



# Title VI Plan

*Civil rights, environmental justice and equity*

July 2017

## **Metro respects civil rights**

Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes that ban discrimination. If any person believes they have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age or disability, they have the right to file a complaint with Metro. For information on Metro's civil rights program, or to obtain a discrimination complaint form, visit [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) or call 503-797-1536.

Metro provides services or accommodations upon request to persons with disabilities and people who need an interpreter at public meetings. If you need a sign language interpreter, communication aid or language assistance, call 503-797-1700 or TDD/TTY 503-797-1804 (8 a.m. to 5 p.m. weekdays) 5 business days before the meeting. All Metro meetings are wheelchair accessible. For up-to-date public transportation information, visit TriMet's website at [www.trimet.org](http://www.trimet.org).

**Metro is the federally mandated metropolitan planning organization** designated by the governor to develop an overall transportation plan and to allocate federal funds for the region.

The Joint Policy Advisory Committee on Transportation (JPACT) is a 17-member committee that provides a forum for elected officials and representatives of agencies involved in transportation to evaluate transportation needs in the region and to make recommendations to the Metro Council. The established decision-making process assures a well-balanced regional transportation system and involves local elected officials directly in decisions that help the Metro Council develop regional transportation policies, including allocating transportation funds.

**Program web site:** [oregonmetro.gov/civilrights](http://oregonmetro.gov/civilrights)

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## I. POLICY STATEMENT

Metro is the directly elected regional government serving 1.5 million people living in the urbanized areas of the Portland metropolitan region. It serves as the federally- and state-designated metropolitan planning organization for the Portland, Oregon metropolitan region.

Metro assures that no person shall, on the grounds of race, color, national origin, English-language proficiency, immigration status, sex, age and disability status, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any of its programs or activities, whether federally funded or not. Additionally, Metro assures that it identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations to achieve an equitable distribution of benefits and burdens.

This plan's elements that protect against discrimination apply to Metro, its subrecipients, contractors and consultants. Metro's Title VI Coordinator and Office of Public Engagement are responsible for initiating and monitoring Title VI activities and preparing required reports.

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Martha Bennett  
Chief operating officer

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Date

## II. PURPOSE AND BACKGROUND

*Metro will ensure that no person, on the ground of race, color, national origin – including English-language proficiency and immigration status, sex, age or disability status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under its programs. In addition, it ensures the identification and addressing of disproportionately high and adverse human health or environmental effects of programs, policies and activities on minority populations and low-income populations to achieve an equitable distribution of benefits and impacts.*

This is the Metro's Title VI Plan for submission to the Oregon Department of Transportation (ODOT) in accordance with guidance from the Federal Highway Administration (FHWA). This plan guides Metro's compliance with Title VI regulations (49 CFR part 21), the Executive Orders 12250 and 12898, the Moving Ahead for Progress in the 21st Century Act (MAP-21), and other applicable laws.

Metro submits this plan as the federally- and state-designated metropolitan planning organization for the Portland, Oregon metropolitan region that receives grant funding from the FHWA through ODOT for regional transportation planning and directly from the Federal Transit Administration (FTA) for regional transit planning and travel options programming. As a direct recipient of FTA funds, Metro separately submits a Title VI Program to the FTA, following the FTA's guidance document, Circular 4702.1B (Oct. 1, 2012) Metro's most recent Title VI Program was submitted to FTA on Sept. 30, 2015, and an update is due to be filed by Oct. 1, 2018.

Metro is a directly elected regional government serving 1.5 million people living in the urbanized areas of the Portland metropolitan region. Metro's Title VI Coordinator and Office of Public Engagement<sup>1</sup> are responsible for initiating and monitoring Title VI activities and for preparing this plan.

### A. FHWA and Title VI, environmental justice, nondiscrimination and equity

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) prohibits discrimination based on race, color, and national origin in programs and activities receiving Federal financial assistance. More specifically, Title VI provides that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The U.S. Supreme Court has held that discrimination based on English-language ability equates to national origin discrimination<sup>2</sup> and that

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<sup>1</sup> The Office of Public Engagement is referred to in the Metro Charter as the Office of Citizen Involvement; Metro Charter, chapter V, Officers, Commissions and Employees, section 27(1), "The Metro Office of Citizen Involvement is created to develop and maintain programs and procedures to aid communication between citizens and the Council." The name has evolved in other references to be more inclusive to residents who may not be citizens of the United States.

<sup>2</sup> Lau v. Nichols, 414 U.S. 563 (1974)

undocumented immigrants are considered "persons" under the equal protection clause of the Fourteenth Amendment.<sup>3</sup>

In addition, the FHWA Title VI Program is broader than the Title VI of the Civil Rights Act of 1964 statute, encompassing other nondiscrimination statutes and authorities.<sup>4</sup> This includes the Federal-Aid Highway Act of 1973 (23 U.S.C. § 324; prohibiting discrimination based on sex); the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.). Together, these authorities forbid discrimination for agencies that accept federal funds because of race, color, national origin, English-language proficiency, immigration status, sex, age and disability status. Additionally, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires the identification and addressing of disproportionately high and adverse human health or environmental effects of programs, policies and activities on minority populations and low-income populations to achieve an equitable distribution of benefits and burdens.<sup>5</sup>

As stated by the FHWA:

Together, Title VI, [Environmental Justice], and other nondiscrimination authorities protect diverse segments of the population which may be at risk of being unduly impacted by, or which have been historically underrepresented, within the transportation decision-making process. Considering the needs of and potential impacts of projects on these populations may result in greater transportation equity as benefits are likely to be more equitably distributed amongst the affected communities.<sup>6</sup>

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<sup>3</sup> Plyler v. Doe, 457 U.S. 202 (1982)

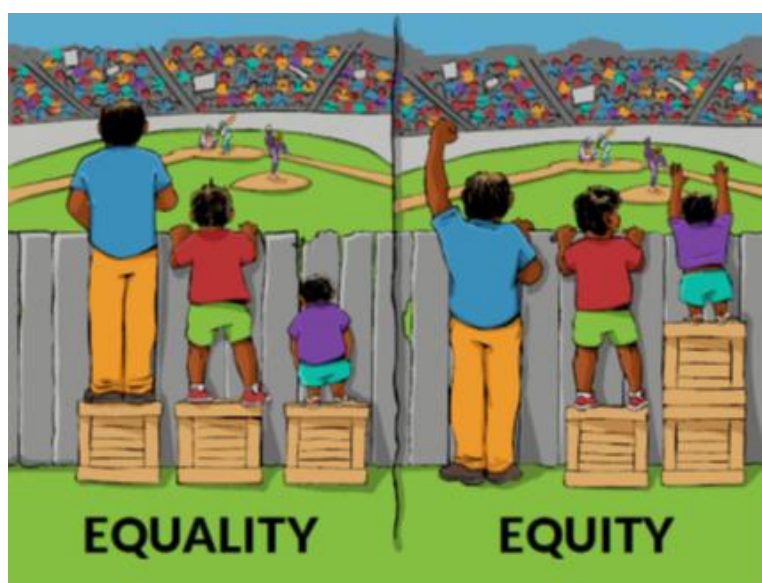
<sup>4</sup> FHWA, Environmental Justice Reference Guide (Background), April 1, 2015, [fhwa.dot.gov/environment/environmental\\_justice/publications/reference\\_guide\\_2015/section00.cfm](https://www.fhwa.dot.gov/environment/environmental_justice/publications/reference_guide_2015/section00.cfm)

<sup>5</sup> FHWA, Environmental Justice, Title VI, Non-Discrimination, and Equity, [fhwa.dot.gov/environment/environmental\\_justice/equity/](https://www.fhwa.dot.gov/environment/environmental_justice/equity/)

<sup>6</sup> *Ibid.*

Further, the FHWA emphasizes equity as the goal for Title VI, environmental justice and other nondiscrimination efforts:

Equity in transportation seeks fairness in mobility and accessibility to meet the needs of all community members. A central goal of transportation equity is to facilitate social and economic opportunities by providing equitable levels of access to affordable and reliable transportation options based on the needs of the populations being served, particularly populations that are traditionally underserved. This population group includes individuals in at least one of the following categories: Low Income, Minority, Elderly, Children, Limited English Proficiency, or Persons with Disabilities. It is important to note that transportation equity does not mean equal. An equitable transportation plan considers the circumstances impacting a community's mobility and connectivity needs and this information is used to determine the measures needed to develop an equitable transportation network. The graphic [to the right] illustrates the differences between equality and equity. To attain an equitable transportation network, all components of Title VI, [Environmental Justice], and Nondiscrimination must be considered.<sup>7 8</sup>



## **B. Metro and Title VI, environmental justice, nondiscrimination and equity**

As mentioned, Metro's Title VI Coordinator and Office of Public Engagement are responsible for Title VI activities and for preparing this plan. The Title VI Coordinator is the director of communications, who reports to the deputy chief operating officer of Metro.<sup>9</sup> The Title VI Coordinator or their designee is responsible for supervising Title VI implementation, monitoring and reporting on Metro's compliance with Title VI regulations. The responsibilities of the Title VI Coordinator or designee include:

<sup>7</sup> *Ibid*; graphic credited to Interaction Institute for Social Change.

<sup>8</sup> Based on feedback from these communities, Metro currently uses the term "historically marginalized communities and older and young people," (sometimes shortened to simply "historically marginalized communities") rather than the term "traditionally underserved."

<sup>9</sup> An organizational structure is provided below in this subsection.

- identifying, investigating and eliminating discrimination when found to exist in connection with Metro programs
- collaborating in the development of methods to better identify historically marginalized populations, determine the needs and perspectives on the potential benefits and impacts of Metro’s programs of those populations, and assess and monitor the potential benefits and impacts of Metro’s programs for those populations (*see below, this section*)
- assessing communications, public engagement and language access strategies to ensure inclusion of historically marginalized populations (*see below, this section*)
- processing and investigating Title VI complaints regarding subrecipients, consultants or contractors of Metro and
- forwarding Title VI complaints directly against Metro to ODOT<sup>10</sup>
- periodically reviewing Metro’s Title VI program for effectiveness, including staff levels, resources and language
- reporting significant Title VI issues directly to the Metro chief operating officer
- monitoring and reporting to ODOT progress, implementation and compliance issues quarterly
- submitting annual Title VI compliance to ODOT and reviewing the report to determine effectiveness of the Title VI program and compliance with regulations.

### **Collaborating in the development of methods to better identify historically marginalized populations**

The Title VI Coordinator’s designee coordinates with Metro’s Research Center to develop improved methods to better identify historically marginalized populations within the Portland metropolitan region. Through this collaboration, Metro most recently refined its methods for assessing populations of English-language learners (people with limited English proficiency) in 2015.<sup>11</sup> This refined method compares data on English-language learners in regional public schools and the American Community Survey to provide more detailed information than the datasets for the American Community Survey “other language” categories (e.g., “Other Slavic,” “African,” “Other Indo-European”) as well as accounting for mismatched borders between census boundaries and project area or city jurisdictional boundaries.

In 2016, a methodology was developed to account for mixed-ethnicity persons in comparing regional demographics with public engagement participation rates.<sup>12</sup> The Research Center continues to research the availability of a reliable dataset around which build a

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<sup>10</sup> Per FTA guidance, Metro will investigate complaints directly against Metro in relation to FTA direct-funded programs such as the Regional Travel Options program and high capacity transit planning under an FTA grant. *See* Title VI Requirements and Guidelines for Federal Transit Administration Recipients, Circular 4702.1B, chapter III-5.

<sup>11</sup> *See* Metro, Limited English Proficiency Plan, August 2015, [oregonmetro.gov/sites/default/files/2015\\_limited\\_english\\_proficiency\\_plan.pdf](http://oregonmetro.gov/sites/default/files/2015_limited_english_proficiency_plan.pdf).

<sup>12</sup> *See* section IV.A., below.

methodology for mapping areas of higher numbers of people with disabilities. The director of the Research Center reports to the deputy chief operating officer.

**Assessing communications, public engagement and language access strategies to ensure inclusion of historically marginalized populations; collaborating in the development of methods to determine the needs and perspectives on the potential benefits and impacts of Metro’s programs of historically marginalized populations**

The Title VI Coordinator’s designee directs communications staff in developing and implementing strategies for more inclusive storytelling through Metro News ([oregonmetro.gov/news](http://oregonmetro.gov/news)) to express the issues that are facing residents of the region and how that relates to Metro’s programs and plans. An example of this is in the Regional Snapshots ([oregonmetro.gov/snapshot](http://oregonmetro.gov/snapshot)), which feature people of color, people with disabilities, older adults, youth and people speaking languages other than English. The communications department manages Metro News; the director of communications reports to reports to the deputy chief operating officer. The communications department and planning and development department work in partnership for Regional Snapshot strategy and implementation; the director of planning and development reports to the chief operating officer.

The Title VI Coordinator’s designee coordinates with the communications department’s community relations manager to develop and implement public engagement strategies to ensure the inclusion of historically marginalized communities. This includes convening discussion groups with community partners to hear perspectives from the Native American or African immigrant community, for instance and managing consultant-led focus groups to hear perspectives from the Latinx or African American community, for instance.<sup>13</sup> The designee and community relations manager are currently consulting on a project to increase cultural competency in how Metro speaks about the issues its programs and projects address.<sup>14</sup>

The Title VI Coordinator’s designee coordinates with the agency’s language access project manager to identify which languages need vital document translation to meet the Department of Justice’s Safe Harbor provision,<sup>15</sup> implement language access notifications,

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<sup>13</sup> Metro uses the term “discussion group” to refer to partner-coordinated discussions where participants know ahead of time that Metro will be participating and the purpose of the discussion. The discussion group agendas are usually co-created with and facilitated by a leader in a community based organization that serves the particular historically marginalized community that is the focus. “Focus groups” refers to a discussion led by a consultant, in a marketing focus group style, where a range of participants (within the historically marginalized community that is the focus) are recruited without necessarily knowing who the sponsor is; typically, Metro observes but does not participate.

<sup>14</sup> Through 2017, the Mosaic project will assess how African American, Latinx and Asian American participants react to different terms, graphics styles, media types and collateral formats that Metro has historically used or is beginning to use to determine if there are inadvertent cultural barriers.

<sup>15</sup> “The DOJ recipient provides written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.” Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed.Reg. at 41,464.

and develop other language access practices and resources. The language access project is managed by the Diversity, Equity and Inclusion program; the director of the Diversity, Equity and Inclusion program reports to the chief operating officer.

The Title VI Coordinator's designee advises Metro's planning and development department on what are considered – by historically marginalized communities – potential benefits and impacts of Metro's programs and projects and their perceived importance or severity.

### **Collaborating in the development of methods to assess and monitor the potential benefits and impacts of Metro's programs for historically marginalized populations**

The Title VI Coordinator's designee further collaborates with Metro's planning and development department on developing methods for assessing and monitoring potential benefits and impacts of Metro's programs and projects for historically marginalized communities – based on what the communities have identified as potential benefits and impacts and their perceived importance or severity.

### **Metro's Diversity, Equity and Inclusion program**

In addition to the coordination above, the Title VI Coordinator's designee collaborates with Metro's Diversity, Equity and Inclusion program. The Diversity, Equity and Inclusion program addresses systemic inequities that impact our communities by providing support and tools to Metro staff, Metro Council and community partners to create an equitable region for all. The Metro Council approved a Diversity Action Plan in 2012,<sup>16</sup> which will be updated in 2017, and a strategic plan to advance racial equity, diversity and inclusion in 2016.<sup>17</sup>

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<sup>16</sup> Metro recognizes that the diversity of the region's population will grow over time and that it is essential for Metro to increase the diversity and cultural competence of its workforce to remain relevant and accountable to the community it serves. The plan helps Metro identify ways to value diversity and demonstrate cultural competence in carrying out its mission. The plan identifies goals, strategies and actions in four areas: 1) internal awareness and sensitivity to diversity issues, 2) employee recruitment and retention, 3) public involvement and citizen advisory committee membership, 4) procurement. [oregonmetro.gov/node/5532](http://oregonmetro.gov/node/5532).

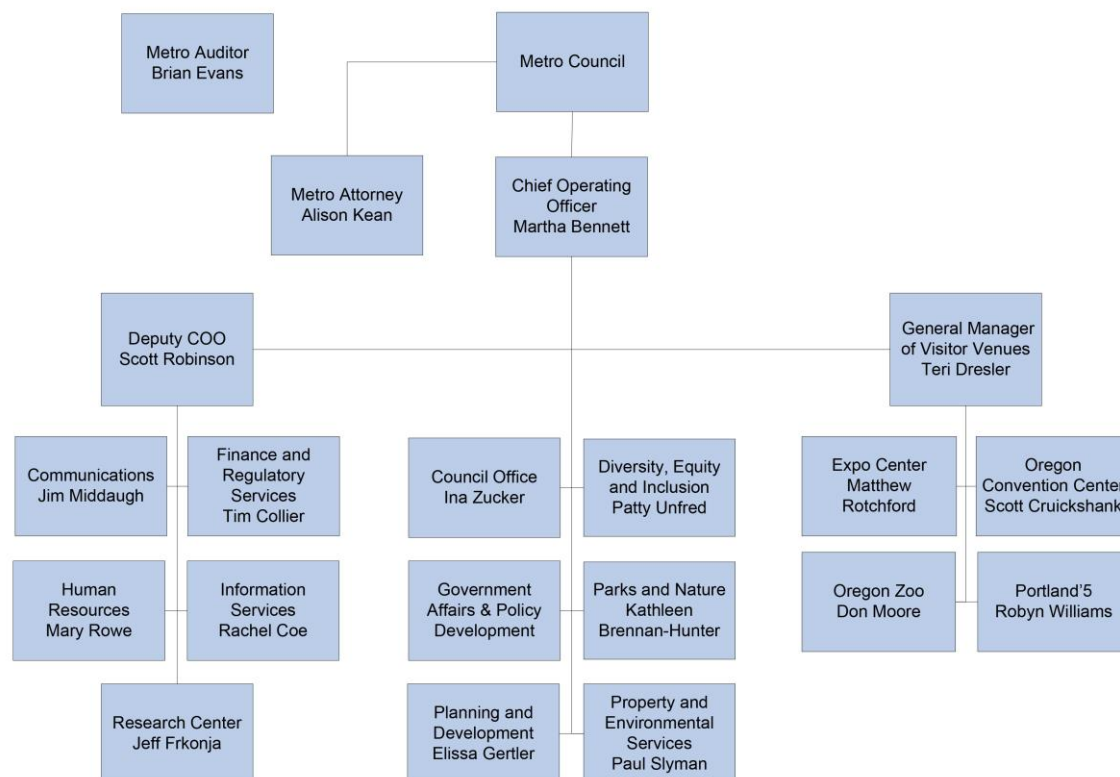
<sup>17</sup> Guided by input from many regional partners and informed by research, Metro has identified racial equity as the approach to ensure that all people who live, work and recreate in the Portland region have the opportunity to share in and help define a thriving, livable and prosperous place. The strategic plan focuses on removing barriers for people of color and improving equity outcomes for these communities by improving how Metro works internally and with partners around the Portland region. The plan has five goals: 1) Metro convenes and supports regional partners to advance racial equity, 2) Metro meaningfully engages communities of color, 3) Metro hires, trains and promotes a racially diverse workforce, 4) Metro creates safe and welcoming services, programs and destinations, 5) Metro's resource allocation advances racial equity. [oregonmetro.gov/node/5490](http://oregonmetro.gov/node/5490)



## C. Reporting structure for Title VI, environmental justice, nondiscrimination and equity

### Metro organizational structure

This chart shows Metro's organizational structure. Due to some staffing changes, names of some of the director positions are being updated.



### Metro Title VI reporting structure

Jim Middaugh, Metro director of communications, is Metro's Title VI Coordinator and reports to the deputy chief operating officer. Clifford Higgins is the Title VI designee and reports to Becca Uherbelau, Office of Public Engagement and community relations manager, who reports to the director of communications.

Becca Uherbelau, Office of Public Engagement and community relations manager, reports to the director of communications and manages the establishment and execution of engagement strategies and activities, including those focused on Title VI populations, for agency-wide priorities and the development and coordination of relationships with stakeholders and community members to build trust in Metro.

Cassie Salinas, language resource project manager, reports to Patty Unfred, Metro's Diversity, Equity and Inclusion program director, who reports directly to the chief operating officer. She establishes agency practices and resources for language access to Metro's programs, meetings and events in coordination with the Title VI designee.



Grace Cho, transportation equity analysis project manager, reports to Ted Leybold, resource development manager, who reports to the planning and development director, who reports directly to the chief operating officer. She develops methods to measure and analyzes the social equity implications of near- and long-term transportation investments and policies for programs such as the Regional Transportation Plan and the Metropolitan Transportation Improvement Program in coordination with the Title VI designee and Diversity, Equity and Inclusion staff.

Juan Carlos Ocaña-Chú, Metro's equity strategy program manager, reports to Patty Unfred, Metro's Diversity, Equity and Inclusion program director, who reports directly to the chief operating officer. The equity strategy program is an organizing framework initiated by the Metro Council in 2012 to move beyond Metro's Title VI responsibilities to incorporate and apply equity more consistently and robustly across agency programs, policies and services. Metro's strategic plan to advance racial equity, diversity and inclusion was adopted by the Metro Council in June 2016.

Nathan Baptiste, diversity program manager, reports to Patty Unfred, Metro's Diversity, Equity and Inclusion program director, who reports directly to the chief operating officer. Diversity, Equity and Inclusion staff continue to work closely with employee teams across the agency to coordinate diversity issues in five focus areas: internal awareness, employee recruitment and retention, employee recruitment and retention, community engagement and committee membership, and procurement.

Mary Rowe, human resources director, reports to the deputy chief operating officer and is responsible for nondiscrimination in hiring and employee retention. The equal employment opportunity policy and notice states: "All qualified persons will be considered for employment without regard to race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made or any other status protected by law. Assistance will be gladly provided upon request for any applicant with sensory or non-sensory disabilities."

