

City of Memphis

Jim Strickland, Mayor



*Title VI Compliance and Implementation Plan
Office of Equity, Diversity & Inclusion
2022*

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CITY OF MEMPHIS – TITLE VI ADMINISTRATION

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Title VI Coordinator's Responsibilities

Responsibilities

The City of Memphis' Title VI Coordinator has the responsibility for collecting data surveys, evaluations, and other pertinent documentation in accordance with Title VI regulations. Additionally, the Title VI Coordinator represents the City of Memphis during on-site reviews by the respective entities and officers. Information flows from the Title VI Coordinator to the respective entities and officers to insure accurate information in compliance with Title VI program requirements. It is also the responsibility of the Title VI Coordinator to verify and implement the City of Memphis' Title VI Compliance and Implementation Plan (detailed in booklet).

In addition to the above responsibilities, the City of Memphis' Title VI Coordinator must (1) collect racial and ethnic data; (2) monitor Title VI Contract Assurance Agreements; (3) forward complaints to the respective entities and officers; (4) collect minority program participation data including representation of minorities on local committees, boards, and councils; (5) formulate the Title VI Annual Report; and (6) detail how funds will be administered in compliance with Title VI.

Upon receipt of a written complaint of discrimination, the Title VI Coordinator for the City of Memphis will log and forward a copy to the respective entities and officers. The respective entities and officers will determine jurisdiction over the complaint. This process avoids any duplication of efforts between two departments. After a determination of jurisdiction by the respective entities and officers, a copy of the complaint is also forwarded to the alleged discriminatory service or program official. An initial investigation is conducted by the Title VI Coordinator. This investigation encompasses all relevant aspects of the complaint by first initiating an interview with the complainant. During the interview, the complainant has an opportunity to submit any documentation he/she perceives as relevant to proving his/her complaint. After the initial interview has been completed the file is then forwarded to the respective entities and officers for further review.

***Title VI of the 1964 Civil Rights Act
42 U.S.C. 2000d***

“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.”

1. *What is Federal financial assistance?*
 - a. *Federal financial assistance is more than just money. It includes:*
 - i. *Money.*
 - ii. *Provision of valuable services.*
 - iii. *Training.*
 - iv. *Commodities.*
 - v. *Use or interest in land.*

2. *What is covered by Title VI?*
 - a. *Transportation*
 - b. *Construction*
 - c. *Distribution of benefits and services*
 - d. *Tax benefits enjoyed by private agencies, fraternal, and nonprofit organizations (i.e. 501(c)3, as well as educational institutions)*
 - e. *Location of facilities*
 - f. *Law enforcement and environmental issues*
 - g. *Program effects on people in applicable communities*
 - h. *Healthcare (i.e. Medicare, Medicaid, TennCare), social service and Public Welfare*
 - i. *Natural resources and the environment*
 - j. *Employment and job training*
 - k. *Housing and community development*
 - l. *Agriculture and nutrition*

Prohibited Discrimination Under Title VI

There are many forms of illegal discrimination based on race, color, or national origin that can limit the opportunities of minorities to gain equal access to services and programs. In operating a federally assisted program, a recipient cannot, on the basis of race, color, or national origin, either directly or through contractual means:

- (a) Deny program services, aid, or benefits;
- (b) Provide a different service, aid, or benefit, or provide them in a manner different than they are providing to others;
- (c) Segregate or separately treat individuals in any manner related to the recipient of any services, aid, or benefit;
- (d) Selecting site or location of facilities - may not be done with the purpose or effect of excluding, denying, or otherwise discriminating on race, color or national origin;
- (e) Adopt or use methods of administration which would limit participation by any group of recipients or subject an individual to discrimination;
- (f) Address an individual in a manner that denotes inferiority because of race, color, or national origin;
- (g) Permit discriminatory activity in a facility built in whole or in part with federal funds; or
- (h) Fail to advise the population eligible to be served or benefitted by any federally funded programs exist.

Title VI does not apply to the following discriminatory acts:

- (a) Employment-Does not apply to employment, except where employment practices result in discrimination against program beneficiaries or where the purpose of the program is to provide employment
- (b) Discrimination based on age, sex, or disability

How to File a Discrimination Complaint

File a signed, written complaint within 180 days to the date of the alleged discrimination. (See Appendix A) The complaint should include:

- Your name, address, and telephone number.
- The name and address of the agency, institution, or department you believe discriminated against you.
- How, why, and when you believe you were discriminated against. Include as much specific, detailed information as possible about the alleged acts of discrimination, and any other relevant information.
- The names of any persons, if known, who the respective entities and officers could contact for clarity of your allegations.
- Your complaint must be signed.

