriate action in accordance with 49 CFR.

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