Gabriele Schuster, finance and regulatory services manager, reports to Caleb Ford, assistant finance director, who reports to the finance director, who reports to the deputy chief operating officer. She administers the equity in contracting program (formerly the minority-owned, women-owned, emerging small business, or MWESB, program).

Michelle Bellia, attorney, reports to Alison Kean, Metro Attorney, who reports to the Metro Council. She is the lead attorney for issues related to Title VI.

## D. Authorities, guidance and references

### Authorities and guidance

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., with the prescribed policies and procedures of 49 C.F.R. pt. 21 and 23 C.F.R. pt. 200)
- Civil Rights Restoration Act of 1987 (Pub.L. 100-259)
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- Executive Order 12250, Leadership and Coordination of Nondiscrimination Laws
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324)
- Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.)
- Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.)
- National Environmental Policy Act (42 U.S.C. § 4321 et seq., with the prescribed policies and procedures of 40 C.F.R. pts. 1500 through 1508 and 23 C.F.R. pt. 771)
- Federal Transit Administration [Title VI Requirements and Guidelines for Federal Transit Administration Recipients, Circular 4702.1B](#)
- Federal Transit Administration [Environmental Justice Policy Guidance for Federal Transit Administration Recipients, Circular 4703.1](#)
- Federal Highway Administration [Environmental Justice Reference Guide](#)
- Federal Transit Administration Office of Civil Rights [Implementing the Department of Transportation's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient \(LEP\) Persons, a Handbook for Public Transportation Providers](#)
- U.S Department of Transportation [External Civil Rights Complaint Processing Manual](#)
- Federal Highway Administration [Procedures Manual for Processing External Complaints of Discrimination](#)
- Oregon Department of Transportation [Guidelines for Addressing Title VI and Environmental Justice in Transportation Planning](#)
- Federal Transit Administration [Third Party Contracting Guidance, Circular 4220.1 F](#)
- Federal Highway Administration [Contract Administration Core Curriculum Manual, FHWA-NHI-134077](#)
- Department of Transportation, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, 49 C.F.R. part 26 (prescribed policies for 23 U.S.C. § 140)

- State of Oregon, Disadvantaged Business Enterprises, [ORS 200.045 Required Participants](#)
- State of Oregon, [ORS 659A.403 Discrimination in place of public accommodation prohibited](#)

### **Metro references**

- [Strategic plan to advance racial equity, diversity and inclusion](#), June 2016
- [Diversity Action Plan](#), April 2014; scheduled for update 2017
- [Public Engagement Guide](#), November 2013; scheduled for update 2017 (serving the requirements of 23 C.F.R. 450.316(a) for a documented “process for providing citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process” and FTA C 4702.1B for a documented “outreach plan to engage minority and limited English proficient populations [and] other constituencies that are traditionally underserved, such as people with disabilities, low-income populations, and others.”)
- [Limited English Proficiency Plan](#), August 2015; scheduled for update 2018
- [Administrative rules for equity in contracting](#), April 2017
- [Regional Snapshots](#); published quarterly
- [Metro Council Resolution No. 17-4779](#), For the Purpose of Adopting Local Contract Review Board Administrative Rules and Interim Equity in Contracting Administrative Rules, April 2017

### III. IDENTIFIED TASKS RELATED TO TITLE VI, ENVIRONMENTAL JUSTICE, NONDISCRIMINATION AND EQUITY

- Title VI compliance report for ODOT, annually
- Public Engagement Guide update in 2017
- Limited English Proficiency Plan:
  - Update language hub ([oregonmetro.gov/languagehub](http://oregonmetro.gov/languagehub)) and vital documents to include Nepali, Persian and Laotian, identified in Metro's 2015 LEP Factor 1 analysis as qualifying under "safe harbor" guidance in 2017.
  - Continue actions listed through 2018 in the 2015 implementation plan.
  - Update plan in 2018, including refreshed four-factor analysis.
- FTA Title VI Program update in 2018
- Strategic plan to advance racial equity, diversity and inclusion (for fiscal year 2017-18):
  - *Goal A: Metro convenes and supports regional partners to advance racial equity*
    - In partnership with the community, develop and pilot regional public engagement forums to connect community based organizations to resources, engagement opportunities, contracting opportunities and staff at Metro and other public agencies across the region.
  - *Goal B: Metro meaningfully engages communities of color*
    - Provide training and support to Metro departments on the racial equity analysis and decision support tool to most effectively meet specific departmental portfolio; expand the pilot for using the racial equity analysis and decision support tool within the programs, services, plans and policies of each department.
    - Publish and submit annual equity report to Metro Council for publication and broad distribution.
    - Develop and apply criteria to consistently partner and invest in existing community leadership programs that have greatest benefit to community.
    - Identify and propose ways to improve youth engagement and youth involvement in Metro decision-making.
    - Identify and propose the creation of new opportunities within public engagement activities for emerging and established community leaders to work with decision makers to help drive plan, policy and program outcomes.
    - Set aside resources in each department for contracting and partnering with community based organizations or community groups for engagement and include results in quarterly management reports.
  - *Goal C: Metro hires, trains and promotes a racially diverse workforce*

- Adopt policy that Metro management positions must attend required diversity, equity and inclusion-related trainings.
- Create opportunities for staff across the entire organizational structure to discuss how to improve the organizational equity structures at Metro.
- Review and adjust recruitment processes and the criteria for job descriptions using accessible language so that more value is placed on applicants' skills and abilities beyond the purely technical.
- Provide support and training for hiring managers to assess job requirements, create accessible job announcements and understand the value of diverse hiring.
- Develop an internal and external communication strategy to convey Metro's leadership commitment to diversity, equity and inclusion.
- *Goal D: Metro creates safe and welcoming services, programs and destinations*
  - Reinforce communication of available language resources and translation tools to staff and the public.
  - Expand the pilot for developing a specific plan of action to advance equity within the programs, services, plans and policies of each department within 12 months.
  - Communicate program and service announcements using culturally specific language and channels (e.g., tribal newspapers, Russian-language radio stations).
- *Goal E: Metro's resource allocation advances racial equity*
  - Create diversity, equity and inclusion metrics to build into contract proposal evaluation.
  - Require project managers to attend procurement training on equity in developing RFPs.
  - Develop and implement agency-wide equity criteria for grants, investments and sponsorships to increase impact and investment consistency.
  - Research and choose method to identify the contracting needs for firms in the region. These preparations include the identification of financial resources and coordination with jurisdictional partners, the Metro Attorney and procurement office.
- 2018 Regional Transportation Plan update:
  - update equity goal and objectives
  - analyze draft and refined project lists using newly developed transportation equity assessment methodology to determine benefits and impacts for

- historically marginalized populations compared to the wider population and to assess the plan for other equity outcomes<sup>18</sup>
- refine equity performance measures for ongoing monitoring
  - Section 504 of the Rehabilitation Act and the Americans with Disabilities Act:
    - Continue research into reliable data sets and methodology for identifying people with disabilities in the region.
    - Update facility assessment for the Metro Regional Center and schedule and implement ADA compliance upgrades.
    - Develop and implement ADA assessments and transition plans for parks facilities.

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<sup>18</sup> See [oregonmetro.gov/public-projects/2018-regional-transportation-plan/equity](https://oregonmetro.gov/public-projects/2018-regional-transportation-plan/equity).

## IV. NOTICE OF RIGHTS

*Metro's Title VI notice to the public declares Metro's compliance with Title VI and related authorities and informs members of the public of the protections against discrimination afforded to them by Title VI.*

### A. Title VI notices

The paragraph below is posted at Metro's office facility and inserted in publications that are distributed to the public, including reports and agendas for Metro Council sessions and other meetings:

Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes that ban discrimination. If any person believes they have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age or disability, they have the right to file a complaint with Metro. For information on Metro's civil rights program, or to obtain a discrimination complaint form, visit [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) or call 503-797-1536.

In addition, the posted notices and Metro Council and other meeting agendas include an abbreviated notice in languages that meet the Department of Justice Safe Harbor guidance on accessibility for people with limited English proficiency.<sup>19 20</sup> This notice translates to:

Metro respects civil rights. For information on Metro's civil rights program or to obtain a discrimination complaint form, visit [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights).<sup>21</sup>

### B. Posting locations

Metro publishes the longer version of its Title VI notice in all significant transportation planning documents, including but not limited to: metropolitan area long range transportation plan (most recent update known as the 2014 Regional Transportation Plan), Metropolitan Transportation Improvement Program, Draft Environmental Impact Statements, funding allocation reports and public comment reports.

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<sup>19</sup> "The DOJ recipient provides written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered." Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed.Reg. at 41,464.

<sup>20</sup> As of September 2015, this notice is translated into 13 languages: Spanish, Vietnamese, Chinese, Russian, Korean, Ukrainian, Japanese, Arabic, Romanian, Tagalog, Somali, Mon-Khmer and Hmong. Based on 2015 demographic analysis as part of Metro's updated Limited English Proficiency Plan, Metro will update these translated notices before December 2017 to include Nepali, Persian and Laotian. Hmong will be removed, since it was added due to an analysis error in the previous plan.

<sup>21</sup> The web page [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) has the information addressed in chapter 2, How to file a Title VI discrimination complaint, translated into the corresponding languages, including the discrimination complaint form.

Since Metro does not provide public transit service, the agency does not post the notice in vehicles.

As of Jan. 20, 2012, Metro's Title VI notice appears on a web page for the topic, [oregonmetro.gov/civilrights](http://oregonmetro.gov/civilrights). This web page makes the document more accessible because it can be found through searches on the agency's web page and on common Internet search engines. It is also linked from the homepage through a "Know your rights" link and from all Metro website web pages through the "Diversity, equity and inclusion" link. The notice also has been posted at three locations in the agency's headquarters, the Metro Regional Center: the entrance to the Metro council chamber, the main entrance to the building near the security check-in desk and the Human Resources Department

As of Jan. 26, 2012, Metro published and posted the notice in English. Metro began including the translated versions in the agency's headquarters on March 16, 2012. Metro began including the translated notices on Metro Council and other meeting agendas in September 2014.

Metro's translated Title VI notice is attached as Appendix A.

### **C. Vital documents**

The following vital documents have been translated into Arabic, Chinese, Hmong, Japanese, Korean, Mon-Khmer Cambodian, Romanian, Russian, Somali, Spanish, Tagalog, Ukrainian and Vietnamese:<sup>22</sup>

- nondiscrimination and Title VI civil rights notice
- nondiscrimination and Title VI civil rights complaint procedures
- discrimination and Title VI civil rights complaint form
- information about Metro's language line
- language and accessibility assistance notice
- notice of potential real property impacts (to be translated during specific National Environmental Policy Act (NEPA) process)
- notice of right to participate in formal comment period (to be translated during NEPA process or formal land use action)
- description about Metro programs and services
- notice of how to provide public testimony.

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<sup>22</sup> Metro will update these translated vital documents in 2017 to include Nepali, Persian and Laotian per the 2015 four factor analysis addressed in section V.B.

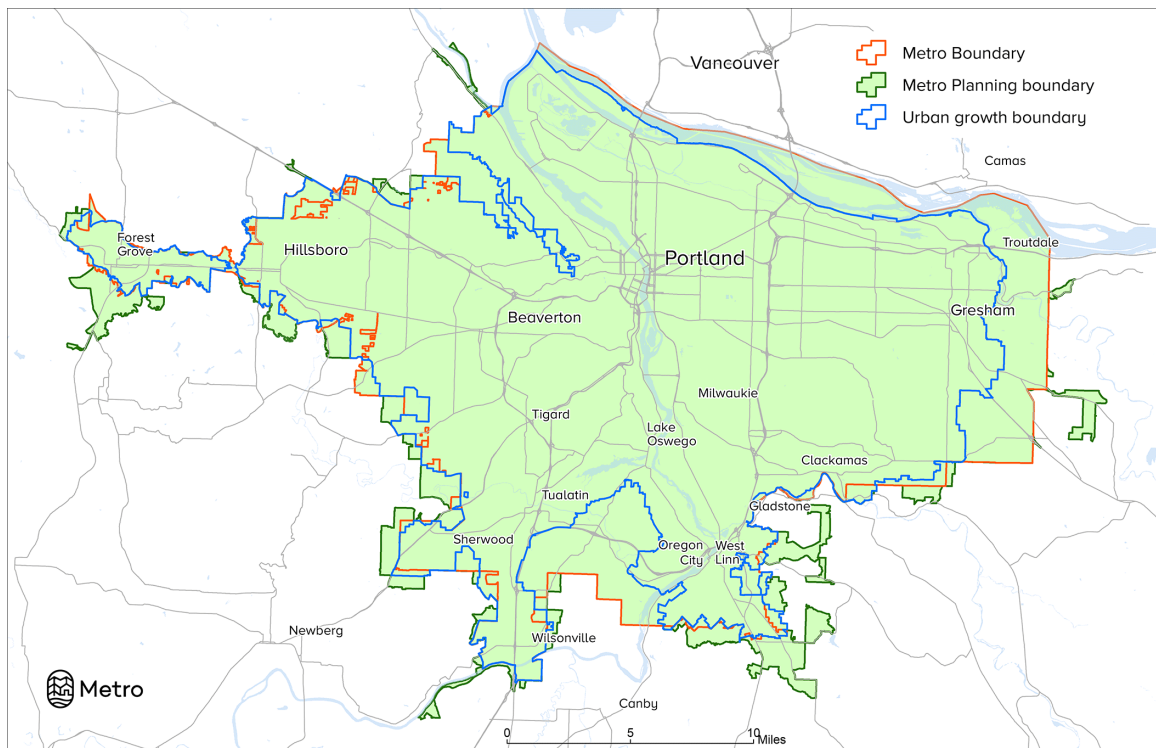


## V. IDENTIFYING HISTORICALLY MARGINALIZED POPULATIONS

*Metro continuously refines its data analysis to better identify historically marginalized populations.*

### A. Regional demographics: ethnicity, gender, age and income

The Portland metropolitan region is the home to 1.5 million residents. Under its State of Oregon home rule charter, it has a jurisdictional boundary; as the federally-recognized metropolitan planning organization, it is responsible for those functions within a metropolitan planning area boundary. It also manages the urban growth boundary for the Portland metropolitan region.



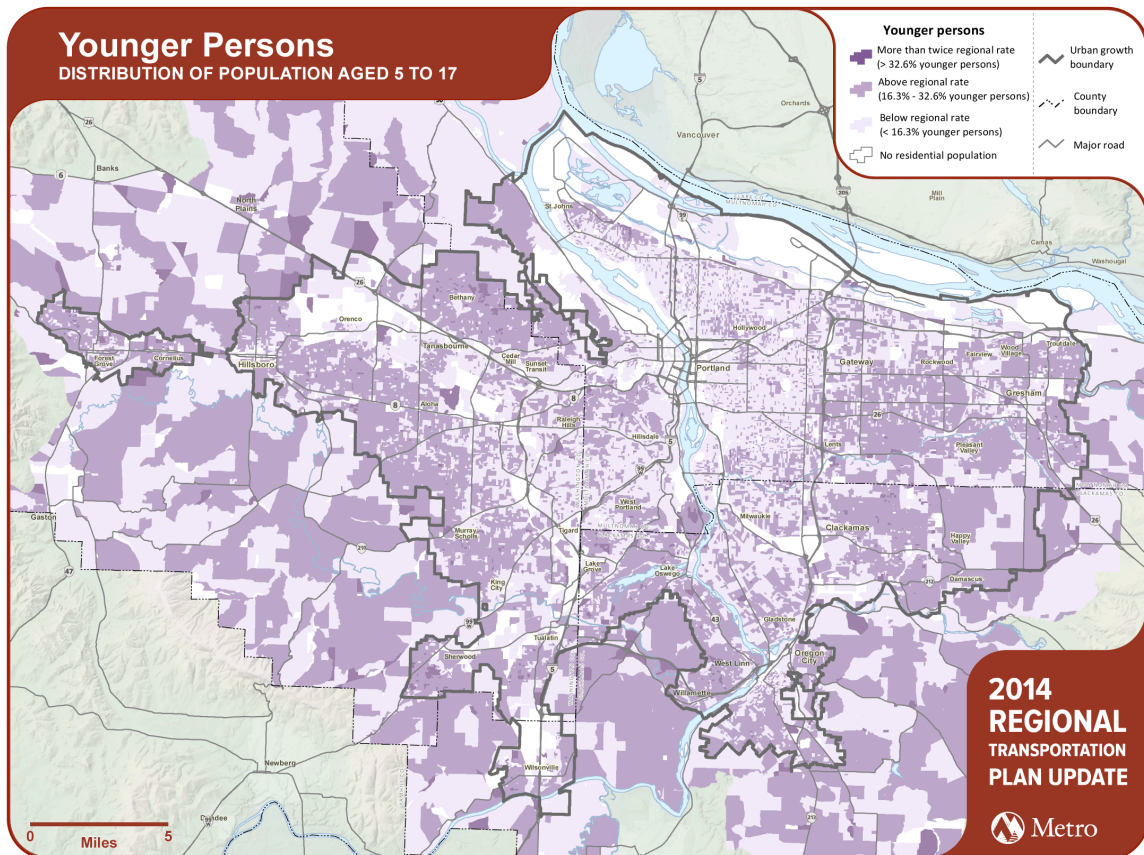
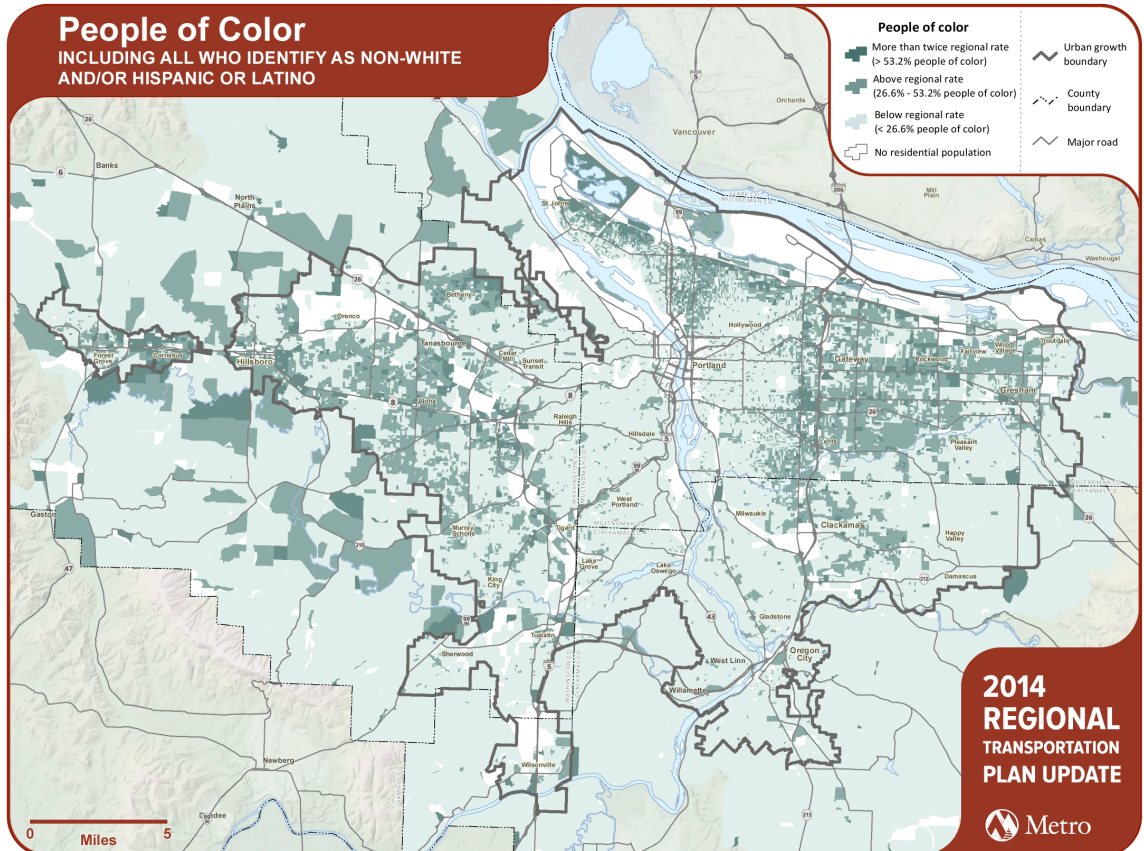
Metro developed a methodology to identify the demographic profile of both the Metro jurisdictional boundary and the metropolitan planning area. This methodology also identifies people who self-identified as more than one race/ethnicity in the 2010 U.S. Census to be included in each of their identified categories. Since the exercise is to determine the number of people of color and the locations of communities of color, the methodology also calculates for the portion of the population who is “White alone” for the census’s racial category and non-Hispanic/Latinx for the ethnicity category. Roughly 9 percent of the population is White and Hispanic/Latinx and/or another race.

The chart below is based on the 2010 decennial U.S. Census, with the exception of household income, which is based 2010-2014 American Community Survey 5-year estimates.