Please submit complaint to the addresses stipulated below:

Brooke Hyman
Equity, Diversity and Inclusion Officer/Title VI Coordinator
Office of Equity, Diversity and Inclusion
125 N. Main, Suite 414
Memphis, TN 38103
Tel. (901) 636-6777
Fax (901) 636-6698

Or

Tennessee Department of Transportation
Civil Rights Division
Title VI Program
Cynthia Howard, Director
505 Deadrick Street, Suite 400
Nashville, TN 37243
Tel. (615) 741-3681
Fax (615) 741-3169
Toll Free 1(888) 370-3647

Complaint and Hearing Process

1. An official complaint against a federally assisted service or program must be submitted to the City of Memphis Title VI Coordinator no later than one hundred and eighty (180) calendar days after the alleged incident has occurred.
2. Upon receipt of a written complaint of discrimination, the Title VI Coordinator for the City of Memphis forwards a copy to the respective entities and officers. This allows the respective entities and officers the opportunity to determine jurisdiction over the complaint. This process avoids any duplication of efforts between two departments.
3. After a determination of jurisdiction by the respective entities and officers, a copy of the complaint is also forwarded to the alleged discriminatory service or program official. An initial investigation is conducted by the Title VI Coordinator. This investigation encompasses all relevant aspects of the complaint by first initiating an interview with the complainant. During the interview, the complainant has an opportunity to submit any documentation he/she perceives as relevant to proving his/her complaint. After the initial interview has been completed the file is then forwarded to the respective entities and officers within seven (7) working days for further review. The alleged discriminatory service or program official also has an opportunity to respond to all aspects of the complainant's allegations. The complainant and the alleged discriminatory service or program official also can name witnesses to prove or disprove allegations made by opposing parties. The respective entities then determine, based on relevancy or duplication of evidence, which witnesses are to be contacted and questioned. The complainant and the service or program official are informed of their right to representation at any stage of the complaint process. The complainant has an opportunity to give a rebuttal statement at the end of the investigatory process.
4. The investigation is completed, and a final report is sent to the alleged discriminatory service or program, and the complainant within sixty (60) calendar days of the date the complaint was received by the Title VI Coordinator. The final report includes the following:
 - (a) written complaint containing the allegation, basis, and date of filing
 - (b) summarized statements taken from witnesses
 - (c) finding of facts
 - (d) opinion (based on all evidence in the record) that the incident is substantiated or unsubstantiated
 - (i) remedial action(s) for substantiated cases
5. If corrective action(s) has not taken place within thirty (30) calendar days after receipt of the substantiated final report, a referral is then made to the respective entities and officers for enforcement action.
6. The complainant has the right to appeal all written reports to the respective entities and officers. This appeal must be made in writing to the respective entities and officers within fourteen (14) days of receipt of the Department's final report. The respective entities and officers forward this appeal within seven (7) calendar days to the Title VI Advisory Board for review. Title VI Advisory Board must complete the appeal review within thirty (30)

calendar days after receipt of the appeal and forward their findings to the complainant and the Commissioner.

7. The City of Memphis maintains a log of all complaints and appeals. The City of Memphis' Title VI Coordinator identifies and reports any noteworthy trends to the respective entities and officers on a quarterly basis.
8. The Title VI complaint policy and procedures are documented in the Title VI brochures. These brochures accompany all contracts and are used as a public information resource tool.

Intimidatory or Retaliatory Acts Prohibited

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title VI. The identity of complainants shall be kept confidential except to the extent necessary to carry out purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Title VI Enforcement Procedures “Sanctions for Non-Compliance”

The primary means of enforcing compliance with Title VI is through voluntary agreements with the recipients and the fund suspension or termination is a means of last resort. This approach as set forth in the statute, reflects congressional intent, and is recognized by the courts. See 42 U.S.C. § 2000d-1; Board of Public Instruction of Taylor County, Florida v. Finch, 414 F. 2d 1068, 1075 n.11 (5th Cir. 1969) (citing 110 Cong. Rec. 7062 (1964) (Statement of Sen. Pastore)). Accordingly, if the respective entities believe an applicant is not in compliance with Title VI, the agency has three potential remedies:

- 1) Resolution of the noncompliance (or potential noncompliance) “by voluntary means” by entering into an agreement with the applicant, which becomes a condition of the assistance agreement; or
- 2) Where voluntary compliance efforts are unsuccessful, a refusal by the respective entities and officers to grant or continue the assistance; or
- 3) Where voluntary compliance efforts are unsuccessful, referral of the violation to the Department of Justice for judicial action. 42 U.S.C. § 2000d-1.

Employee Training/Education

New Employees

The City of Memphis conducts a bi-weekly employee orientation. All new employees are required to attend. During the orientation, new employees review a Title VI video and receive a verbal explanation of Title VI by the Office of Equity, Diversity and Compliance.

Current Employees

All City employees and contract staff with the City of Memphis are required to complete the annual Title VI Training created by The Office of Equity, Diversity, and Inclusion. Employees can access training through the Oracle Fusion Portal (Learning Management System).

Beneficiary Education/Public Notice

Division Directors or designees are responsible for ensuring appropriate education of the beneficiaries of their programs. All Division Directors or designees have been provided Title VI posters that identify beneficiary rights under Title VI and the Title VI Coordinator. These beneficiaries are overwhelmingly residents of the City of Memphis. The Title VI Coordinator and the Legal Department are available to provide department heads and other employees with additional information, if requested by program beneficiaries. Information about federal rights is provided in alternative communication formats and languages other than English within one business day of any request for the same. The Title VI Coordinator shall review and update, if necessary, information provided to employees and beneficiaries on an annual basis. The Title VI Coordinator is responsible for planning and implementing methods of reaching beneficiaries on a county-wide basis.