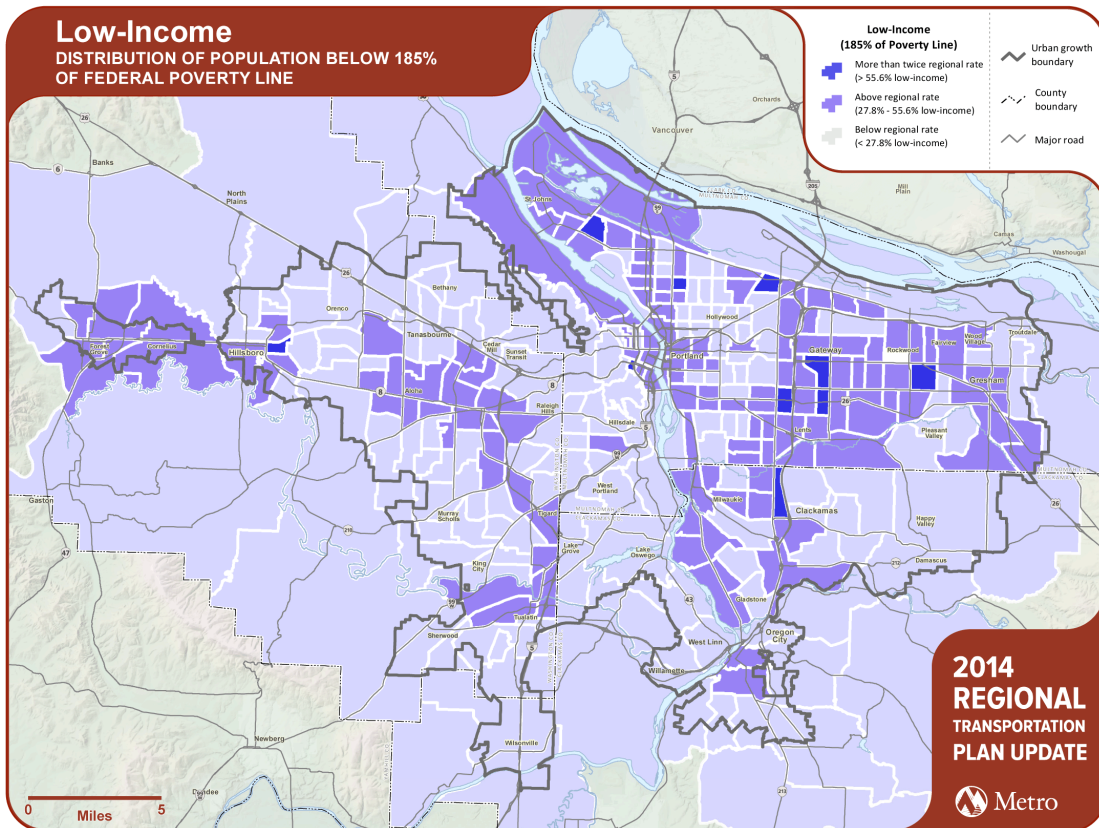
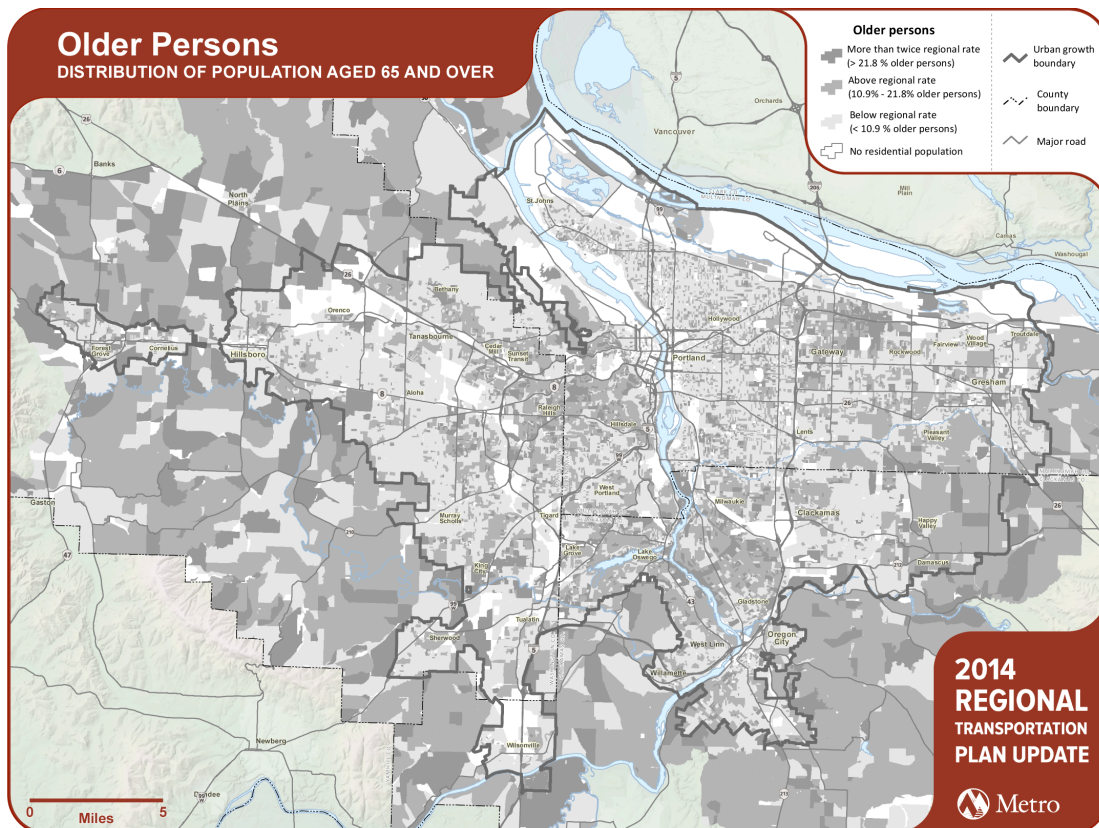
	Metro jurisdictional boundary		Metropolitan planning area	
Total population	1,545,361	100%	1,556,885	100%
<b>Ethnicity</b>				
<i>White (alone or in combination with one or more other races)</i>	1,271,870	82.3%	1,282,787	82.4%
White alone	1,134,467	73.4%	1,144,821	73.5%
Black or African American	70,900	4.6%	70,968	4.6%
American Indian/Native American or Alaska Native	32,127	2.1%	32,382	2.1%
Asian or Asian American	132,854	8.6%	133,055	8.5%
Pacific Islander	13,346	0.9%	13,379	0.9%
Hispanic, Latino or Spanish origin	200,259	13.0%	200,981	12.9%
some other race	96,684	6.3%	97,056	6.2%
<b>Gender</b>				
female	784,366	50.8%	790,002	50.7%
male	760,995	49.2%	766,883	49.3%
<b>Age</b>				
younger than 18	352,181	22.8%	354,655	22.8%
18 to 24	136,938	8.9%	137,762	8.8%
25 to 34	251,482	16.3%	252,421	16.2%
35 to 44	231,168	15.0%	232,623	14.9%
45 to 54	218,316	14.1%	220,443	14.2%
55 to 64	186,185	12.0%	188,281	12.1%
65 to 74	90,363	5.9%	91,672	5.9%
75 and older	78,455	5.1%	79,028	5.1%
<b>Total households</b>	<b>624,849</b>	<b>100%</b>	<b>628,952</b>	<b>100%</b>
<b>Income (household)</b>				
less than \$10,000	40,607	6.5%	40,830	6.5%
\$10,000 to \$19,999	57,363	9.2%	57,727	9.2%
\$20,000 to \$29,999	58,452	9.4%	58,763	9.3%
\$30,000 to \$49,999	111,029	17.8%	111,820	17.8%
\$50,000 to \$74,999	112,807	18.1%	113,570	18.1%
\$75,000 to \$99,999	83,040	13.3%	83,664	13.3%
\$100,000 to \$149,999	93,161	14.9%	93,687	14.9%
\$150,000 or more	68,390	10.9%	68,891	11.0%

The maps below show the distribution of people of color, younger people, older people and people with low incomes in the Portland metropolitan region.<sup>23</sup>

<sup>23</sup> See the Civil Rights assessment for 2014 regional transportation plans: 2014 Regional Transportation Plan and 2015-2018 Metropolitan Transportation Improvement Program Environmental Justice and Title VI, July 2014, [oregonmetro.gov/civil-rights-assessment-2014-regional-transportation-plans](http://oregonmetro.gov/civil-rights-assessment-2014-regional-transportation-plans); maps based on 2014 metropolitan planning area.







## B. English-language learners (people with limited English proficiency)

A person with limited English proficiency is one who does not speak English as their primary language and who has a limited ability to read, speak, write or understand English. Metro refers to residents of the region with limited English proficiency as English-language learners. Metro developed its latest Limited English Proficiency Plan in 2015 to provide language assistance for English-language learners seeking meaningful access to programs as required by Executive Order 13166 and USDOT's policy guidance. The LEP plan includes elements to ensure that English-language learners have access to the planning process and published information. Metro will also work toward ensuring multilingual material and documents and interpretation at meetings and events when needed.

In developing the Limited English Proficiency Plan, Metro conducted the four-factor analysis set out by the U.S. Department of Justice, which considers the following:<sup>24</sup>

1. number or proportion of persons with limited English proficiency (LEP) eligible to be served or likely to be encountered by a program, project or service
2. frequency with which LEP individuals come in contact with the program, project or service
3. nature and importance of any proposed changes to people's lives
4. program, project or service resources available for language assistance and costs of language assistance.

The full four-factor analysis is available in Metro's Limited English Proficiency Plan.<sup>25</sup> There were several key findings revealed in the factor 1 analysis.

- Approximately 288,700 persons age 5 and older, or 19.6 percent of the Portland metropolitan metro region's age 5 and older population, speaks a language other than English at home.
- Approximately 126,500 persons age 5 and older speak a language other than English at home and speak English less than "very well." This population is 8.6 percent of the region's age 5 and older population.
- Spanish is the second most predominant language, after English, spoken in the region.
- Fifteen non-native English language groups within Metro's service area have limited English proficient populations very near or exceeding the 1,000 person threshold.

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<sup>24</sup> U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 FR 41455, June 18, 2002, issued pursuant to Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, Aug. 11, 2000, incorporated by U.S. Department of Transportation, Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons, 70 FR 74087, Dec. 14, 2005.

<sup>25</sup> [oregonmetro.gov/sites/default/files/2015\\_limited\\_english\\_proficiency\\_plan.pdf](https://oregonmetro.gov/sites/default/files/2015_limited_english_proficiency_plan.pdf)

- Of all languages spoken in the region, the table below shows the languages that are very near or exceed the limited English proficiency threshold of 1,000 persons. No languages meet the 5 percent of the service area population threshold.

Language spoken at home	Population age 5 and older speaking a language other than English at home	Population that is LEP, age 5 and older, by native language	Percent of total LEP population by native language	Percent of total regional population age 5 and older (1,473,411), LEP, by language
Spanish or Spanish Creole	133,781	62,030	49.0%	4.2%
Vietnamese	22,932	14,856	11.7%	1.0%
Chinese	19,526	10,174	8.0%	0.7%
Russian	14,225	6,564	5.2%	0.4%
Korean	7,630	3,760	3.0%	0.3%
Ukrainian *	no ACS data	2,901	2.3%	0.2%
Japanese	5,774	2,145	1.7%	0.1%
Arabic	4,965	2,036	1.6%	0.1%
Romanian *	no ACS data	1,974	1.6%	0.1%
Tagalog	6,041	1,759	1.4%	0.1%
Somali *	no ACS data	1,635	1.3%	0.1%
Mon-Khmer, Cambodian	2,521	1,285	1.0%	0.1%
Nepali *	no ACS data	1,156	0.9%	0.1%
Persian	2,617	1,041	0.8%	0.1%
Laotian	2,108	980	0.8%	0.1%
Total, all non-English languages	288,696	126,493	100.0%	8.6%

Data source: U.S. Census Bureau, American Community Survey 2009-2013, 5-year estimate, Table B16001, Language spoken at home, except:

\* Languages not in ACS: estimates derived from Oregon Department of Education school language dataset for 2013-14; see Metro's Limited English Proficiency Plan, Appendix C, LEP factor 1 methodology.

## Factor 1 analysis population data sources

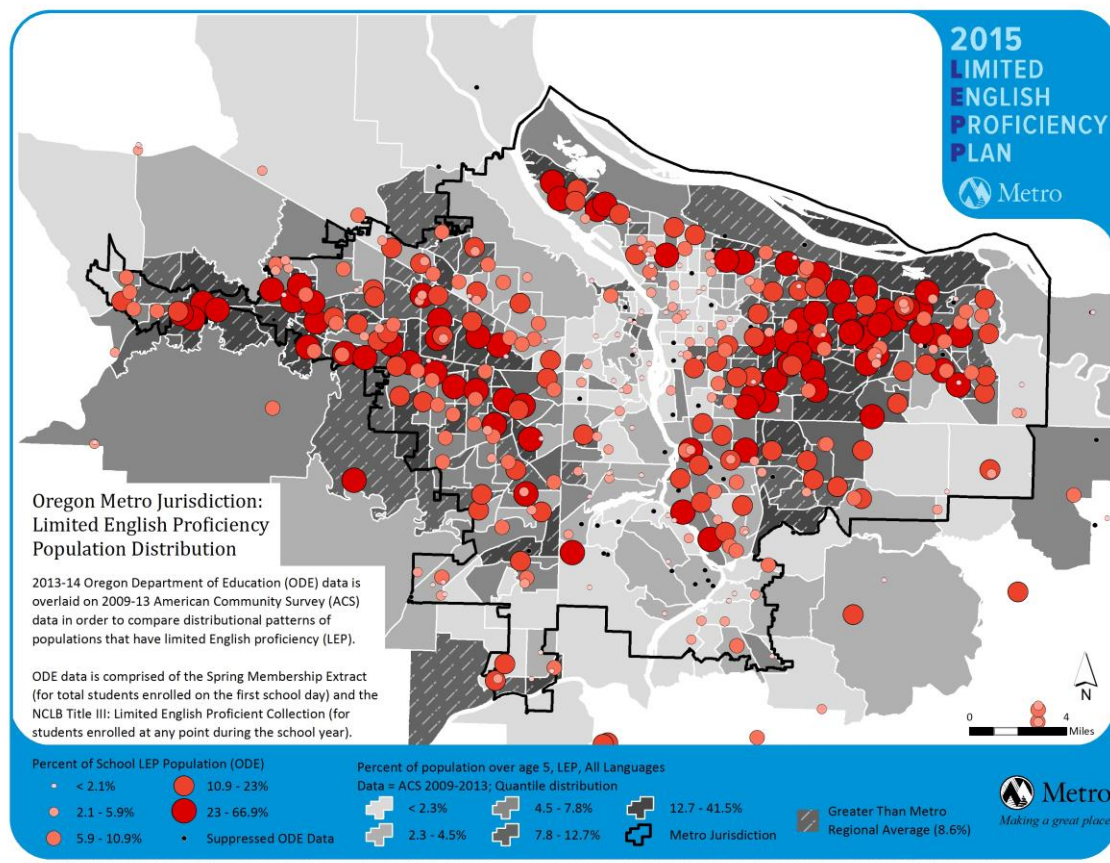
The data sources recommended by the FTA<sup>26</sup> include the sources used to conduct the Factor 1 analysis in Metro's service area in order to understand the number or proportion of

<sup>26</sup> Federal Transit Administration Office of Civil Rights, Implementing the Department of Transportation's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons, a Handbook for Public Transportation Providers, April 13, 2007.

English language learners eligible to be served by Metro or encountered by Metro programs or services:

- 2009-2013 American Community Survey (ACS) 5-Year sample: census tract data
- 2009-2013 American Community Survey (ACS) 5-Year sample: county data
- 2006-2008 American Community Survey (ACS) 3-Year sample: state data, special detailed tabulation of language spoken at home by English proficiency (not a part of a standard ACS data release)
- Oregon Department of Education (ODE): 2013-2014 school year enrollment data for school districts in Clackamas, Multnomah and Washington counties

The figure below shows the distribution of English-language learner populations for all languages in the Portland metropolitan region.



Source: 2009-2013 ACS, U.S. Census tract data, Table B16001; Oregon Department of Education, 2013-2014 enrollment data



## C. Project planning

Metro does not engage in direct transportation project implementation, though it does lead project development for high capacity transit projects through the Draft Environmental Impact Statement under the National Environmental Policy Act and develops and implements projects through its parks and nature department. During scoping for these projects, Metro's project management processes are designed to identify potentially affected populations, including historically marginalized populations, and meet the steps outlined in ODOT's Guidelines for Addressing Title VI and Environmental Justice in Transportation Planning.<sup>27</sup> For the purposes of identifying historically marginalized populations – and using the phases and steps outlined in the ODOT guidelines<sup>28</sup> – this includes:

- Phase I: Scoping
  - Step 1: Develop a demographic profile of the area.<sup>29</sup>
  - Step 2: Conduct internal discussions with Metro staff about the history of planning area and collect any information about potential Title VI and environmental justice populations.
  - Step 3: Conduct external discussion with local agencies about the history of planning in the study area.
  - Step 4: Prepare draft purpose and need statement, goals and objectives (or, as in the ODOT guidelines, level of effort determination and statement of work for consultants), including language that project will meet the requirements of Title VI and address environmental justice/equity directives.
- Phase II: Public involvement analysis and outreach
  - Step 1: Define populations.<sup>30</sup>
  - Step 2: Identify populations, including mapping and determining concentrations of historically marginalized populations and refining based on consultation with local agencies, social service organizations and community based organizations.<sup>31</sup>
  - Step 3: Prepare public involvement plan.

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<sup>27</sup> [oregon.gov/ODOT/Planning/Documents/TitleVI-EJ\\_Guidance.pdf](https://oregon.gov/ODOT/Planning/Documents/TitleVI-EJ_Guidance.pdf)

<sup>28</sup> Phases III and IV are addressed below in section VII; considerations for Public Involvement addressed below in section VI.

<sup>29</sup> See, for example, the Southwest Corridor Plan Title VI and environmental justice analysis, September 2012, [rim.oregonmetro.gov/webdrawer/rec/248079/view](https://rim.oregonmetro.gov/webdrawer/rec/248079/view). This analysis will be updated in 2017-18 as part of the Draft Environmental Impact Statement for the Southwest Corridor Light Rail Project.

<sup>30</sup> Historically marginalized populations for analysis include people of color, English-language learners, people with low income, younger people and older people. Best information possible will be used to determine distribution and effects on people with disabilities. If issues arise that indicate possible issues related to sex discrimination, additional analysis will be performed.

<sup>31</sup> See footnote 29.



## VI. ENGAGING WITH HISTORICALLY MARGINALIZED POPULATIONS

*Metro's public participation planning includes strategies to engage with historically marginalized populations to integrate these perspectives into the analysis, planning goals and performance measures. Outreach will be tailored to meet the transportation, language and cultural needs of those communities.*

### A. Participation in decision-making

Metro plans for a geographically and demographically diverse region – a region that grows more diverse every year. Metro is committed to bringing a diversity of voices to the decision-making table to inspire inclusive and innovative solutions to the challenges of a changing region. Metro strives to be responsive to the people of the region, provide clear and concise informational materials and address the ideas and concerns raised by the community. Public engagement activities for decision-making processes are documented and given full consideration.

#### Principles of public engagement

Metro's public engagement practice and public involvement program is built on guiding principles adopted by the Metro Council in 1997.<sup>32 33</sup> Metro believes that effective public engagement is essential to good government and the future of the region. Elected officials, staff, businesses and community members all play important roles in governing the region. Cooperation among Metro, cities, counties, public agencies, community organizations, businesses and interested residents results in the kind of contributions that, together with analysis and expertise, can create thoughtful, proactive policy decisions. Therefore, Metro commits to promote and sustain engagement and seeks to:

1. value active public engagement as essential to the future of the Metro region
2. respect and consider all resident input
3. encourage opportunities that reflect the rich diversity of the region
4. promote participation, based on public engagement opportunities, of individuals and of community, business and special interest groups
5. provide communications to encourage resident participation in Metro processes that are understandable, timely and broadly distributed
6. provide residents with an opportunity to be involved early in the process of policy development, planning and projects.
7. organize involvement activities to make the best use of residents' time and effort

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<sup>32</sup> Metro, Resolution No. 97-2433, For the Purpose of Adopting Metro Citizen Involvement Principles. [rim.metro-region.org/webdrawer/rec/4002/view/](http://rim.metro-region.org/webdrawer/rec/4002/view/)

<sup>33</sup> The adopted principles use the terms “citizen involvement” and “citizen”; this reference updates the terms to “public engagement” and “resident” to be more inclusive of residents who may not be citizens of the United States.

8. provide financial and staff support to Metro's Office of Public Engagement
9. sustain ongoing networking among residents, local governments, Metro officials and staff
10. respond to residents' perspectives and insights in a timely manner
11. coordinate interdepartmental and inter-jurisdictional activities
12. evaluate the effectiveness of Metro public engagement.

## **Public Engagement Guide**

Metro's Public Engagement Guide was adopted by the Metro Council in November 2013 and is scheduled for update in fall 2017.<sup>34</sup> The document presents policies and procedures for public involvement to ensure that Metro, as the federally-mandated and the state-designated metropolitan planning organization for the Portland metropolitan region, meets the spirit and intent of applicable federal and state public involvement laws, regulations and authorities contained in the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the guidance in the State of Oregon's Statewide Planning Goal 1: Citizen involvement. It also ensures that Metro, as a recipient of federal dollars, promotes equity and environmental justice to meet the spirit and intent of Title VI of the Civil Rights Act of 1964, The Civil Rights Restoration Act of 1987, Executive Order 12898 on Environmental Justice, Executive Order 13166 on Limited English Proficiency, the National Environmental Policy Act of 1969, and the Americans with Disabilities Act of 1990. Lastly, it ensures that regional transportation plans and projects reflect public priorities and values, that transparency and accountability are part of Metro's planning and decision-making and that Metro promotes excellence in regional planning.

The Public Engagement Guide establishes consistent guidelines to ensure people have meaningful opportunities to be involved in the regional planning process. The guide also provides examples of the tools and techniques that Metro may use to communicate with and receive input from the public. Procedures detailed in the guide include outreach to communities underserved by transportation projects, public notices and opportunities for comment. The policies also include nondiscrimination standards that Metro, its subcontractors and all local governments must meet when developing or implementing projects that receive funding through Metro.

## **Office of Public Engagement**

To supplement public engagement activities happening at the project and program level, the Office of Public Engagement was created by the Metro Council. The office supports and builds capacity for programs that create more inclusive, transparent and relationship-based public engagement practices. The office serves as a resource for current best practices for public engagement, supports the Diversity Action Plan and the Diversity, Equity and Inclusion program, and develops strategies to engage historically marginalized communities and youth in regional decision-making. The office is advised by the Public

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<sup>34</sup> [oregonmetro.gov/public-engagement-guide](http://oregonmetro.gov/public-engagement-guide)

Engagement Review Committee, coordinates engagement professional learning opportunities through the Public Engagement Network, arranges an annual community summit, and reports on Metro's public engagement activities.

- *Public Engagement Review Committee* The committee serves as a key component of Metro's efforts to develop successful public engagement processes.<sup>35</sup> The committee includes at least three at-large community members, three staff or board members from local community organizations and public involvement staff members from Clackamas, Multnomah and Washington counties.

Committee activities include:

- assisting with the development and the implementation of the community summit
  - reviewing the annual public engagement report
  - providing input on the content of the annual Opt In public engagement review survey
  - reviewing public engagement activities at the project and program level
  - making recommendations to the Metro Council about engagement priorities.
- *Public Engagement Network* The network brings together public involvement staff and professionals from the Portland metropolitan area to pool knowledge by sharing best practices, emerging tools and case studies. Metro convenes two to three network meetings a year.

Goals for the peer group include:

- sharing and learning about best practices and new tools for public engagement
  - finding strategies to facilitate collaboration and leverage individual jurisdiction outreach efforts
  - discussing evaluation methods to explore the qualitative and quantitative outcomes of engagement.
- *Community summits* Metro's annual community summit is intended to bring stakeholders representing diverse communities together to evaluate Metro's public engagement activities, share community priorities and give advice on engagement strategies for upcoming policy initiatives. The first two summits have focused on better connecting with, engaging and serving communities of color and youth.

## **B. Strategies for engaging historically marginalized populations**

Engaging historically marginalized populations is key to integrating their perspectives in the analysis, planning goals and performance measures. As stated in ODOT's Guidelines for

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<sup>35</sup> Metro Charter, chapter V, Officers, Commissions and Employees, section 27(2), "The Council shall establish by ordinance (a) a citizens' committee in the office of citizen involvement and (b) a citizen involvement process. The Council shall appropriate sufficient funds to operate the office and committee."

Addressing Title VI and Environmental Justice in Transportation Planning, there are several strategies for engaging with these populations, which may include efforts to:<sup>36</sup>

- involve members of identified Title VI populations, members of organizations representing Title VI populations, and/or social service provider staff on advisory committees [*Powell-Division Transit and Development Project Steering Committee; Equity Strategy Advisory Committee; Transportation Equity Assessment workgroup; community leaders invited to participate in Regional Leadership Forums alongside elected officials from Metro Council, Joint Policy Advisory Committee on Transportation and Metropolitan Policy Advisory Committee to inform the Regional Transportation Plan update*]
- use targeted media and outlets (e.g., community newspapers, newspapers in languages other than English, radio programs and websites, flyers sent home from school with students, flyers posted places like housing developments, social service offices, transit stops/centers, and grocery stores) [*community newspapers as standard practice; and posted flyers in social service offices as a standard practice for project-level engagement; Powell-Division Transit and Development Project on Russian community focused radio station*]
- choose appropriate meeting times, dates and locations [*standard practice*]
- determine if protected populations in the study area have certain characteristics (e.g., single-parent households, seasonal workers, faith-based observances, age-related accessibility challenges) that may influence the choice of venue, date, or time of project-related meetings [*standard practice as feasible*]
- identify if there are logical areas within the project study area that are frequented, or can be easily accessed, by those populations that are likely/potentially going to be impacted by project recommendations and outcomes [*standard practice*]
- hold meetings in locations where identified populations congregate, including meetings and events held at community sites (e.g., places of worship, schools, local businesses, and other gathering places) [*standard practice as feasible for project-level engagement*]
- choose locations that are accessible by transit, walking or biking [*standard practice*]
- request to be put on the agenda(s) of regularly scheduled community, civic and business group meetings and ensure attendance of planning project representatives at community events [*standard practice for project-level engagement*]
- determine if the project's public involvement plan will need to be found consistent with the local jurisdiction's policies and practices and/or if it will it need to be deemed acceptable to local partner(s) [*standard practice*].

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<sup>36</sup> ODOT, Guidelines for Addressing Title VI and Environmental Justice in Transportation Planning, Considerations for Public Involvement, p.17, [oregon.gov/ODOT/Planning/Documents/TitleVI-EJ\\_Guidance.pdf](https://oregon.gov/ODOT/Planning/Documents/TitleVI-EJ_Guidance.pdf)

In addition to the strategies outlined by ODOT, Metro also builds relationships with community based organizations that serve or advocate for historically marginalized communities to:

- partner in developing and facilitating discussion groups to hear the perspectives of their constituents [*community summits, Powell-Division Transit and Development Project*]
- include their perspectives during stakeholder interviews [*2018 Regional Transportation Plan update*]
- distribute notices of comment opportunities through their networks [*standard practice as appropriate without taxing the relationship*]
- include representatives on advisory committees or for special review and feedback of draft policies or procedures [*see above*].

Metro is implementing a pilot project through its communications department's community relations program to offer compensation to participants in several of these activities.

### **C. English-language learners**

As a recipient of federal funding, Metro has taken steps to ensure meaningful access to the planning process, information and services it provides. Metro updated its Limited English Proficiency Plan in 2015, and has scheduled an update in 2018, to provide language assistance for English-language learners seeking meaningful access to programs as required by Executive Order 13166 and USDOT's policy guidance.<sup>37</sup> The plan details procedures for identifying populations of limited English proficiency, providing language assistance, training staff and notifying English-language learners that assistance is available.

The Limited English Proficiency Plan includes elements to ensure that English-language learners have access to the planning process and published information. Metro will also work toward ensuring multilingual material and documents and interpretation at meetings and events when needed.

#### **Language assistance measures**

Metro employs various methods and strategies to provide English-language learners with information critical to accessing programs and services. Metro's language assistance measures include:

- *Language resource guide* Metro developed a language resource guide that outlines effective practice in written translation, helps staff identify steps to consider when translating materials for a program or a project, and provides resources for staff when an event calls for or a community member requires interpretation. The language

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<sup>37</sup> [oregonmetro.gov/sites/default/files/2015\\_limited\\_english\\_proficiency\\_plan.pdf](https://oregonmetro.gov/sites/default/files/2015_limited_english_proficiency_plan.pdf)

resource guide is intended for Metro staff providing translation or interpretation services for community members that don't speak English well.

- *Language line* Metro maintains a contract with Certified Languages International for telephone interpretation services in up to 205 different languages. The contract is through April 2018.
- *Bilingual staff* Metro continues to periodically update a list of volunteer staff interpreters who are available to provide language interpretation services on request. This list is made available to all Metro staff and provided during annual language training to administrative support and communications staff throughout the agency. The list, updated in April 2015, identifies 15 employees who are available to help with interpretation of 13 spoken languages plus American Sign Language.
- *Metro's language hub* ([oregonmetro.gov/languagehub](http://oregonmetro.gov/languagehub)) Metro redesigned and launched a new website in May 2014. The new site has improved access for visitors that have a limited ability to understand English and connects them with key pages readable in as many as 13 languages. There is a special emphasis on meeting the needs of the region's growing population of Spanish, Chinese, Vietnamese and Russian speakers.
- *Multilingual videos* Metro contracted with Immigrant and Refugee Community Organization to hire local talent fluent in Spanish, Russian, Vietnamese and Chinese and produced four short videos to inform visitors about the various programs or services Metro provides. To view the videos, visit [oregonmetro.gov/languagehub](http://oregonmetro.gov/languagehub).

When issues or actions are known to affect areas where concentrations of English-language learners live, notices and announcements in the primary language(s) spoken in that area are placed in appropriate locations and community media. Key project or program information and questionnaires are translated.<sup>38</sup> Interpreters will be present at events in which English-language learners affected by the project or program are expected to participate or otherwise requested. Specific non-English-language discussion groups may be held to address project or program issues.<sup>39</sup>

For regional programs, published notices for comment opportunities include translated notices on how to receive more information and participate, such as the one below for the

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<sup>38</sup> See, for instance, Powell-Division Transit and Development Project Gresham business and multicultural engagement report, March 2015, [oregonmetro.gov/sites/default/files/Gresham%20Report%202-27-2015.pdf](http://oregonmetro.gov/sites/default/files/Gresham%20Report%202-27-2015.pdf).

<sup>39</sup> See, for instance, Powell-Division Transit and Development Project public engagement report for June 2015, [oregonmetro.gov/sites/default/files/Public%20engagement%20summary%20June%202015.pdf](http://oregonmetro.gov/sites/default/files/Public%20engagement%20summary%20June%202015.pdf).

regional flexible funds process.<sup>40</sup> When appropriate and feasible, online engagement tools include translated options.<sup>41</sup>

### **\$33 million for walking, biking and moving freight What do you think? | 30-day comment period**

Help decide how \$33m will be spent on projects to improve walking, biking and moving freight. Cities from across the Portland region have submitted projects to compete for these federal funds.

**Oct. 7 through Nov. 7, 2016**  
**oregonmetro.gov/33million**



The Metro Council is scheduled to hold a **public hearing** 5 p.m. **Thursday, Oct. 27** and is scheduled to hold a **public hearing and take legislative action** 2 p.m. **Thursday, Jan. 26, 2017** at Metro Regional Center, 600 NE Grand Ave., Portland.

Submit comments Oct. 7 through Nov. 7, 2016: online at [oregonmetro.gov/rffa](http://oregonmetro.gov/rffa) | by email to [trans@oregonmetro.gov](mailto:trans@oregonmetro.gov) | by phone at 503-797-1750 or TDD 503-797-1804 | by mail to Metro Planning, 600 NE Grand Ave., Portland, OR 97232.

**Esta es una notificación** de su oportunidad para comentar sobre las prioridades de transporte en la región. Para recibir una traducción de la notificación pública completa en español, llame al 503-797-1888. Ingrese a [oregonmetro.gov/33million](http://oregonmetro.gov/33million).

**Đây là thông báo về cơ hội** của quý vị được trình bày ý kiến đối với các ưu tiên về chuyên chở trong vùng. Muốn nhận được bản dịch đầy đủ của thông báo bằng Tiếng Việt, xin gọi số 503-797-1888. Xin xem trong [oregonmetro.gov/33million](http://oregonmetro.gov/33million).

**本公告**旨在通知您利用這個機會評議在您所在社區經營危險廢棄物設施的申請。要獲取完整的繁體中文翻譯版公告，請撥打503-797-1888。請瀏覽網站 [oregonmetro.gov/33million](http://oregonmetro.gov/33million)。

**Настоящим уведомляем**, что у вас есть возможность оставить свой отзыв относительно приоритетов транспортного развития в вашем регионе. Русскую версию настоящего оповещения можно запросить по номеру 503-797-1888. смотрите на веб-сайте по адресу [oregonmetro.gov/33million](http://oregonmetro.gov/33million).

**본 통지서**는 지역 내 교통 관련 우선 사항에 대해 귀하의 의견을 제시할 수 있는 기회를 알려 드리기 위한 것입니다. 한국어로 번역된 통지서 전문을 받아보시려면, 503-797-1888로 문의하십시오. 웹사이트 ([oregonmetro.gov/33million](http://oregonmetro.gov/33million))를 참조하십시오.

## **D. Data collection and assessment**

Metro requests race and ethnicity data from people who attend public events and public hearings. Providing this information is optional. To address public information request concerns and encourage participation, Metro has developed a form that does not identify individuals by name. Metro also collects information through web surveys and other

<sup>40</sup> See, for instance, Regional flexible funding for transportation projects public engagement report ([oregonmetro.gov/sites/default/files/Regional-Flexible-Funds-RFFA-Engagement-Report-120216.pdf](http://oregonmetro.gov/sites/default/files/Regional-Flexible-Funds-RFFA-Engagement-Report-120216.pdf)), Appendix A, notices, [oregonmetro.gov/sites/default/files/rff\\_engagement\\_report-app\\_a-notices\\_invitations\\_1.pdf](http://oregonmetro.gov/sites/default/files/rff_engagement_report-app_a-notices_invitations_1.pdf), which translates to “This is a notification of your opportunity to comment on transportation priorities in the region. To receive a full translation of the notification in [language], call 503-797-1888. Visit [the project website, which had a translated interactive comment map for this process].”

<sup>41</sup> See, for instance, Regional flexible funding for transportation projects public engagement report, [oregonmetro.gov/sites/default/files/Regional-Flexible-Funds-RFFA-Engagement-Report-120216.pdf](http://oregonmetro.gov/sites/default/files/Regional-Flexible-Funds-RFFA-Engagement-Report-120216.pdf).



comment tools . This information is analyzed to determine what voices may not being heard on the issue to determine additional outreach methods to those communities, such as focused announcements through social media, discussion or focus groups, or specific consultation with community based organizations serving those communities. Participant information is reported to decision-makers – as with the example below<sup>42</sup> – to consider any bias that may come from underrepresentation of historically marginalized communities and to advise on additional outreach activities. This information will be evaluated over time to improve public outreach and engagement practices.

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<sup>42</sup> 2018 Regional Transportation Plan comment report, winter 2017, [oregonmetro.gov/sites/default/files/RTP-winter-comment-report-051217.pdf](https://oregonmetro.gov/sites/default/files/RTP-winter-comment-report-051217.pdf)



## WHO PARTICIPATED

Participants were asked to provide demographic information to help Metro know if we are hearing from a representative group of people that reflects our diverse communities and a broad range of experiences in our region. All but the ZIP code question (used in the county tallies) were optional. Groups that are underrepresented in respondent information by 4 percentage points or more are indicated.

	Count	Percent	Regional population
<b>County</b>			
Based on entered ZIP code	<b>2648</b>		
Clackamas	375	14%	17%
Multnomah	1802	68%	49%
Washington	417	16%	34%
Other	54	2%	n/a
<b>Ethnicity</b>			
Respondents were asked to pick all that apply and choose “other” or offer more specificity. <sup>1 2 3</sup>			
Respondents (2618) minus “prefer not to answer” or similar comment expressing dissatisfaction with the inclusion of the question (278) <sup>4</sup>	<b>2340</b>		
White alone <sup>5</sup>	2060	88%	73%
Black or African American	47	2%	5%
American Indian/Native American or Alaska Native	51	2%	2%
Asian or Asian American	87	4%	9%
Pacific Islander	13	>1%	1%
Hispanic, Latino or Spanish origin	86	4%	12%
other (please describe) or offer more specificity	18	>1%	6%
<b>Income (household)</b>			
Respondents (2621) minus “don’t know/prefer not to answer” (235)	<b>2386</b>		
less than \$10,000	45	2%	7%
\$10,000 to \$19,999	80	3%	9%
\$20,000 to \$29,999	105	4%	9%
\$30,000 to \$49,999	286	12%	18%
\$50,000 to \$74,999	459	18%	18%
\$75,000 to \$99,999	423	18%	13%
\$100,000 to \$149,999	601	25%	15%
\$150,000 or more	387	16%	11%

<sup>1</sup> Race/ethnicity categories were simplified to allow for correlation with U.S. Census data on race and ethnicity.

<sup>2</sup> Since respondents could choose more than one ethnicity, totals add to more than 100 percent.

<sup>3</sup> “Other” responses were reviewed to provide consistent tallies in the other categories. For instance, if someone stated “White/Latina” in the other/more specificity space, staff verified that tallies would be entered in the “White” and “Hispanic, Latino or Spanish origin.”

<sup>4</sup> Sixteen comments questioning, objecting to or protesting the inclusion of this question were removed from the “other” category, including “human” or the like, and were added as tallies to “prefer not to answer,” as appropriate. Responses of “American” (four responses) or “California native” (one response) were left as self-identified ethnicities in the “other” tally.

<sup>5</sup> Since the ethnicity question is asked to determine if Metro is reaching diverse communities, responses were reviewed to calculate the number of respondents who indicated white and no other ethnicity.

	Count	Percent	Regional population
<b>Gender</b>			
Respondents (2596) minus “prefer not to answer” (7) or similar comment expressing dissatisfaction with the inclusion of the question or the inclusion of non-cisgender male/female options (31) <sup>6</sup>	<b>2565</b>		
female	1209	<b>47%</b>	51%
male	1310	51%	49%
transgender female	6	>1%	not available
transgender male	6	>1%	not available
other identification	27	1%	not available
<b>Age</b>			
Respondents (2631) minus “prefer not to answer” (25)	<b>2606</b>		
younger than 18	7	<b>&gt;1%</b>	23%
18 to 24	91	<b>&gt;1%</b>	9%
25 to 34	691	27%	16%
35 to 44	787	30%	15%
45 to 54	490	19%	14%
55 to 64	327	13%	12%
65 to 74	187	7%	6%
75 and older	26	<b>&gt;1%</b>	5%
<b>Disability</b>			
Respondents <sup>7</sup>	<b>2398</b>		
ambulatory difficulty (serious difficulty walking or climbing stairs)	58	2%	not available
cognitive difficulty (because of a physical, mental or emotional problem, difficulty remembering, concentrating or making decisions)	48	2%	not available
hearing difficulty (deaf or serious difficulty hearing)	46	2%	not available
independent living difficulty (because of a physical, mental or emotional problem, difficulty doing errands alone)	9	>1%	not available
self-care difficulty (difficulty bathing or dressing)	2	>1%	not available
vision difficulty (blind or serious difficulty seeing, even when wearing glasses)	9	>1%	not available
no or not applicable/prefer not to answer	2226	93%	not available

<sup>6</sup> Though no U.S. Census correlation for additional gender categories, these categories were expanded to be inclusive of more gender identifications.

<sup>7</sup> The intention was to allow respondents to indicate more than one disability; due to programming error, this function was disabled. Six respondents noted this, two of whom added additional disabilities that were included in the total.

## VII. ASSESSING BENEFITS AND IMPACTS FOR HISTORICALLY MARGINALIZED POPULATIONS

*Metro routinely weighs the benefits and burdens of planning projects on all affected areas, including historically marginalized communities. For projects that have a defined geographic boundary, maps with demographic overlays will be used to determine whether concentrations of historically marginalized communities live in the affected area. Metro will continue to seek improvements in its practices for identifying and addressing disproportionately high and adverse effects on historically marginalized communities and for increasing equity in the region. Information from engaging with these communities will inform the analysis, planning goals and performance measures.*

As stated in the Federal Highway Administration Environmental Justice Reference Guide, benefits and impacts of transportation projects on historically marginalized populations include:<sup>43 44</sup>

- potential impacts:
  - disruption of community cohesion (e.g., access to schools, parks, medical facilities, religious institutions)
  - adverse employment effects
  - decline in tax base or property values
  - displacements
  - increased noise or emissions
  - diminished aesthetics
  - disruption to businesses, parking, access to transit
- potential benefits:
  - reduced travel times
  - reduced congestion
  - improved safety outcomes
  - improved travel options.

Several of these benefits and impacts may only be determinable at the project level, while some may be determinable at the programmatic level. The analysis of the benefits and

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<sup>43</sup> FHWA, Environmental Justice Reference Guide (Background), April 1, 2015, p.14, [fhwa.dot.gov/environment/environmental\\_justice/publications/reference\\_guide\\_2015/section00.cfm](https://www.fhwa.dot.gov/environment/environmental_justice/publications/reference_guide_2015/section00.cfm)

<sup>44</sup> This document uses the term “benefits and impacts” to encompass FHWA guidance on disproportionately high and adverse human health or environmental effects and a “benefits and burdens” analysis (see FHWA Order 6640.23A and the FHWA Environmental Justice Resource Guide) as well as FTA guidance on disparate impacts on minority populations and disproportionate burdens on low-income populations (see FTA Circular 4702.1B).

impacts for historically marginalized communities will reflect the benefits and impacts for the wider population as well as those potential benefits and impacts identified while engaging with those communities. In order to demonstrate improved equity outcomes, the methods of this analysis will reflect how the plan's or program's goals will be met within and for these communities, as will performance and monitoring measures through implementation.

## **Project planning**

As mentioned above, Metro does not engage in direct transportation project implementation, though it does lead project development for high capacity transit projects through the Draft Environmental Impact Statement under the National Environmental Policy Act and develops and implements projects through its parks and nature department. During alternatives analyses and project development for these, Metro's project management processes are designed to assess benefits and impacts for potentially affected populations, including historically marginalized populations, and meet the steps outlined in ODOT's Guidelines for Addressing Title VI and Environmental Justice in Transportation Planning.<sup>45</sup> For the purposes of assessing benefits and impacts on historically marginalized populations – and using the phases and steps outlined in the ODOT guidelines<sup>46</sup> – this includes:

- Phase III: Solutions alternatives analysis
  - Step 1: Identify existing conditions and issues.
  - Step 2: Determine benefits/impacts (future conditions)
  - Step 3: Determine recommended projects/preferred alternative (alternatives evaluation)
  - Step 4: Prepare draft purpose and need statement, goals and objectives (or, as in the ODOT guidelines, level of effort determination and statement of work for consultants), including language that project will meet the requirements of Title VI and address environmental justice/equity directives.
- Phase IV: Reporting: Project level reporting of Title VI (environmental justice, equity) activities

The analysis of the benefits and impacts for historically marginalized communities will reflect the benefits and impacts for the wider population as well as those potential benefits and impacts identified while engaging those communities during the planning process.

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<sup>45</sup> [oregon.gov/ODOT/Planning/Documents/TitleVI-EJ\\_Guidance.pdf](https://oregon.gov/ODOT/Planning/Documents/TitleVI-EJ_Guidance.pdf)

<sup>46</sup> Phases I and II are addressed above in section V.

## VIII. GUIDANCE LOCAL JURISDICTIONS AND OVERSIGHT OF SUBRECIPIENTS

*Metro provides Title VI guidance and self-certification for local jurisdictions for regional plans; includes criteria in allocation decisions; and performs oversight for subrecipients.*

### A. Regional Transportation Plan

As part of its metropolitan planning organization function, Metro develops and maintains the Regional Transportation Plan constrained project list – comprising projects with committed funding and projects that can be implemented with funding the region expects to have available under the life of the plan – for identified transportation priorities to qualify for federal transportation funds. Though not the enforcing agency, Metro provides guidance on public engagement and Title VI requirements to local jurisdictions and other agencies that will submit projects to Regional Transportation Plan. For the 2018 update, Metro has refined its public engagement and nondiscrimination certification checklist, asking jurisdictions and agencies to certify via two forms:

- **Form A, Public engagement and nondiscrimination certification checklist for transportation system, subarea, topical, modal, and transit service plan or strategy development** Certification of projects not anticipated to be included in the 2018 RTP 10-year investment strategy (implementation in the 2018-27 timeframe) and to seek state or federal funding may be done through a certification of the related local transportation system, subarea, topical, modal or transit service plan or strategy.
- **Form B, Public engagement and nondiscrimination certification for projects submitted to the 10-year regional transportation investment strategy (2018-27 implementation)** Project sponsors of projects anticipated to be included in the 2018 RTP 10-year investment strategy (implementation in the 2018-27 timeframe) and to seek state or federal funding to be implemented are expected to:
  - *if project development completed*, have performed project level public engagement and analyzed potential inequitable impacts for people of color, people with limited English proficiency and people with low income compared to those for other residents
  - *if project development not completed*, attest to the intent to perform project level public engagement and analyze potential inequitable impacts for people of color, people with limited English proficiency and people with low income compared to those for other residents.