Contract Assurance Agreements

These assurance statements are incorporated in all TDOT funded projects from the following divisions:

Engineering

All contracts originating from Engineering utilizing funds from TDOT contain Contract Assurance Agreements. Title VI posters are displayed in all Engineering service centers so that all employees are exposed to the literature.

General Services

All contracts originating from General Services utilizing funds from TDOT contain Contract Assurance Agreements. Title VI posters are displayed in all General Services service centers so that employees are exposed to the literature.

Housing & Community Development

All contracts originating from Housing & Community Development utilizing funds from TDOT contain Contract Assurance Agreements. All contracts originating from Contractors Assistance Program (CAP) utilizing funds from TDOT contain Contract Assurance Agreements. Title VI posters are displayed in all Housing & Community Development service centers so that employees are exposed to the literature.

Planning & Development

All contracts originating from Planning & Development utilizing funds from TDOT contain Contract Assurance Agreements. Title VI posters are displayed in all Planning & Development service centers so that employees are exposed to the literature.

Parks & Neighborhoods

All contracts originating from Parks & Neighborhoods utilizing funds from TDOT contain Contract Assurance Agreements. Title VI posters are displayed in all Public Services & Neighborhoods service centers so that employees are exposed to the literature.

Public Works

All contracts originating from Public Works utilizing funds from TDOT contain Contracts Assurance Agreements. Title VI posters are displayed in all Public Works service centers so that employees are exposed to the literature.

Police Department

All contracts originating from the Police Department utilizing funds from TDOT contain Contract Assurance Agreements. Title VI posters are displayed in all Police Precincts so that employees are exposed to the literature.

Minority Representation on Planning Boards & Commissions

In the event of construction and development in an area, the citizens must be involved in the decision process. The inclusion of minorities and women on planning boards and commissions is critical in establishing an equal access planning system. This is made possible by equal representation on planning boards and commissions. This process allows the citizens to be aware and have a voice in the construction and development. First, we request a copy of all planning boards and commissions to find out how the citizens are selected and the racial make-up of each of the planning boards and commissions. Sub-recipients of city contracts are also strongly encouraged to diversify all planning boards and commissions. We also review the process of the planning board and commission membership including, but not limited to length of terms, appointment method, and duties. Once deficiencies are discovered, a meeting with the appointment committee takes place to bring the deficiencies to their attention. A Title VI information session is then scheduled to educate the appointment committee on diversity.

Develop a Public Participation Plan

Public forums are held to engage the Public with the opportunity to make them aware of projects or services and to provide input in the decision-making process through public meetings/hearings in centralized locations; advertisement with the local media resources and minority newspapers; direct mailings; public service announcements; website; and public radio and television. This allows the community an opportunity to discuss alternatives with the committee. This process takes place during the pre-design phase of significant projects. These forums are to be open and proactive by providing complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement in the process. Additional methods to disseminate plan information to the public include publication of the proposed plan or other methods that make it readily available for public review and comment.

Promote Certified D/S/M/WBEs in City Contracting

Currently, the city places legal notices to bid in the Builders' Exchange and The Daily News. Our advertisements allow ample time for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate M/W/SBE participation. We encourage the use of M/W/SBEs on both goal and non-goal projects. Our outreach efforts include the use of our certified MWSBE list for pre-bid meetings and advertisements. In addition to advertising in these publications, the City of Memphis' Purchasing Agent periodically reviews other advertisement options. These options include but are not limited to: minority owned and operated newspapers and the City of Memphis' Web Page. An evaluation is made as to the effectiveness of these options in our outreach efforts. The Office of Business Diversity & Compliance assists in setting M/W/SBE goals on bids as well as placing calls to qualified vendors to bid on upcoming contracts. This has proven to be effective in increasing the number of subcontractors bidding on City contracts as primes and subcontractors.

Data Collection and Analysis

The Office of Business Diversity & Compliance assists with the compilation of total dollars spent with minority and women owned businesses. This role has also been expanded to include data collection of the racial composition of various planning boards in the City of Memphis.

Limited English Proficiency (LEP)

An LEP Person is someone who does not speak English as their primary language, and has a limited ability to read, speak, write, or understand English. LEP – Executive Order #13166 requires Federal agencies to examine the services they provide, identify any need for services to those with LEP, and develop and implement a system to provide those services so LEP persons can have meaningful access to them. Currently, the City of Memphis has a contract with Language Line which provides translation services to our clients when needed.

Develop an Environmental Justice Process

The Environmental Justice process aims for fair treatment and protection from environmental hazards for all; provides meaningful involvement in decision-making means inclusive and accessible for all people; provides good community impact assessments addressing the concerns of all people; documents efforts taken to identify and engage minority and low-income populations, and provides an analysis for each alternative that offsets the benefits needed to be considered before making a determination. Executive Order #12898: each Federal agency must identify and address, as appropriate, disproportionately high, and adverse human health or environmental effects of its programs, policies and activities on minority and low-income populations.