Forms A and B for public engagement and nondiscrimination certification are attached as Appendix B.

### B. Regional flexible funds allocation

During Metro's regional flexible fund allocation process, which allocates funds from three federal grant programs – the Surface Transportation Program, the Congestion

Mitigation/Air Quality Program and the Transportation Alternatives Program – Metro requires project nominations to demonstrate the jurisdiction:

1. used appropriate demographic data to develop a demographic profile of the area affected or served by the proposed project or program
2. sought public comment in the planning of the project.
3. made a concerted effort to reach all segments of the population, including people from minority and low-income communities, and organizations representing these groups and other protected classes and made efforts to remove barriers to participation to allow for all segments of the population to participate in the planning process.<sup>47</sup>

For the latest allocation process, the project evaluation included a highest priority weighted criteria of “serves communities that have higher than average low-income, low-English proficiency, non-white, elderly and young, and persons with disabilities populations.”<sup>48</sup>

### **C. Subrecipient oversight**

Subrecipients, such as those under the Regional Travel Options program, are monitored and supported in Title VI efforts by:

- notifying them of their responsibilities with under Title VI and other laws and regulations
- including Title VI in training on program and federal agency requirements
- requiring the name of their Title VI Officer, which show existence of a Title VI program; if no program, providing information on how to umbrella under Metro’s Title VI program
- requiring the posting of appropriate Title VI notices in their office
- requiring the ability to track all Title VI complaints and notify Metro immediately if one is recorded
- requiring their quarterly invoice indicate how many complaints they have had in the quarter even if the number is zero.

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<sup>47</sup> Project nomination process for allocation of 2016-18 funds.

<sup>48</sup> 2018-21 Metropolitan Transportation Improvement Program & 2019-21 Regional Flexible Funds Allocation Policy Report, [oregonmetro.gov/sites/default/files/2018-21-MTIP-RFFA-Policy-Report-JPACTadopted.pdf](https://oregonmetro.gov/sites/default/files/2018-21-MTIP-RFFA-Policy-Report-JPACTadopted.pdf)

## IX. TITLE VI DISCRIMINATION COMPLAINTS AND INVESTIGATIONS

*Metro provides instructions to the public regarding how to file a Title VI discrimination complaint and follows specific procedures for referring or investigating those complaints.*

### A. Instructions for filing complaints

The civil rights web page, [oregonmetro.gov/civilrights](http://oregonmetro.gov/civilrights), states, “Metro is committed to ensuring its services and activities are accessible to every resident of the region.” It also informs of the right to interpretive services and other accommodations to enable residents to participate in programs and decisions and describes key civil rights laws and orders, and their protections, of:

- Title VI of the Civil Rights Act of 1964
- Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- Americans with Disabilities Act of 1990.

Under the heading, “What does Title VI mean to you?” it states:

Title VI and related laws require that no person in the United States of America shall, on the grounds of race, color, national origin, disability, sex or age, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Metro receives federal financial assistance.

Under Title VI, if you are not proficient in English, you are entitled to assistance to access critical information about Metro.<sup>49</sup>

Under the heading, “Metro respects civil rights,” it states:

Metro fully complies with Title VI of the Civil Rights Act of 1964 that bans discrimination on the basis of race, color or national origin. If you believe you have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age, disability or income level, you have the right to file a complaint with Metro.<sup>50</sup>

This page also includes the instructions:

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<sup>49</sup> See footnote 18 in section II.A. regarding availability of translations of the public information addressed in this chapter.

<sup>50</sup> Metro is committed to ensuring access to every resident and compliance with all civil rights laws and orders and investigates complaints regarding discrimination on the basis of race, color and national origin (Civil Rights Act of 1964, 42 U.S.C. §2000d); sex (Federal-Aid Highway Act of 1973, 23 U.S.C. §324); age (Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102); disability (Section 504 of Rehabilitation Act of 1973, 29 U.S.C §794 and Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12132); and income level (Executive Order 12898).



If you believe that you have been discriminated against, you may exercise your right to file a complaint with Metro. Every effort will be made to resolve complaints.

To submit a complaint:

- fill out the discrimination complaint form
- email [clifford.higgins@oregonmetro.gov](mailto:clifford.higgins@oregonmetro.gov) [Title VI designee]
- call 503-797-1932
- or visit Metro's administrative office at 600 NE Grand Ave. in Portland.

## B. Complaint form

The complaint form is available from the web page [oregonmetro.gov/civilrights](http://oregonmetro.gov/civilrights):

### Discrimination complaint form

We are asking for the following information to assist in processing your complaint. If you need help completing this form, call 503-797-1932.

First name

Last name

Street address

City, state and ZIP code

Home phone number

Work phone number

Person discriminated against (if someone other than you)

Which of the following best describes the reason you believe the discrimination took place?

☐ race/ethnicity   ☐ gender   ☐ disability

☐ other

If other, please specify:

On what date(s) did the alleged discrimination take place?

Describe the alleged discrimination. Explain what happened and who you believe is responsible:

**SUPPLEMENTAL MATERIALS**

You may send any written materials or other information that you think is relevant to your complaint to:

**Clifford Higgins**  
Metro  
600 N.E. Grand Ave.  
Portland, Oregon 97232-2736  
Phone: 503-797-1932  
Fax: 503-797-1799  
Email: [clifford.higgins@oregonmetro.gov](mailto:clifford.higgins@oregonmetro.gov)

The form asks for the following information:

- First name
- Last name
- Street address
- City, state and ZIP code
- Home phone number
- Work phone number
- Person discriminated against (if someone other than you)
- Which of the following best describes the reason you believe the discrimination took place?
  - race/ethnicity
  - gender
  - disability
  - other and if other, please specify
- On what date(s) did the alleged discrimination take place?
- Describe the alleged discrimination. Explain what happened and who you believe is responsible.

The form uses an “electronic signature,” informing users:

By hitting submit, you affirm that the information above is true to the best of your knowledge.

Complainants are also informed they may send written materials or other information they think is relevant to the complaint to the Title VI designee via mail or email.

If a complainant chooses to file a complaint via email, by phone or in person, the Title VI Coordinator or designee will perform preliminary intake to answer these questions and fill out a version of this form that may be printed and then reviewed and signed by the complainant.

### **C. Procedures for investigations and tracking complaints**

FHWA and FTA have different processes for investigating and resolving Civil Rights complaints. Because Metro receives federal funds from FHWA through ODOT and directly from FTA, Metro has created the following decision and investigation processes to determine which agency has jurisdiction to investigate a Title VI complaint. Additionally, not all complaints of discrimination will be considered a "Title VI" complaint, but because Metro wishes to recognize and respect a broad view of civil rights, information on how to

proceed with complaints that may be outside the scope of specific federal protection is also included.

### Questions to determine jurisdiction and investigative process

1. Does the complaint allege discrimination, against an individual or class of people, based on race, color, national origin, sex or age? If yes, this is a “Title VI” complaint<sup>51</sup>; continue to number 7. If no, continue to number 2.
2. Does the complaint allege discrimination, against an individual or class of people, based on disability? If yes, this is a “Section 504/ADA” complaint, which is treated as a Title VI complaint for the purpose of Metro's procedure; continue to number 7. If no, continue to number 3.
3. Does the complaint allege discrimination of the nature of disproportionately high or adverse human health or environmental effects on minority or low-income populations? If yes, this is a “Environmental Justice” complaint, which is treated as a Title VI complaint for the purpose of Metro's procedure; continue to number 7.<sup>52</sup> If no, continue to number 4.
4. If the complaint does not allege discrimination of the nature described in questions 1, 2 or 3, it is not treated as a Title VI complaint; continue to number 5.
5. Does the complaint relate to public accommodations at the Oregon Zoo, Oregon Convention Center or Portland Expo and allege discrimination, against an individual or group, based on religion, sexual orientation or marital status? If yes, this is an Oregon “659A.403” issue; refer the complaint to the Office of Metro Attorney. If no, continue to number 6.<sup>53</sup>
6. If the complaint does not allege discrimination of the nature described in questions 1, 2, 3 or 5, it may not be related to a legally recognized civil rights protection; consult with the Office of Metro Attorney, Metro’s equity program manager and the appropriate department director to determine the proper steps to resolve.<sup>54</sup>
7. *[If the complaint relates to public accommodations at the Oregon Zoo, Oregon Convention Center or Portland Expo, this is also an Oregon “659A.403” issue; coordinate the investigation process with Office of Metro Attorney.]*

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<sup>51</sup> FHWA's Procedures Manual for Processing External Complaints of Discrimination provides for complaints under Title VI and related statutes: Title VI of the Civil Rights Act of 1964 (race, color, national origin), Federal Aid Highway Act of 1973 (sex) and the Age Discrimination Act of 1975 (age). See 2-1.B. Persons Eligible to File, p. 7.

[fhwa.dot.gov/civilrights/programs/finalcomplaintmanual110410.cfm](http://fhwa.dot.gov/civilrights/programs/finalcomplaintmanual110410.cfm)

<sup>52</sup> USDOT’s External Civil Rights Processing Manual states, “Any individual, or his or her representative, who believes that he or she or any specific class of persons has been subjected to discrimination or retaliation prohibited by any civil rights authority listed in Section 1-2 (which includes EO 12898 on Environmental Justice), based on such characteristics as race, color, sex, age, national origin, religion, or disability may file a complaint with DOT.” DOT 1000.18, p. 9. September 2007.

[cms.dot.gov/sites/dot.gov/files/docs/externalcomplaintmanual-final\\_1.pdf](http://cms.dot.gov/sites/dot.gov/files/docs/externalcomplaintmanual-final_1.pdf)

<sup>53</sup> State of Oregon, ORS 659A.403 Discrimination in place of public accommodation prohibited.  
[www.oregonlaws.org/ors/659A.403](http://www.oregonlaws.org/ors/659A.403)

<sup>54</sup> Also refer to USDOT’s External Civil Rights Processing Manual, Section 1-2: Authorities, p. 2-6.

Does the program related to the Title VI (or Section 504/ADA or Environmental Justice) complaint funded solely by direct FTA-to-Metro funding (e.g., Regional Travel Options, corridor projects working solely under FTA grants)? If yes, continue to number 8. If no, continue to number 9.<sup>55</sup>

8. For Title VI complaints related direct FTA-to-Metro funded programs, Metro investigates Title VI complaints against Metro, its subrecipients, its consultants and its contractors; refer to the notes on FTA considerations in the process below.
9. For all Title VI complaints not related to direct FTA-to-Metro funded programs,<sup>56</sup> Metro investigates complaints against its subrecipients, consultants and contractors only. If the complaint is against Metro, refer the complaint to ODOT's Office of Civil Rights. If the complaint is against one of Metro's subrecipients, consultants or contractors, follow the process below.

### **Accepting complaints in alternative languages and formats**

Metro ensures that persons with limited English proficiency have meaningful access to its programs and activities, including its complaint procedures in accordance with EO 13166, Improving Access to Services for Persons with Limited English Proficiency. Complaints in languages other than English will be translated and responded to in the language in which they were sent.

Metro ensures that persons with disabilities have access to its programs and activities, including in its complaint procedure in accordance with Title II of the Americans with Disabilities Act of 1990. Reasonable accommodations should be made to facilitate the complaint process for a person with a disability, including transcribing a verbal complaint, translating and responding in Braille, and holding any meetings needed to resolve the issue at a location that would ease mobility challenges.

It is important to recognize the need to modify practices to serve complainants with limited English proficiency and those with disabilities may extend beyond the complaint intake stage. Throughout the complaint resolution process, Metro will ensure these individuals understand their rights and responsibilities as well as the status of their complaint.

### **If the complainant is represented by an attorney**

Complainants represented by an attorney should provide a letter of representation.

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<sup>55</sup> Per FTA guidance, Metro will investigate complaints directly against Metro in relation to FTA direct-funded programs such as the Regional Travel Options program and high capacity transit planning under an FTA grant. *See* Title VI Requirements and Guidelines for Federal Transit Administration Recipients, Circular 4702.1B, chapter III-5.

<sup>56</sup> This includes programs unrelated to Metro's metropolitan planning organization role per the Civil Rights Restoration Act of 1987, which extends the scope and coverage of the nondiscrimination statutes to include all programs and activities of federal-aid recipients, subrecipients and contractors, whether such programs and activities are federally assisted or not. All programs not directly FTA-to-Metro funded will follow FHWA guidance because 1) the majority of Metro's federal funding comes from FHWA, and 2) FHWA guidance to recipients on Title VI complaints is more specific and less discretionary.

## Processing complaints

The timeframes provided below are calculated to meet the FHWA requirement that investigative reports must be submitted to FHWA within 60 days of Metro's receipt of the complaint.<sup>57</sup>

### 1. *Reviewing complaints for completeness and jurisdiction*

The complaint should be reviewed within 5 calendars days of receipt to determine whether it contains all the necessary information required for acceptance.

- If the complaint is complete, no additional information is needed and Metro has jurisdiction, the complainant should be sent an acceptance letter along with the complainant consent/release form and a notice about investigatory uses of personal information form.
- If the complaint is incomplete, the complainant should be contacted in writing or by telephone to obtain the additional information. The complainant should be given 10 calendars days to respond to the request for additional information. To save time later, the complainant should also be sent a complainant consent/release form and the notice about investigatory uses of personal information form.
- If the complaint is in a language other than English, the complainant should be sent a translated letter of receipt with information of potential next steps, including information needed to investigate a complaint and notification that if Metro lacks jurisdiction it will be referred. This letter should also include and consent/release form to move the process forward as Metro translates the complaint and a more specific response.
- If it becomes clear that Metro lacks jurisdiction over a complaint, the complaint should be referred to the appropriate agency. A referral letter should be sent to the agency along with the complaint and other documents. A letter should also be sent to the complainant stating that the complaint has been referred to another agency for investigation.

### 2. *Notification of acceptance of complaints*

After determining the complaint will be accepted for investigation by Metro:

- the complainant should be sent an acceptance letter along with the complainant consent/release form and a notice about investigatory uses of personal information form
- the respondent should be sent a notification letter; if needed, the respondent should also be sent a request for information.

The notification and acceptance letters should contain the following information:<sup>58</sup>

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<sup>57</sup> 23 CFR 200.9(b)(3).

<sup>58</sup> USDOT, External Civil Rights Processing Manual, 4-3 Notifying the complainant and recipient, DOT 1000.18, p. 22. September 2007.

- the basis for the complaint
- a brief statement of the allegations
- a brief statement of jurisdiction over the respondent to investigate the complaint
- an indication of when parties will be contacted
- cautionary statement that respondents or other persons shall not intimidate, threaten, coerce or discriminate against any person because he or she has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under Title VI or any other laws or regulations related to nondiscrimination
- notice of availability of alternative dispute resolution and early resolution, if appropriate
- request for the respondent to submit a position statement responding to the allegations, if appropriate
- the Title VI Coordinator's (and, if different, the investigator's) contact information.

A request for information should be sent to the respondent. The investigator should contact the respondent to advise of the complaint and to determine the appropriate person to receive the request for information.

The respondent should be given 10 calendar days to respond to the allegations in writing.

### 3. *Investigation*

The investigator shall prepare an investigative plan, which is a working document intended to define the issues and lay out the blueprint to complete the investigation. The plan is an internal document to keep the investigation on track and focused on the issues and likely sources of evidence or corroboration. The investigative plan should include the following:<sup>59</sup>

- Complainant's name and address
- Attorney for the complainant, name and address, if applicable
- Respondent's name and address
- Attorney for the respondent, name and address, if applicable
- Applicable laws
- Basis of the alleged discrimination (e.g., race, color, national origin, sex, age, disability)

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<sup>59</sup> Compiled from See FHWA, Procedures Manual for Processing External Complaints of Discrimination, 3-1 Investigative process, p. 15-16, and USDOT, External Civil Rights Processing Manual, 4-4 Developing an investigative plan, DOT 1000.18, p. 23. September 2007.

- Description of the allegations and issues, including identification of the specific action, policy or practice responsible for the alleged discrimination
- Theories of discrimination (e.g., intentional discrimination/disparate treatment or disparate impact/effects; *see below*)
- Background
- Name of persons to be interviewed
- Questions for the complainant
- Questions for the respondent
- Questions for witnesses
- Evidence to be obtained during the investigation
- Proposed activity schedule (including timeframes and anticipated sequence of on-site visits and interviews).



## Theories of discrimination

*USDOT, External Civil Rights Processing Manual, 4-4 Developing an investigative plan, DOT 1000.18, p. 23-24. September 2007.*

**Intentional discrimination** Intentional discrimination may take many forms, but disparate treatment is one of the most common. Simply put, disparate treatment means that similarly situated persons are treated differently (i.e., less favorably) than others because of their race, color, national origin, sex, etc. Another type of intentional discrimination involves the use of policies or practices that explicitly classify individuals on the basis of their membership in a particular group. Such “classifications” may constitute unlawful discrimination if they are based on characteristics such as race, color, or sex.

To prove intentional discrimination, the investigator must show that a challenged action was motivated by an intent to discriminate. This requires a showing that the decision-maker was not only aware of the complainant’s race, color or national origin, but that the recipient acted, at least in part, because of the complainant’s race, color, or national origin.

If the record contains sufficient evidence to establish a prima facie case of discrimination, the investigating agency must then determine if the recipient can articulate a legitimate, nondiscriminatory reason for the challenged action. If the recipient can articulate a nondiscriminatory explanation for the alleged discriminatory action, the investigating agency must determine whether the record contains sufficient evidence to establish that the recipient’s stated reason was a pretext for discrimination. In other words, the evidence must support a finding that the reason articulated by the recipient was not the true reason for the challenged action, and that the real reason was discrimination based on race, color, or national origin.

**Disparate impact** The second primary theory for proving a Title VI violation is based on Title VI regulations and is known as the discriminatory “effects” or disparate impact theory. In contrast to disparate treatment, the disparate impact/effects theory does not require proof of discriminatory intent. Rather, disparate impact cases involve claims that a recipient is violating Title VI regulations by using a neutral policy or practice that has the effect of disproportionately excluding or adversely affecting members of a protected group, and the recipient’s policy or practice lacks a substantial legitimate justification.

In a disparate impact case, the focus of the investigation concerns the consequences of the recipient’s practices, rather than the recipient’s intent. To establish liability under disparate impact, the investigator must first ascertain whether the recipient used a facially neutral practice that had a disproportionate impact on a group protected by Title VI. If the evidence establishes a prima facie case, the investigating agency must then determine whether the recipient can articulate a substantial legitimate justification for the challenged practice.

To prove a substantial legitimate justification, the recipient must show that the challenged policy was necessary to meeting a goal that was legitimate, important, and integral to the recipient’s mission. If the recipient can make such a showing, the inquiry must focus on whether there are any equally effective alternative practices that would result in less adverse impact or whether the justification proffered by the recipient is actually a pretext for discrimination. If a substantial legitimate justification is identified, the third stage of the disparate impact analysis is the complainant’s demonstration of a less discriminatory alternative.

For a detailed discussion of Investigative Plans, including how to apply the appropriate legal theories and evidentiary standards, see the Department of Justice’s Investigation Procedures Manual.

### 4. Investigative log

An investigative log should be maintained which documents all activity related to the complaint.

## 5. *Interviews*

Interviews should be conducted with the complainant, respondent and appropriate witnesses during the investigative process. The main objective during the interview is to obtain information from witnesses who can provide information that will either support or refute the allegations. A list of major questions should be prepared to address the issues involved in the complaint.

Persons to be interviewed:

- Complainants are interviewed to gain a better understanding of the situation outlined in the complaint of discrimination. Complaints are often received through the web form, email or mail from complainants. The investigator should contact the complainant to ensure they understand the complainant's concerns. Sometimes the complainant's concerns may be totally different from what was written in the complaint.
- Respondent have the right to know the allegations raised in the complaint. Respondents are interviewed to provide an opportunity to respond to the issues raised by the complainant. The interview should include obtaining an understanding of the respondent's operation and policies relative to the allegations cited in the complaint.
- Witnesses: The complainant or respondent may have persons they wish the investigator to contact. Individuals who have information relevant to the allegations raised in the complaint of discrimination should be interviewed. The investigator will determine whether the testimony provided by a witness is relevant.

## 6. *Preparing the investigative report*

The investigator should prepare an investigative report setting forth all the relevant facts obtained during the investigation. The report should include a finding for each issue and recommendations for corrective action, where necessary. A copy of the investigative report should never be given to the respondent or complainant.

References should be used throughout the report to direct the reader to the appropriate supporting documentation in the investigative case file. For large case files, it is suggested that the report include an index of documents and a key referencing by tab the evidence in the file relied upon in making any recommendation or determination.

## 7. *Final resolution*

In most cases, Metro will complete its investigation and submit its investigative report and the complaint to ODOT's Office of Civil Rights and FHWA's Headquarters Office of Civil Rights within 60 days of receiving the complaint. Metro will also supply summary investigative report and recommendation to the complainant and respondent.<sup>60</sup> Metro

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<sup>60</sup> "A copy of the [investigative report] should never be given to the respondent or complainant." FHWA, Procedures Manual for Processing External Complaints of Discrimination, 3-10, Preparing an investigative report (IR)/report of investigation (ROI), p. 23.

may choose to brief both the complainant and respondent in person within 15 days of submitting its report and recommendation.

FHWA's Headquarters Office of Civil Rights reserves authority to determine final resolution of the complaint and may:

- request or pursue additional investigation
- make a final decision and issue a letter of finding of violation or no violation or dismissal letter<sup>61</sup>
- for complaints regarding programs not funded by FHWA, refer the complaint and investigative report to U.S. Department of Justice's Federal Coordination and Compliance (for Title VI and Environmental Justice complaints) or Disability Rights Section (for Section 504/ADA complaints).<sup>62</sup>

Direct FTA-to-Metro funded programs In most cases, Metro will complete its investigation and submit its investigative report and the complaint to the FTA civil rights officer within 60 days of receiving the complaint. FTA guidance provides that Metro will provide final resolution by issuing one of two letters to the complainant: a closure letter or a letter of finding.<sup>63</sup> A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed. A letter of finding summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member or other action will occur. Metro should consult with an FTA civil rights officer before issuing a final letter to the complainant and respondent.

Dismissals Except in relation to direct FTA-to-Metro funded programs, Metro may only recommend a dismissal of the complaint. FHWA will make all final decisions.<sup>64</sup> Metro may recommend a dismissal of the complaint (or dismiss a complaint related to a Direct FTA-to-Metro funded program) for the following reasons:

- the complaint is untimely filed
- the complainant fails to respond to repeated requests for additional information needed to process the complaint
- the complainant cannot be located after reasonable attempts
- there is no statutory or alleged basis for the complaint

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<sup>61</sup> FHWA's Procedures Manual for Processing External Complaints of Discrimination states, "A Title VI finding of violation, no violation, or dismissal is a Federal decision that cannot be delegated. Although an [state transportation agency] can conduct a Title VI investigation of its subrecipients or contractors and make a recommended finding to the Federal decision-making authority, the FHWA has delegated authority for all final decisions, dismissals, and [letters of findings]." 2.J.2, p. 13.

<sup>62</sup> See FHWA's Procedures Manual for Processing External Complaints of Discrimination, Appendix E-3, p. 90.

<sup>63</sup> See FTA Circular 4702.1B, [Title VI Requirements and Guidelines for Federal Transit Administration Recipients](#), Appendix C. Oct. 1, 2012.

<sup>64</sup> See footnote 11.

- the complainant decides to withdraw the complaint.

Finding of violation or no violation Except in relation to direct FTA-to-Metro funded programs, Metro may only recommend a finding of violation or no violation. FHWA will make all final decisions and issue letters of findings.<sup>65</sup>

## Appeals

Unless facts not previously considered come to light, Metro will not reconsider its investigative report and recommendation to ODOT and FHWA. If the complainant or respondent contests the presentation of facts in the investigative report or believes the recommended finding or corrective actions, as applicable, will not result in a satisfactory resolution, Metro should provide appropriate contact information for the party to submit its objections.<sup>66</sup>

Letters of finding issued by the FHWA are administratively final; appeals must follow the agency's administrative appeals process.

Direct FTA-to-Metro funded programs FTA guidance provides for an opportunity for a complainant to appeal the closure letter or letter of finding, though it does not recommend a time frame to appeal.<sup>67</sup> Absent other direction from an FTA civil rights officer:

- the complainant should have 10 days after Metro issues its closure letter or letter of finding to request reconsideration
- the complainant should state the specific reason for the reconsideration and submit the request and statement to the Chief Operating Officer.
- the Chief Operating Officer should have 10 days to either accept or reject the request for reconsideration
- if accepted, the Chief Operating Officer should have 30 days from the receipt of the request to complete the reconsideration review and issue a determination letter.

## D. Procedures for recording and reporting investigations, complaints and lawsuits

### Recording complaints

Upon initial receipt, a complaint should always be date stamped, assigned a case number and recorded as part of list of active investigations, lawsuits and complaints related to Title VI.<sup>68</sup> The date of receipt by the receiving office is crucial for determining jurisdiction and timeliness. Case numbers should follow the convention "Metro-ORYY-##" (YY= year; ##=complaint number for that year). The following is a sample of Metro's recording form,

<sup>65</sup> See footnote 11.

<sup>66</sup> No clear process is offered in the guidance for a party to contest Metro's report or recommendation.

<sup>67</sup> See FTA Circular 4702.1B, [Title VI Requirements and Guidelines for Federal Transit Administration Recipients](#), Appendix C. Oct. 1, 2012.

<sup>68</sup> Record required by FTA Circular 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients, p. III-5. Oct. 1, 2012.

which is also used to track inquiries regarding possible Title VI complaints and other discrimination complaints.

Name of complainant		Name of affected person (if different)	
Address		Address	
City, State, ZIP Code		City, State, ZIP Code	
Phone			
Basis of complaint (race, color, national origin, sex, age, disability, other (specify)):			
Nature of complaint:			
Complaint recipient		Complaint investigator	
Date filed:	Dated investigation completed:	Date of disposition:	
Key investigation steps and results:			
Disposition:			

### **Notification of acceptance of complaints**

After determining the complaint will be accepted for investigation by Metro, the Title VI Coordinator or designee will notify:

- the Chief Operating Officer
- the Office of Metro Attorney
- the civil rights officer of the appropriate jurisdiction (ODOT for FHWA funded programs, FTA for FTA funded programs).

### **Creating the investigative case file**

The investigative case file is a structured compilation of all documents and information, within Metro's possession, pertaining to the case. An investigative case file should be established for each complaint that Metro accepts for investigation.

Complaints that are administratively closed for lack of jurisdiction, because they are untimely filed, for failure to exhaust local remedies, or for failure to state a claim over which Metro has jurisdiction do not require an investigative case file.

The purpose of the investigative case file is to establish a methodology for the systematic compilation and structured storage of all documents, records and information associated with the case. This is done in such a manner that the investigative case file: (a) provides the basis and supporting documentation for the investigative report and (b) allows a reader of the investigative report to easily verify the facts upon which they are based.

### **Distribution of the investigative case files**

FHWA Headquarters Office of Civil Rights, USDOJ or FTA is responsible for all investigative case files regardless of the agency creating or possessing the physical documents. The appropriate federal office will provide copies of investigative case files in accordance with the Freedom of Information Act. Metro should consult with the ODOT's Office of Civil Rights, as appropriate, and the federal agency (FHWA or FTA) with authority over the complaint to determine distribution of physical and electronic copies of the investigative case file.

## X. EQUITY IN CONTRACTING

*Each year, Metro spends millions of dollars on contracts with businesses that support efforts to provide public services for the residents of Clackamas, Multnomah and Washington counties. By actively involving minority-owned business enterprises, woman-owned business enterprises, service disabled veteran-owned businesses and emerging small businesses (collectively referred to as COBID-certified firms) in the pool for business opportunities, Metro helps expand economic opportunities in the region.*

ODOT has an overall Disadvantaged Business Enterprise Goal of 11.6 percent Disadvantaged Business Enterprise usage, which has been approved by the Federal Highway Administration.<sup>69</sup> The 11.6 percent Disadvantaged Business Enterprise goal is broken into two parts, where 6.6 percent of Disadvantaged Business Enterprise usage will be race-conscious and 5.0 percent will be race-neutral. Metro's aspirational goals are generally between 12 percent and 15 percent of annual contract dollars, depending on how many capital/construction projects are budgeted.

In April 2017, Metro's minority-owned, women-owned, emerging small business program (MWESB) was reestablished as an equity in contracting program. Metro has a strong commitment to provide contracting opportunities to State of Oregon certified minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses.<sup>70</sup>

Metro awards millions of dollars in contracts for products and services each year and actively solicits bids and proposals from businesses that are certified by the State of Oregon's Certification Office for Business Inclusion and Diversity (COBID).

### A. Equity in contracting program

Under the new program, Metro will engage in the following activities with the goal of increasing business with COBID Certified Businesses.<sup>71</sup>

1. *Outreach* Engage in additional outreach procedures, including electronic notices of public contract solicitations, newsletters, attending regularly-scheduled contractor orientation programs, open houses and participation in local and regional outreach opportunities.
2. *Technical assistance* Provide technical assistance and information to outside third parties on feasible options for management assistance, bonding, insurance, certification and Metro procurement processes.

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<sup>69</sup> Oregon Department of Transportation Disadvantaged Business Enterprise program, [www.oregon.gov/ODOT/Business/OCR/Pages/Disadvantaged-Business-Enterprise.aspx](http://www.oregon.gov/ODOT/Business/OCR/Pages/Disadvantaged-Business-Enterprise.aspx)

<sup>70</sup> Definitions set forth in ORS 200.005(5) and (7).

<sup>71</sup> Metro Council Resolution No. 17-4779, staff report, [rim.metro-region.org/webdrawer/rec/470458/view/](http://rim.metro-region.org/webdrawer/rec/470458/view/)



3. *Package contracting opportunities* Examine alternatives for arranging public contract solicitations by type of work, subcontracting opportunities and partnerships so as to enhance the possibility of participation by COBID Certified Businesses.
4. *Internal Education* Provide periodic training and continuing education to Departments to ensure awareness of Program objectives and desired activities.

## **B. New equity in contracting rules**

The new rules apply to all Metro contracts and will increase COBID participation through formalizing and strengthening existing policies and adding two new policies.

- Consider COBID firms in small procurements.
- Contact a COBID firm from each state-certified category for intermediate procurements.
- Advertise for formal procurements in a minority publication.
- Scoring requirements for diversity total 20 percent in evaluating intermediate and formal proposals.
- Required COBID Marketplace allows for quotes accepted only from COBID firms for public improvement contracts up to \$50,000.
- Subcontractor equity program requires that contractors conduct outreach and negotiation with COBID subcontractors in formal public improvement contracts.
- (new) Optional COBID Marketplace allows for direct award to a COBID firm for personal services and qualifications-based selection contracts under \$50,000 (only one direct award allowed per vendor per department/venue).
- (new) Required pre-solicitation equity strategy meeting with procurement services for formal procurements.

## **C. Subcontractor equity program**

Metro's subcontractor equity program is intended to incorporate the standards for good faith efforts described in ORS 200.045.<sup>72</sup> The purpose of the program is to provide equitable opportunities for COBID Certified Businesses to participate in subcontract opportunities created through Metro public improvement contracts. Prime contractors are required to fulfill the following actions in order to comply with the subcontractor equity program.<sup>73</sup>

1. Contractor contacts all COBID Certified Businesses who attend the project's presolicitation or prebid meeting to solicit bids for subcontracting or material supply opportunities.

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<sup>72</sup> ORS 200.045(2) If a public contract requires participation from a required participant and a bidder or proposer for the public contract is not a required participant, a contracting agency may award the public contract to the bidder or proposer only if the bidder or proposer:... (b) Has made good faith efforts to encourage required participants to participate in the public contract.

<sup>73</sup> Metro Council Resolution No. 17-4779, procurement administrative rules, [rim.metro-region.org/webdrawer/rec/470458/view/](http://rim.metro-region.org/webdrawer/rec/470458/view/)

2. Contractor identifies and selects specific economically feasible units of the public improvement contract that COBID Certified Businesses may perform in order to increase the likelihood that COBID certified subcontractors will participate in the public improvement contract.
3. Contractor advertises the project subcontracting opportunities in general circulation publications, trade association publications and publications that serve an audience or readership that consists primarily of minorities, women, service disabled veterans and emerging small businesses.
4. Contractor provides written notice of the subcontracting opportunities to a reasonable number of specific COBID Certified Businesses in sufficient time to allow such enterprises or businesses to participate effectively.
5. Contractor follows up on its initial solicitations of interest by contacting the enterprises or businesses to which the bidder or proposer provided notice to determine with certainty whether the enterprises or businesses are interested in the subcontracting opportunities.
6. Contractor provides interested COBID Certified Businesses with adequate information about plans, specifications and requirements for subcontracting or material supply work in connection with the public improvement contract.
7. Contractor negotiates with interested COBID certified subcontractors, and does not without justifiable reason reject as unsatisfactory bids or proposals that COBID enterprises or businesses prepare.
8. Contractor advises and assists interested COBID certified subcontractors to obtain, when necessary, bonding, lines of credit or insurance that the contracting agency or contractor requires; and
9. Contractor uses the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations that Metro identifies as providing assistance in recruiting COBID Certified Businesses for participation in public improvement contracts.

#### **D. Federal nondiscrimination clause**

Federal nondiscrimination clauses are included in appropriate contracts.

## **XI. PROGRAM ADMINISTRATION, GENERAL**

### **A. Program assessment and monitoring procedures**

Program assessment and monitoring by Metro's Title VI Coordinator or designee includes quarterly review and annual reporting to the ODOT Title VI officer. In addition, any member of the public may inspect public reports, personnel rules, executive orders, resolutions and ordinances pertaining to public outreach, nondiscrimination and environmental justice. Residents may also request such project and program records through each department.

### **B. Annual reporting procedures**

Each year, the Title VI Coordinator or designee reviews Metro's agency-wide Title VI program to ensure compliance with regulations. In addition, the coordinator or designee reviews agency operational guidelines and publications, including those for contractors, to ensure Title VI language and provisions are incorporated, as appropriate.

The Title VI Coordinator or designee will prepare and submit an annual Title VI Compliance Report to ODOT as required.<sup>74</sup> Content of the report will describe, at minimum:

- the previous year's Title VI-related activities and efforts, including accomplishments and program changes
- changes in organizational structure or Title VI personnel
- an accounting of any Title VI complaints submitted to Metro
- Title VI-related goals and objectives for the coming year.

### **C. Enforcement procedures**

The Title VI Coordinator or designee is responsible for evaluation and monitoring compliance with Title VI requirements in all aspects of Metro's efforts to identify, engage and assess benefits and impacts for historically marginalized communities. The Title VI Coordinator or designee will:

- develop and distribute information on Title VI rights and guarantees within Metro programs to the general public and provide such information in languages other than English, as appropriate
- include a Title VI notice to the public, either full or abbreviated, in all news releases, Metro Council and advisory committee meeting agendas and the Metro website
- ensure that methods to identify historically marginalized communities comply with Title VI requirements and follow or exceed current best practices
- ensure that communications and public engagement efforts comply with Title VI requirements and follow or exceed current best practices

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<sup>74</sup> Previous years' reports available at [oregonmetro.gov/civilrights](http://oregonmetro.gov/civilrights).

- disseminate information to minority media and organizations representing historically marginalized communities to engage fully diverse interest groups in the planning process
- notify affected and protected groups of public hearings regarding proposed actions and make the hearings accessible to all residents, including the use of interpreters when requested or an authentic need has been otherwise identified
- ensure meeting rooms at Metro and other locations are accessible to all
- collect evaluative information about public meetings and comment opportunities to track how well different segments of the population are represented, determine where special efforts should be made to engage underrepresented voices, and seek continually improving outreach methods
- process Title VI complaints in accordance with the Title VI complaint processing procedure (*see above, section VII.*)
- ensure that methods to assess the benefits and impacts for historically marginalized communities comply with Title VI requirements and follow or exceed current best practices
- if any area is found to be out of compliance, work with program staff and the Office of Metro Attorney to restore compliance and report status and corrective steps to the chief operating officer.

#### **D. Training**

Metro sends the Title VI Coordinator or designee to external Title VI trainings whenever available and feasible. Metro encourages staff to seek training to improve the agency's expertise in outreach to low income, communities of color, English language learners and underserved communities. Because of its role as a metropolitan planning organization, the agency often attracts guest speakers on planning topics that sometimes include environmental justice, equity or civil rights as part of their presentations.



## Title VI Plan

*Civil rights, environmental justice and equity*

### **APPENDIX A. TRANSLATED TITLE VI NOTICE**

- poster
- notice included in Metro Council session and other meetings agendas

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# Metro respects civil rights

Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes that ban discrimination. If any person believes they have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age or disability, they have the right to file a complaint with Metro. For information on Metro's civil rights program, or to obtain a discrimination complaint form, visit [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) or call 503-797-1536. Metro provides services or accommodations upon request to persons with disabilities and people who need an interpreter at public meetings. If you need a sign language interpreter, communication aid or language assistance, call 503-797-1700 or TDD/TTY 503-797-1804 (8 a.m. to 5 p.m. weekdays) 5 business days before the meeting. All Metro meetings are wheelchair accessible. For up-to-date public transportation information, visit TriMet's website at [www.trimet.org](http://www.trimet.org).



## Thông báo về sự Metro không kỳ thị của

Metro tôn trọng dân quyền. Muốn biết thêm thông tin về chương trình dân quyền của Metro, hoặc muốn lấy

đơn khiếu nại về sự kỳ thị, xin xem trong [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Nếu quý vị cần thông dịch viên ra dấu bằng tay, trợ giúp về tiếp xúc hay ngôn ngữ, xin gọi số 503-797-1700 hay TDD/TTY 503-797-1804 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường) trước buổi họp 5 ngày làm việc.



## Повідомлення Metro про заборону дискримінації

Metro з повагою ставиться до громадянських прав. Для отримання інформації про програму Metro із

захисту громадянських прав або форми скарги про дискримінацію відвідайте сайт [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). або Якщо вам потрібен перекладач на зборах, для задоволення вашого запиту зателефонуйте за номером 503-797-1700 з 8.00 до 17.00 у робочі дні за п'ять робочих днів до зборів.



## Avizul Metro privind nediscriminare

Metro respectă drepturile civile. Pentru informații cu privire la programul Metro pentru drepturi civile sau

pentru a obține un formular de reclamație împotriva discriminării, vizitați [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Dacă aveți nevoie de un interpret de limbă la o ședință publică, sunați la 503-797-1700 (între orele 8 și 5, în timpul zilelor lucrătoare) cu cinci zile lucrătoare înainte de ședință, pentru a putea să vă răspunde în mod favorabil la cerere.



## Ogeysiiska takooris la'aanta ee Metro

Metro waxay ixtiraamtaa xuquuqda madaniga. Si aad u heshid macluumaad ku

saabsan barnaamijka xuquuqda madaniga ee Metro, ama aad u heshid warqadda ka cabashada takoorista, booqo [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Haddii aad u baahan tahay turjubaan si aad uga qaybqaadatid kullaan dadweyne, wac 503-797-1700 (8 gallinka hore illaa 5 gallinka dambe maalmaha shaqada) shan maalmo shaqo ka hor kullanka si loo tixgaliyo codsashadaada.



## Paunawa ng Metro sa kawalan ng diskriminasyon

Iginagalang ng Metro ang mga karapatang sibil. Para sa impormasyon tungkol

sa programa ng Metro sa mga karapatang sibil, o upang makakuha ng porma ng reklamo sa diskriminasyon, bisitahin ang [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Kung kailangan ninyo ng interpreter ng wika sa isang pampublikong pulong, tumawag sa 503-797-1700 (8 a.m. hanggang 5 p.m. Lunes hanggang Biyernes) lima araw ng trabaho bago ang pulong upang mapagbigyan ang inyong kahilingan. Notificación de no discriminación de Metro.



Metroの差別禁止通知 Metroでは公民権を尊重しています。Metroの公民権プログラムに関する情報について、または差別苦情フォームを入手するに

は、[www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。までお電話ください公開会議で言語通訳を必要とされる方は、Metroがご要請に対応できるよう、公開会議の5営業日前までに503-797-1700（平日午前8時～午後5時）までお電話ください。



## សេចក្តីជូនដំណឹងស្តីអំពីការមិនរើសអើងរបស់ Metro

Metro គោរពសិទ្ធិប្រជាពលរដ្ឋ ។

សំរាប់ព័ត៌មានស្តី អំពីកម្មវិធីសិទ្ធិប្រជាពលរដ្ឋរបស់ ពេរ្យ. ឬដាក់-ពាក្យ បណ្តឹងរើសអើង, ចូរមើលក្នុងវិបសាយ

[www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) ។

ប្រសិនបើអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេល ប្រជុំ, ចូរទូរស័ព្ទទៅលេខ ៥០៣-៧៩៧-១៧០០ ៩ពីម៉ោង ៨ព្រឹក រហូតដល់ម៉ោង ៥ល្ងាច ក្នុងថ្ងៃធ្វើការ ៥ឱ្យបាន ៥ថ្ងៃមុនពេលដែលត្រូវប្រជុំ ។



## إشعار بعدم التمييز من Metro | Arabic

تحتزم Metro الحقوق المدنية.

للمزيد من المعلومات حول برنامج Metro للحقوق المدنية أو لإيداع شكوى

ضد التمييز، يُرجى زيارة الموقع الإلكتروني [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights).

إن كنت بحاجة إلى مساعدة في اللغة، يجب عليك الاتصال مقدماً برقم الهاتف 503-797-1700 (من الساعة ٨ صباحاً حتى الساعة ٥ مساءً، أيام الاثنين إلى الجمعة) قبل سبعة (٧) أيام عمل من موعد الاجتماع.



## Metro의 차별 금지 관련 통지서

Metro의 시민권 프로그램에 대한 정보 또는 차별 항의서 양식을 얻으려면, 또는 차별에 대한 불만을 신고 할

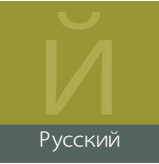
수 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). 당신의 언어 지원이 필요한 경우, 회의에 앞서 5 영업일 (오후 5시 주중에 오전 8시) 503-797-1700를 호출합니다.



## Notificación de no discriminación de Metro

Metro respeta los derechos civiles. Para obtener información sobre el programa de derechos

civiles de Metro o para obtener un formulario de reclamo por discriminación, ingrese a [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Si necesita asistencia con el idioma, llame al 503-797-1700 (de 8:00 a. m. a 5:00 p. m. los días de semana) 5 días laborales antes de la asamblea.



## Уведомление о недопущении дискриминации от Metro

Metro уважает гражданские права.

Узнать о программе Metro по соблюдению гражданских прав и получить форму жалобы о дискриминации можно на веб-сайте [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Если вам нужен переводчик на общественном собрании, оставьте свой запрос, позвонив по номеру 503-797-1700 в рабочие дни с 8:00 до 17:00 и за пять рабочих дней до даты собрания.v



## Metro 的不歧視公告

尊重民權。欲瞭解Metro民權計畫的詳情，或獲取歧視投訴表，請瀏覽網站 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。如果您需要口譯方可參加公共會議，請在會議召開前5個營業日撥打503-797-1700（工作日上午8點至下午5點），以便我們滿足您的要求。



## Metro txoj kev ntxub ntxaug daim ntawv ceeb toom

Metro tributes cai. Rau cov lus qhia txog Metro txoj cai kev pab, los yog kom sau ib

daim ntawv tsis txaus siab, mus saib [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Yog hais tias koj xav tau lus kev pab, hu rau 503-797-1700 (8 teev sawv ntxov txog 5 teev tsaus ntu weekdays) 5 hnuv ua hauj lwmm ua ntej ntawm lub rooj sib tham.



Metro | Making a great place

## Metro respects civil rights

Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes that ban discrimination. If any person believes they have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age or disability, they have the right to file a complaint with Metro. For information on Metro's civil rights program, or to obtain a discrimination complaint form, visit [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) or call 503-797-1536. Metro provides services or accommodations upon request to persons with disabilities and people who need an interpreter at public meetings. If you need a sign language interpreter, communication aid or language assistance, call 503-797-1700 or TDD/TTY 503-797-1804 (8 a.m. to 5 p.m. weekdays) 5 business days before the meeting. All Metro meetings are wheelchair accessible. For up-to-date public transportation information, visit TriMet's website at [www.trimet.org](http://www.trimet.org).

### Thông báo về sự Metro không kỳ thị của

Metro tôn trọng dân quyền. Muốn biết thêm thông tin về chương trình dân quyền của Metro, hoặc muốn lấy đơn khiếu nại về sự kỳ thị, xin xem trong [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Nếu quý vị cần thông dịch viên ra dấu bằng tay, trợ giúp về tiếp xúc hay ngôn ngữ, xin gọi số 503-797-1700 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường) trước buổi họp 5 ngày làm việc.

### Повідомлення Metro про заборону дискримінації

Metro з повагою ставиться до громадянських прав. Для отримання інформації про програму Metro із захисту громадянських прав або форми скарги про дискримінацію відвідайте сайт [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). або Якщо вам потрібен перекладач на зборах, для задоволення вашого запиту зателефонуйте за номером 503-797-1700 з 8.00 до 17.00 у робочі дні за п'ять робочих днів до зборів.

### Metro 的不歧視公告

尊重民權。欲瞭解Metro民權計畫的詳情，或獲取歧視投訴表，請瀏覽網站 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。如果您需要口譯方可參加公共會議，請在會議召開前5個營業日撥打503-797-1700（工作日上午8點至下午5點），以便我們滿足您的要求。

### Ogeysiiska takooris la'aanta ee Metro

Metro waxay ixtiraamtaa xuquuqda madaniga. Si aad u heshid macluumaad ku saabsan barnaamijka xuquuqda madaniga ee Metro, ama aad u heshid warqadda ka cabashada takoorista, booqo [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Haddii aad u baahan tahay turjubaan si aad uga qaybqaadatid kullamada dadweynaha, wac 503-797-1700 (8 gallinka hore illaa 5 gallinka dambe maalmaha shaqada) shan maalmaha shaqo ka hor kullanka si loo tixgaliyo codsashadaada.

### Metro의 차별 금지 관련 통지서

Metro의 시민권 프로그램에 대한 정보 또는 차별 항의서 양식을 얻으려면, 또는 차별에 대한 불만을 신고 할 수 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). 당신의 언어 지원이 필요한 경우, 회의에 앞서 5 영업일 (오후 5시 주중에 오전 8시) 503-797-1700를 호출합니다.

### Metroの差別禁止通知

Metroでは公民権を尊重しています。Metroの公民権プログラムに関する情報について、または差別苦情フォームを入手するには、[www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。までお電話ください。公開会議で言語通訳を必要とされる方は、Metroがご要請に対応できるよう、公開会議の5営業日前までに503-797-1700（平日午前8時～午後5時）までお電話ください。

### សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬស្នើសុំទទួលបានកាតបណ្តឹងរើសអើងសូមចូលទស្សនាគេហទំព័រ [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ មុនថ្ងៃប្រជុំដើម្បីអាចឱ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

### إشعار بعدم التمييز من Metro

تحتزم Metro الحقوق المدنية. للمزيد من المعلومات حول برنامج Metro للحقوق المدنية أو لإبداء شكوى ضد التمييز، يُرجى زيارة الموقع الإلكتروني [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). إن كنت بحاجة إلى مساعدة في اللغة، يجب عليك الاتصال مقدماً برقم الهاتف 503-797-1700 (من الساعة 8 صباحاً حتى الساعة 5 مساءً، أيام الاثنين إلى الجمعة) قبل خمسة (5) أيام عمل من موعد الاجتماع.

### Paunawa ng Metro sa kawalan ng diskriminasyon

Iginagalang ng Metro ang mga karapatang sibil. Para sa impormasyon tungkol sa programa ng Metro sa mga karapatang sibil, o upang makakuha ng porma ng reklamo sa diskriminasyon, bisitahin ang [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Kung kailangan ninyo ng interpreter ng wika sa isang pampublikong pulong, tumawag sa 503-797-1700 (8 a.m. hanggang 5 p.m. Lunes hanggang Biyernes) lima araw ng trabaho bago ang pulong upang mapagbigyan ang inyong kahilingan.

### Notificación de no discriminación de Metro

Metro respeta los derechos civiles. Para obtener información sobre el programa de derechos civiles de Metro o para obtener un formulario de reclamo por discriminación, ingrese a [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Si necesita asistencia con el idioma, llame al 503-797-1700 (de 8:00 a. m. a 5:00 p. m. los días de semana) 5 días laborales antes de la asamblea.

### Уведомление о недопущении дискриминации от Metro

Metro уважает гражданские права. Узнать о программе Metro по соблюдению гражданских прав и получить форму жалобы о дискриминации можно на веб-сайте [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Если вам нужен переводчик на общественном собрании, оставьте свой запрос, позвонив по номеру 503-797-1700 в рабочие дни с 8:00 до 17:00 и за пять рабочих дней до даты собрания.

### Avizul Metro privind nediscriminarea

Metro respectă drepturile civile. Pentru informații cu privire la programul Metro pentru drepturi civile sau pentru a obține un formular de reclamație împotriva discriminării, vizitați [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Dacă aveți nevoie de un interpret de limbă la o ședință publică, sunați la 503-797-1700 (între orele 8 și 5, în timpul zilelor lucrătoare) cu cinci zile lucrătoare înainte de ședință, pentru a putea să vă răspunde în mod favorabil la cerere.

### Metro txoj kev ntxub ntxaug daim ntawv ceeb toom

Metro tributes cai. Rau cov lus qhia txog Metro txoj cai kev pab, los yog kom sau ib daim ntawv tsis txaus siab, mus saib [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Yog hais tias koj xav tau lus kev pab, hu rau 503-797-1700 (8 teev sawn ntxov txog 5 teev tsaus ntuj weekdays) 5 hnub ua hauj lwu ua ntej ntawm lub rooj sib tham.

Title VI Plan

*Civil rights, environmental justice and equity*

**APPENDIX B. 2018 REGIONAL TRANSPORTATION PLAN FORMS A AND B FOR  
PUBLIC ENGAGEMENT AND NONDISCRIMINATION CERTIFICATION**

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**Form A. Public engagement and non-discrimination certification checklist for projects submitted from adopted transportation system, subarea, topical, modal, and transit service plans or strategies**

**2018 Regional Transportation Plan call for projects**

**Background and purpose**

Use of this checklist is intended to ensure project sponsors have offered an adequate opportunity for public engagement, including identifying and engaging historically marginalized communities, during development of local transportation system plans, subarea plans or strategies, topical plans or strategies (e.g., safety), modal plans or strategies (e.g., freight) and transit service plans.

Metro is required to comply with federal (US. Department of Transportation, Federal Highways Administration and Federal Transit Administration) and state (ODOT) guidance on public engagement and on Title VI of the Civil Rights Act and other civil rights requirements. Documentation of the local actions described below may be requested by regulators; if such a request is unable to be met, the Regional Transportation Plan itself may be found to be out of compliance, requiring regional corrective action.

**Instructions**

Applicants must complete this certification, comprising the plan development checklist (section A), summary of non-discriminatory engagement (section B) and certification statement (section C), for plans that include the projects submitted to Metro for inclusion in the 2018 Regional Transportation Plan. Section D allows for documentation of projects emerging from plans that not currently adopted, but anticipated to be ahead of the RTP adoption, by the jurisdiction.

One completed certification form (Form A) is required for the list of projects submitted by the jurisdiction, agency or special district for the 2018 Regional Transportation Plan. An additional, separate completed certification form (Form B) is required for projects recommended to be included in the 10-year investment strategy (implementation in the 2018-27 timeframe) and to seek state or federal funding.

Project sponsors should keep referenced records on file in case of a request for information. Records should be retained until the related local transportation system plan, subarea plan or strategy, modal

*Use this form (Form A) to certify a list projects with implementation after 2027.*

See also **Form B, Public engagement and non-discrimination certification for projects submitted to the 10-year regional transportation investment strategy (2018-27 implementation)** for projects anticipated to be included in the 2018 RTP 10-year investment strategy (implementation in the 2018-27 timeframe) and to seek state or federal funding to be implemented are expected to:

- *if project development completed,* have performed project level public engagement and analyzed potential inequitable impacts for people of color, people with limited English proficiency and people with low income compared to those for other residents
- *if project development not completed,* attest to the intent to perform project level public engagement and analyze potential inequitable impacts for people of color, people with limited English proficiency and people with low income compared to those for other residents.



plan or strategy or transit service plan is superseded – or the submitted projects have been completed – plus six years. Retained records do not have to be submitted unless requested by Metro, state regulators or federal regulators.

#### **For plans currently in development**

This form may attest to local transportation system plans, subarea plans or strategies, topical plans or strategies, modal plans or strategies, and transit service plans currently in development – but are anticipated to be adopted prior to the adoption of the 2018 Regional Transportation Plan – that include projects submitted to Metro for inclusion in the 2018 RTP.

Attach a list of projects that have not emerged from a currently adopted (at the time of the call for projects) plan, showing the project number (assigned by the project submission system), name and cost. See page 4 of this form (Form A) for example formatting.

Forward questions regarding this checklist to the Civil Rights program manager, Clifford Higgins at [clifford.higgins@oregonmetro.gov](mailto:clifford.higgins@oregonmetro.gov) or 503-797-1932.

#### **A. Checklist**

- ☐ At the beginning of the agency's transportation system, topical modal, subarea or transit service plan, a public engagement plan was developed to encourage broad-based, early and continuing opportunity for public involvement.

***Retained records:*** public engagement plan and/or procedures

- ☐ During the development of the agency's transportation system, topical, modal, subarea or transit service plan, a jurisdiction-wide demographic analysis was completed to understand the locations of communities of color, people with limited English proficiency, people with low income and, to the extent reasonably practicable, people with disabilities, older adults and youth in order to include them in engagement opportunities.

***Retained records:*** summary of or maps illustrating jurisdiction-wide demographic analysis

- ☐ Throughout process, public notices were published and requests for input were sent in advance of the project start, engagement activity or input opportunity.

***Retained records:*** dated copies of notices (may be included in retained public engagement reports)

- ☐ Throughout the process, public documents included a statement of non-discrimination (Metro can provide a sample).

***Retained records:*** public documents, including meeting agendas and reports

- ☐ Throughout the process, timely and accessible forums for public input were provided.

***Retained records:*** descriptions of opportunities for ongoing engagement, descriptions of opportunities for input at key milestones, public meeting records, online and community survey results (may be included in retained public engagement reports)

- ❑ Throughout the process, appropriate interested and affected groups were identified, and contact information was maintained, in order to share plan information; updates were provided for key decision points; and opportunities to engage and comment were provided.

**Retained records:** *list of interested and affected parties, dated copies of communications and notices sent, descriptions of efforts to engage the public, including strategies used to attract interest and obtain initial input, summary of key findings; for announcements sent by mail or email, documented number of persons/groups on mailing list (may be included in retained public engagement reports)*

- ❑ Throughout the process, focused efforts were made to engage historically marginalized populations, including people of color, people with limited English proficiency and people with low income, as well as people with disabilities, older adults and youth. Meetings or events were held in accessible locations with access to transit. Language assistance was provided, as needed, such as translation of key materials, use of a telephone language line service to respond to questions or take input in different languages, and interpretation at meetings or events.

**Retained records:** *description of focused engagement efforts, list of community organizations and/or community members representing diverse populations with whom coordination or consultation occurred, description of language assistance resources and how they were used, dated copies of communications and notices, copies of translated materials, summaries of key findings (may be included in retained public engagement reports)*

- ❑ Public comments were considered throughout the process, and comments received on the staff recommendation were compiled, summarized and responded to, as appropriate.

**Retained records:** *summary of comments, key findings and changes made to final staff recommendation or adopted plan to reflect public comments (may be included in retained public engagement reports or legislative staff reports)*

- ❑ Adequate notification was provided regarding final adoption of the plan, including how to obtain more detailed information, at least 15 days in advance of adoption. Notice included information on providing public testimony.

**Retained records:** *dated copies of the notices; for announcements sent by mail or email, documentation of number of persons/groups on mailing list (may be included in retained public engagement reports or legislative staff reports)*

## **B. Summary of non-discriminatory engagement**

Attach a summary (1-2 pages) of the key elements of the public engagement process for development of local transportation system plans, subarea plans or strategies, modal plans or strategies or transit service plans, including outreach to people of color, people with limited English proficiency and people with low income.

### C. Certification statement

\_\_\_\_\_ (agency) certifies the information provided on this checklist is accurate.

As attested by:

\_\_\_\_\_  
(agency manager signature)

\_\_\_\_\_  
(name and title)

\_\_\_\_\_  
(date)

### D. Project documentation for projects not from currently adopted plan

Form A may attest to local transportation system plans, subarea plans or strategies, topical plans or strategies, modal plans or strategies and transit service plans currently in development – but are anticipated to be adopted prior to the adoption of the 2018 Regional Transportation Plan – that include projects submitted to Metro for inclusion in the 2018 RTP.

Attach a list of projects that have not emerged from a currently adopted (at the time of the call for projects) plan, showing the project number (assigned by the project submission system), name and cost. This will allow Metro to verify the adoption of and project inclusion in the local transportation system plan, subarea plan or strategy, topical plan or strategy, modal plan or strategy, or transit service plan ahead of the Regional Transportation Plan adoption.

RTP Project ID	Project name	Project cost



**Form B. Public engagement and non-discrimination certification for projects submitted to the 10-year regional transportation investment strategy (2018-27 implementation)****2018 Regional Transportation Plan call for projects****Background and purpose**

Use of this checklist is intended to ensure sponsors of projects seeking inclusion in the 2018 RTP 10-year investment strategy (implementation in the 2018-27 timeframe):

- *if project development completed*, have performed project level public engagement, including identifying and engaging historically marginalized populations, and analyzed potential inequitable impacts for people of color, people with limited English proficiency and people with low incomes compared to those for other residents
- *if project development not completed*, attest to the intent to perform project level public engagement, including identifying and engaging historically marginalized populations, and analyze potential inequitable impacts for people of color, people with limited English proficiency and people with low income compared to those for other residents.

*Use this form (Form B) to certify each project submitted for the 10-year investment strategy (2018-27 implementation).*

See also **Form A, Public engagement and non-discrimination certification checklist for transportation system, subarea, topical, modal, and transit service plan or strategy development** for certification of projects not anticipated to be included in the 2018 RTP 10-year investment strategy (implementation in the 2018-27 timeframe) and to seek state or federal funding may be done through a certification of the related local transportation system, subarea, topical, modal or transit service plan or strategy.

Metro is required to comply with federal (USDOT, FTA and FHWA) and state (ODOT) guidance on public engagement and on Title VI of the Civil Rights Act and other civil rights requirements. Documentation of the local actions described below may be requested by regulators; if such a request is unable to be met, the Regional Transportation Plan itself may be found to be out of compliance, requiring regional corrective action.

The completed checklist will aid Metro in its review and evaluation of projects.

**Instructions** For projects submitted to Metro for consideration for the 2018 RTP 10-year investment strategy, applicants must complete this certification, comprising the project development checklist (section A), summary of non-discriminatory engagement (section B) and certification statement (section C).

Project sponsors should keep referenced records on file in case of a request for information. Records should be retained until the submitted projects have been completed or removed from the Regional Transportation Plan, plus six years. Retained records do not have to be submitted unless requested by Metro, state regulators or federal regulators.

Forward questions regarding this checklist to the Civil Rights program manager, Clifford Higgins at clifford.higgins@oregonmetro.gov or 503-797-1932.

## A. Checklist

*This part of the checklist is provided in past tense for projects that have completed project development. Parenthetical notes in future tense are provided for applicants that have not completed project development to attest to ongoing and future activities.*

- ☐ At the beginning of project development, a public engagement plan was (shall be) developed to encourage broad-based, early and continuing opportunity for public involvement.

***Retained records:*** public engagement plan and/or procedures

- ☐ During project development, a demographic analysis was (shall be) completed for the area potentially affected by the project to understand the locations of communities of color, people with limited English proficiency, people with low income and, to the extent reasonably practicable, people with disabilities, older adults and youth in order to include them in engagement opportunities.

***Retained records:*** summary of or maps illustrating demographic analysis

- ☐ Throughout project development, public notices were (shall be) published and requests for input were (shall be) sent in advance of the project start, engagement activity or input opportunity.

***Retained records:*** dated copies of notices (may be included in retained public engagement reports)

- ☐ Throughout project development, public documents included (shall include) a statement of non-discrimination (Metro can provide a sample).

***Retained records:*** public documents, including meeting agendas and reports

- ☐ Throughout project development, timely and accessible forums for public input were (shall be) provided.

***Retained records:*** descriptions of opportunities for ongoing engagement, descriptions of opportunities for input at key milestones, public meeting records, online or community survey results (may be included in retained public engagement reports)

- ☐ Throughout project development, appropriate interested and affected groups were (shall be) identified and contact information maintained in order to share project information, updates were (shall be) provided for key decision points, and opportunities to engage and comment were (shall be) provided.

***Retained records:*** list of interested and affected parties, dated copies of communications and notices sent, descriptions of efforts to engage the public, including strategies used to attract interest and obtain initial input, summary of key findings; for announcements sent by mail or email, documented number of persons/groups on mailing list (may be included in retained public engagement reports)

- ❑ Throughout project development, focused efforts were made to engage historically marginalized populations, including people of color, people with limited English proficiency and people with low income, as well as people with disabilities, older adults and youth. Meetings or events were held in accessible locations with access to transit. Language assistance was provided, as needed, such as translation of key materials, use of a telephone language line service to respond to questions or take input in different languages, and interpretation at meetings or events.

**Retained records:** *description of focused engagement efforts, list of community organizations and/or community members representing diverse populations with whom coordination or consultation occurred, description of language assistance resources and how they were used, dated copies of communications and notices, copies of translated materials, summaries of key findings (may be included in retained public engagement reports)*

- ❑ Throughout – and with an analysis at the end of – project development, consideration was (shall be) given to potential inequitable impacts of the project for people of color, people with limited English proficiency and people with low income compared to those for other residents, as identified through engagement activities.

**Retained records:** *description of identified populations and information about and analysis of potential inequitable impacts of the project for them in relation to other residents (may be included in retained public engagement reports)*

- ❑ There was a finding of inequitable impact for people of color, people with limited English proficiency or people with low income compared to those for other residents.  
***Submitted records: for a finding of inequitable impact\*, attach analysis, finding and documentation justifying the project and showing there is no less discriminatory alternative.***

\*This form uses the term “inequitable impact” to encompass FHWA guidance on disproportionately high and adverse human health or environmental effects and a “benefits and burdens” analysis (see [FHWA Order 6640.23A](#) and the [FHWA Environmental Justice Resource Guide](#)) as well as FTA guidance on disparate impacts on minority populations and disproportionate burdens on low-income populations (see [FTA Circular 4702.1B](#)).

- ❑ Public comments were (shall be) considered throughout project development, and comments received on the staff recommendation were (shall be) compiled, summarized and responded to, as appropriate.

**Retained records:** *summary of comments, key findings and changes made to final staff recommendation or adopted plan to reflect public comments (may be included in retained public engagement reports or legislative staff reports)*

- ❑ Adequate notification was (shall be) provided regarding final adoption of the plan, including how to obtain additional detailed information, at least 15 days in advance of adoption. Notice included (shall include) information on providing public testimony.

***Retained records:*** dated copies of the notices; for announcements sent by mail or email, documentation of number of persons/groups on mailing list (may be included in retained public engagement reports or legislative staff reports)

## B. Summary of non-discriminatory engagement

Attach a summary (1-2 pages) of the key elements of:

- if project development completed, the public engagement process for this project, including outreach to communities of color, people with limited English proficiency and people with low income
- if project development not completed, the public engagement plan for this project *or* agency public engagement practice, including outreach to communities of color, people with limited English proficiency and people with low income.

## C. Certification statement

\_\_\_\_\_ (agency) certifies the information provided on this checklist is accurate.

As attested by:

\_\_\_\_\_  
(agency manager signature)

\_\_\_\_\_  
(name and title)

\_\_\_\_\_  
(date)

## Title VI Plan

*Civil rights, environmental justice and equity*

### **APPENDIX C. STANDARD DOT ASSURANCES**

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## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

### FEDERAL FISCAL YEAR 2017 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE

(Required of all Applicants for federal assistance to be awarded by FTA and all FTA Grantees with an active Capital or Formula Award)

#### AFFIRMATION OF APPLICANT

Name of the Applicant: Metro

Name and Relationship of the Authorized Representative: Martha Bennett, COO

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2017, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded during federal fiscal year 2017.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature  Date: 1/23/17

Name \_\_\_\_\_  
Authorized Representative of Applicant

#### AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): Metro

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature  Date: 2/6/17

Name Alison R. Kean  
Attorney for Applicant

*Each Applicant for federal assistance to be awarded by FTA and each FTA Recipient with an active Capital or Formula Project or Award must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within FTA's electronic award and management system, provided the Applicant has on file and uploaded to FTA's electronic award and management system this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.*

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

### FEDERAL FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS

(Signature pages alternative to providing Certifications and Assurances in TrAMS)

Name of Applicant: Metrol

The Applicant agrees to comply with applicable provisions of (Categories 01 – 23. ☒ )

OR

The Applicant agrees to comply with applicable provisions of the Categories it has selected:

<u>Category</u>	<u>Description</u>	
01.	Required Certifications and Assurances for Each Applicant.	_____
02.	Lobbying.	_____
03.	Procurement and Procurement Systems.	_____
04.	Private Sector Protections.	_____
05.	Rolling Stock Reviews and Bus Testing.	_____
06.	Demand Responsive Service.	_____
07.	Intelligent Transportation Systems.	_____
08.	Interest and Financing Costs and Acquisition of Capital Assets by Lease.	_____
09.	Transit Asset Management Plan, Public Transportation Safety Program, and State Safety Oversight Requirements.	_____
10.	Alcohol and Controlled Substances Testing.	_____
11.	Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement).	_____
12.	State of Good Repair Program.	_____
13.	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs.	_____
14.	Urbanized Area Formula Grants Programs and Passenger Ferry Grant Program.	_____
15.	Enhanced Mobility of Seniors and Individuals with Disabilities Programs.	_____
16.	Rural Areas and Appalachian Development Programs.	_____
17.	Tribal Transit Programs (Public Transportation on Indian Reservations Programs).	_____
18.	State Safety Oversight Grant Program.	_____
19.	Public Transportation Emergency Relief Program.	_____
20.	Expedited Project Delivery Pilot Program.	_____
21.	Infrastructure Finance Programs.	_____
22.	Paul S. Sarbanes Transit in Parks Program.	_____
23.	Construction Hiring Preferences.	_____



## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

### PREFACE

*Before the Federal Transit Administration (FTA or We) may award federal assistance for public transportation in the form of a federal grant, cooperative agreement, loan, line of credit, loan guarantee, master credit agreement, or State Infrastructure Bank (SIB) cooperative agreement certain pre-award Certifications and Assurances are required, except as FTA determines otherwise in writing. The Applicant must authorize a representative (Authorized Representative) to select and sign its Certifications and Assurances and bind the Applicant's compliance. You, as your Applicant's Authorized Representative, must select and sign all Certifications and Assurances that your Applicant must provide to support each application it submits to FTA for federal assistance during federal fiscal year (FY) 2017.*

*We request that you read each Certification and Assurance and select those that will apply to any application for which your Applicant might seek FTA assistance during FY 2017. As provided by federal laws, regulations, and requirements, FTA may award federal assistance only if the Applicant's Authorized Representative selects adequate Certifications and Assurances.*

*We have consolidated our Certifications and Assurances into twenty-three (23) Categories. At a minimum, you must select the Assurances in Category 01. If your Applicant requests more than \$100,000 in federal assistance, you must select the "Lobbying" Certification in Category 02, except if your Applicant is an Indian tribe, Indian organization, or an Indian tribal organization. Depending on the nature of your Applicant and the Award it seeks, you may also need to select one or more Certifications and Assurances in Categories 03 through 23. Instead of selecting individual Categories of Certifications and Assurances, however, you may make a single selection that will encompass all twenty-three (23) Categories of Certifications and Assurances that apply to our various programs.*

*FTA, the Applicant, and the Applicant's Authorized Representative, understand and agree that not every provision of these twenty-three (23) Categories of Certifications and Assurances will apply to every Applicant or every Award or Project included in an Award, even if you make a single selection encompassing all twenty-three (23) Categories. Nor will every provision of each Certification or Assurance within a single Category apply if that provision does not apply to your Applicant or the Award it seeks. The type of Applicant and its application will determine which Certifications and Assurances apply.*

*Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected that apply to its Award, itself, any Subrecipient, or any other Third Party Participant in its Award, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including,*

## **FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES**

*but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant as necessary to assure your Applicant's compliance with the applicable Certifications and Assurances selected on its behalf.*

*Except as FTA determines otherwise in writing, if your Applicant is a team, consortium, joint venture, or partnership, it understands and agrees that you must identify the activities that each member will perform and the extent to which each member will be responsible for compliance with the selected Certifications and Assurances. You also must identify each member's role in the Award, whether as a Recipient, Subrecipient, Third Party Contractor, or other Third Party Participant.*

*It is important that you and your Applicant also understand that these Certifications and Assurances are pre-award requirements, generally imposed by federal law or regulation, and do not include all federal requirements that may apply to it or its Award. We expect you to submit your Applicant's FY 2017 Certifications and Assurances and its applications for federal assistance in FTA's electronic award and management system, currently the Transit Award Management System (TrAMS). You must be registered in TrAMS to submit your Applicant's FY 2017 Certifications and Assurances. TrAMS contains fields for selecting among the twenty-three (23) Categories of Certifications and Assurances and a designated field for selecting all twenty-three (23) Categories of Certifications and Assurances. If FTA agrees that you are unable to submit your Applicant's FY 2017 Certifications and Assurances electronically, you must submit the Signature Pages at the end of this document, as FTA directs, marked to show the Categories of Certifications and Assurances that you are submitting.*

*Be aware that these Certifications and Assurances have been prepared in light of:*

- *The Fixing America's Surface Transportation (FAST) Act, Public Law No. 114-94, December 4, 2015, and other authorizing legislation to be enacted, and*
- *Appropriations Acts or Continuing Resolutions funding the U.S. Department of Transportation during Fiscal Year 2017.*

## **FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES**

### **CATEGORY 01. REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT.**

*Before FTA may provide federal assistance for your Applicant's Award, you must select the Certifications and Assurances in Category 01 in addition to any other applicable Certifications and Assurances, except as FTA determines otherwise in writing.*

*Any provision of the Certifications and Assurances in Category 01 that does not apply will not be enforced.*

#### **01.A. Certifications and Assurances of Authority of the Applicant and Its Authorized Representative.**

You certify and affirm that in signing these Certifications, Assurances, and Agreements, both you, as your Applicant's Authorized Representative, and your Applicant's attorney who is authorized to represent your Applicant in legal matters, may undertake the following activities on your Applicant's behalf, in compliance with applicable state, local, or Indian tribal laws, regulations, and requirements and your Applicant's by-laws or internal rules:

1. Execute and file its application for federal assistance,
2. Execute and file its Certifications, Assurances, Charter Service Agreement, and School Bus Agreement, as applicable, binding its compliance,
3. Execute its Grant Agreement, Cooperative Agreement, Loan, Loan Guarantee, Line of Credit, Master Credit Agreement, or State Infrastructure Bank (SIB) Cooperative Agreement for which the Applicant is seeking federal assistance from FTA,
4. Comply with applicable federal laws, regulations, and requirements, and
5. Follow applicable federal guidance.

#### **01.B. Standard Assurances.**

On behalf of your Applicant, you assure that it understands and agrees to the following:

1. It will comply with all applicable federal laws, regulations, and requirements in implementing its Award.
2. It is under a continuing obligation to comply with the terms and conditions of its Grant Agreement or Cooperative Agreement with FTA for each Award, including the FTA Master Agreement and other documents incorporated by reference and made part of its Grant Agreement or Cooperative Agreement, or latest amendment thereto.
3. It recognizes that federal laws, regulations, and requirements may be amended from time to time and those amendments may affect the implementation of its Award.
4. It understands that Presidential executive orders and federal guidance, including federal policies and program guidance, may be issued concerning matters affecting it or its Award.
5. It agrees that the most recent federal laws, regulations, requirements, and guidance will apply to its Award, except as FTA determines otherwise in writing.
6. Except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the federal assistance for those programs was appropriated or made available.

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

### 01.C. Intergovernmental Review Assurance.

*(This assurance in this Category 01.C does not apply to an Indian tribe, an Indian organization, or an Indian tribal organization that applies for federal assistance made available under 49 U.S.C. § 5311(c)(1), which authorizes FTA's Tribal Transit Programs.)*

As required by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, on behalf of your Applicant, you assure that it has submitted or will submit each application for federal assistance to the appropriate state and local agencies for intergovernmental review.

### 01.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws, regulations, and requirements so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA assisted program or activity (particularly in the level and quality of transportation services and transportation-related benefits) on the basis of race, color, national origin, religion, sex, disability, or age including:
  - a. Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination on the basis of race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity),
  - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d,
  - c. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (prohibiting discrimination on the basis of race, color, religion, sex, (including gender identity and sexual orientation) or national origin),
  - d. Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
  - e. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*,
  - f. U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25,
  - g. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, *et seq.*,
  - h. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*,
  - i. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
  - j. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
  - k. Any other applicable federal statutes that may be signed into law, federal regulations that may be issued, or federal requirements that may be imposed.
2. It will comply with federal guidance implementing federal nondiscrimination laws, regulations, or requirements, except as FTA determines otherwise in writing.
3. As required by 49 CFR § 21.7:

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- a. It will comply with 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 in the manner that:
  - (1) It implements its Award,
  - (2) It undertakes property acquisitions, and
  - (3) It operates all parts of its facilities, as well as its facilities operated in connection with its Award.
- b. This assurance applies to its Award and to all parts of its facilities, as well as its facilities used to implement its Award.
- c. It will promptly take the necessary actions to carry out this assurance, including the following:
  - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA Headquarters Office of Civil Rights, and
  - (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request.
- d. If it transfers U.S. DOT or FTA assisted real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
  - (1) While the property is used for the purpose that the federal assistance is extended, or
  - (2) While the property is used for another purpose involving the provision of similar services or benefits.
- e. The United States has a right to seek judicial enforcement of any matter arising under:
  - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
  - (2) U.S. DOT regulations, 49 CFR part 21, or
  - (3) This assurance.
- f. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
  - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
  - (2) U.S. DOT regulations, 49 CFR part 21, and
  - (3) Federal transit law, 49 U.S.C. § 5332.
- g. It will comply with applicable federal guidance issued to implement federal nondiscrimination requirements, except as FTA determines otherwise in writing.
- h. It will extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
  - (1) Subrecipient,
  - (2) Transferee,
  - (3) Third Party Contractor or Subcontractor at any tier,
  - (4) Successor in Interest,
  - (5) Lessee, or
  - (6) Other Participant in its Award, except FTA and the Applicant (and later, the Recipient).
- i. It will include adequate provisions to extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each third party agreement, including each:
  - (1) Subagreement at any tier,
  - (2) Property transfer agreement,

## **FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES**

- (3) Third party contract or subcontract at any tier,
  - (4) Lease, or
  - (5) Participation agreement.
- j. The assurances you have made on your Applicant's behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
  - (1) Federal assistance is provided for its Award,
  - (2) Its property acquired or improved with federal assistance is used for a purpose for which the federal assistance is extended, or for a purpose involving similar services or benefits,
  - (3) It retains ownership or possession of its property acquired or improved with federal assistance provided for its Award, or
  - (4) FTA may otherwise determine in writing.
- 4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR § 27.9, and consistent with 49 U.S.C. § 5332, you assure that:
  - a. It will comply with the following prohibitions against discrimination on the basis of disability listed below in subsection 4.b of this Category 01.D Assurance, of which compliance is a condition of approval or extension of any FTA assistance awarded to:
    - (1) Construct any facility,
    - (2) Obtain any rolling stock or other equipment,
    - (3) Undertake studies,
    - (4) Conduct research, or
    - (5) Participate in any benefit or obtain any benefit from any FTA administered program.
  - b. In any program or activity receiving or benefiting from federal assistance that U.S. DOT administers, no qualified individual with a disability will, because of his or her disability, be:
    - (1) Excluded from participation,
    - (2) Denied benefits, or
    - (3) Otherwise subjected to discrimination.

### **01.E. Suspension and Debarment, Tax Liability, and Felony Convictions Certifications.**

#### **01.E.1 Suspension and Debarment.**

On behalf of your Applicant, you certify that:

- a. It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180.
- b. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
  - (1) Are eligible to participate in covered transactions of any federal department or agency and are not presently:
    - (a) Debarred,
    - (b) Suspended,

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- (c) Proposed for debarment,
- (d) Declared ineligible,
- (e) Voluntarily excluded, or
- (f) Disqualified.
- (2) Within a three-year period preceding its latest application or proposal, its management has not been convicted of or had a civil judgment rendered against any of them for:
  - (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction, or contract under a public transaction,
  - (b) Violation of any federal or state antitrust statute, or
  - (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property.
- (3) It is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification.
- (4) It has not had one or more public transactions (federal, state, or local) terminated for cause or default within a three-year period preceding this Certification.
- (5) If, at a later time, it receives any information that contradicts the preceding statements of subsections 2.a – 2.d of this Category 01.E Certification, it will promptly provide that information to FTA.
- (6) It will treat each lower tier contract or subcontract under its Award as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
  - (a) Equals or exceeds \$25,000,
  - (b) Is for audit services, or
  - (c) Requires the consent of a federal official.
- (7) It will require that each covered lower tier contractor and subcontractor:
  - (a) Comply and facilitate compliance with the federal requirements of 2 CFR parts 180 and 1200, and
  - (b) Assure that each lower tier participant in its Award is not presently declared by any federal department or agency to be:
    - 1 Debarred from participation in any federally assisted Award,
    - 2 Suspended from participation in any federally assisted Award,
    - 3 Proposed for debarment from participation in any federally assisted Award,
    - 4 Declared ineligible to participate in any federally assisted Award,
    - 5 Voluntarily excluded from participation in any federally assisted Award, or
    - 6 Disqualified from participation in any federally assisted Award.
- c. It will provide a written explanation if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Category 01.E.1 Certification.

### 01.E.2. Tax Liability.

If your Applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, on behalf of your Applicant, you certify that:

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- a. Your Applicant and its prospective Subrecipients have no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- b. Your Applicant and its Subrecipients will follow applicable U.S. DOT guidance when issued.

### 01.E.3. Felony Convictions.

If your Applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, on behalf of your Applicant, you certify that:

- a. Your Applicant and its prospective Subrecipients have not been convicted of a felony criminal violation under any federal law within the preceding 24 months.
- b. Your Applicant and its Subrecipients will follow applicable U.S. DOT guidance when it is issued.

### 01.F. U.S. OMB Assurances in SF-424B and SF-424D.

*The assurances in this Category 01.F are consistent with the U.S. OMB assurances required in the U.S. OMB SF-424B and SF-424D, and updated as necessary to reflect changes in federal laws, regulations, and requirements.*

1. *Administrative Activities.* On behalf of your Applicant, you assure that:
  - a. For any application it submits for federal assistance, it has adequate resources to plan, manage, and properly complete the tasks to implement its Award, including:
    - (1) The legal authority to apply for federal assistance,
    - (2) The institutional capability,
    - (3) The managerial capability, and
    - (4) The financial capability (including funds sufficient to pay the non-federal share of the cost of incurred under its Award).
  - b. As required, it will give access and the right to examine materials related to its Award to the following entities or individuals, including, but not limited to:
    - (1) FTA,
    - (2) The Comptroller General of the United States, and
    - (3) The State, through an appropriate authorized representative.
  - c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance.
  - d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:
    - (1) A personal or organizational conflict of interest or personal gain, or
    - (2) An appearance of a personal or organizational conflict of interest or personal gain.
2. *Specifics of the Award.* On behalf of your Applicant, you assure that:
  - a. It will begin and complete work within the period of performance that applies following receipt of an FTA Award.
  - b. For FTA assisted construction Awards:



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- (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
  - (2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms to the approved plans and specifications,
  - (3) It will include a covenant to assure nondiscrimination during the useful life of the real property financed under its Award in its title to that real property,
  - (4) To the extent FTA requires, it will record the federal interest in the title to FTA assisted real property or interests in real property, and
  - (5) It will not alter the site of the FTA assisted construction or facilities without permission or instructions from FTA by:
    - (a) Disposing of the underlying real property or other interest in the site and facilities,
    - (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
    - (c) Changing the terms of the underlying real property title or other interest in the site and facilities.
- c. It will furnish progress reports and other information as FTA or the state may require.
3. *Statutory and Regulatory Requirements.* On behalf of your Applicant, you assure that:
- a. Your Applicant will comply with all federal laws, regulations, and requirements relating to nondiscrimination that apply, including, but not limited to:
    - (1) The prohibitions against discrimination on the basis of race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. § 2000d.
    - (2) The prohibitions against discrimination on the basis of sex, as provided in:
      - (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 – 1683, and 1685 – 1687, and
      - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.
    - (3) The prohibitions against discrimination on the basis of age in federally assisted programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 – 6107.
    - (4) The prohibitions against discrimination on the basis of disability in federally assisted programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794.
    - (5) The prohibitions against discrimination on the basis of disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 .
    - (6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. § 3601 *et seq.*
    - (7) The prohibitions against discrimination on the basis of drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 *et seq.*
    - (8) The prohibitions against discrimination on the basis of alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. § 4541 *et seq.*

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- (9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. § 290dd – 290dd-2.
- (10) The prohibitions against discrimination in employment as provided in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*,
- (11) The nondiscrimination provisions of any other statute(s) that may apply to its Award.
- b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. § 4601 *et seq.*, and 49 U.S.C. § 5323(b), regardless of whether federal assistance has been provided for any real property acquired or improved for purposes of its Award:
  - (1) It will provide for fair and equitable treatment of any displaced persons or any persons whose property is acquired or improved as a result of federally assisted programs.
  - (2) It has the necessary legal authority under state and local laws, regulations, and requirements to comply with:
    - (a) The Uniform Relocation Act. 42 U.S.C. § 4601 *et seq.*, as specified by 42 U.S.C. §§ 4630 and 4655, and
    - (b) U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, specifically 49 CFR § 24.4.
  - (3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:
    - (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24.
    - (b) As provided by 42 U.S.C. §§ 4622, 4623, and 4624, and 49 CFR part 24, if its Award results in displacement, it will provide fair and reasonable relocation payments and assistance to:
      - 1 Displaced families or individuals, and
      - 2 Displaced corporations, associations, or partnerships.
    - (c) As provided by 42 U.S.C. § 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such:
      - 1 Displaced families and individuals, and
      - 2 Displaced corporations, associations, or partnerships.
    - (d) As provided by 42 U.S.C. § 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals.
    - (e) It will do the following:
      - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
      - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin.
    - (f) It will be guided by the real property acquisition policies of 42 U.S.C. §§ 4651 and 4652.

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- (g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. §§ 4653 and 4654, understanding that FTA will provide federal assistance for its eligible costs of providing payments for those expenses, as required by 42 U.S.C. § 4631.
  - (h) It will execute the necessary implementing amendments to FTA assisted third party contracts and subagreements.
  - (i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances.
  - (j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, related to its Award that involves relocation or land acquisition.
  - (k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions.
- c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. § 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures.
- d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by federal assistance of:
  - (1) The National Research Act, as amended, 42 U.S.C. § 289 *et seq.*, and
  - (2) U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11.
- e. It will, to the extent applicable, comply with the labor standards and protections for federally assisted Awards of:
  - (1) The Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147,
  - (2) Sections 1 and 2 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874, and 40 U.S.C. § 3145, respectively, and
  - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3701 *et seq.*
- f. It will comply with any applicable environmental standards prescribed to implement federal laws and executive orders, including, but not limited to:
  - (1) Complying with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 – 4335 and following Executive Order No. 11514, as amended, 42 U.S.C. § 4321 note.
  - (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. § 7606 note.
  - (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. § 4321 note.
  - (4) Following the evaluation of flood hazards in the floodplains provisions of Executive Order No. 11988, May 24, 1977, 42 U.S.C. § 4321 note, and Executive Order No. 13690 "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, January 30, 2015.
  - (5) Complying with the assurance of consistency with the approved state management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 – 1465.

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- (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1970, as amended, 42 U.S.C. §§ 7401 – 7671q.
- (7) Complying with protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f – 300j-6.
- (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 – 1544.
- (9) Complying with the environmental protections for federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation Award, as required by 49 U.S.C. § 303 (also known as “Section 4f”).
- (10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 – 1287.
- (11) Complying with and facilitating compliance with:
  - (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 300108,
  - (b) The Archaeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 *et seq.*, and
  - (c) Executive Order No. 11593 (identification and protection of historic properties), 54 U.S.C. § 300101.
- g. To the extent applicable, it will comply with the following federal requirements for the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported with federal assistance:
  - (1) The Animal Welfare Act, as amended, 7 U.S.C. § 2131 *et seq.*, and
  - (2) U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR subchapter A, parts 1, 2, 3, and 4.
- h. To the extent applicable, it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically 49 CFR § 41.117(d), before accepting delivery of any FTA assisted buildings.
- i. It will comply with and assure that each of its Subrecipients located in special flood hazard areas will comply with section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. § 4012a(a), by:
  - (1) Participating in the federal flood insurance program, and
  - (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- j. It will comply with:
  - (1) The Hatch Act, 5 U.S.C. §§ 1501 – 1508, 7324 – 7326, which limits the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with federal assistance, including a federal loan, grant agreement, or cooperative agreement, and
  - (2) 49 U.S.C. § 5323(l)(2) and 23 U.S.C. § 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation

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system (or of any other agency or entity performing related functions) receiving federal assistance appropriated or made available under 49 U.S.C. chapter 53 and 23 U.S.C. § 142(a)(2) to whom the Hatch Act does not otherwise apply.

- k. It will perform the financial and compliance audits as required by the:
  - (1) Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.*,
  - (2) U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, and
  - (3) Most recent applicable U.S. OMB Compliance Supplement, 2 CFR part 200, appendix XI (previously known as the U.S. OMB Circular A-133 Compliance Supplement).
- l. It will comply with all other federal laws, regulations, and requirements that apply.
- m. It will follow federal guidance governing it and its Award, except as FTA has expressly approved otherwise in writing.

### CATEGORY 02. LOBBYING.

*Before FTA may provide federal assistance for a grant or cooperative agreement exceeding \$100,000 or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, you must select the Lobbying Certifications in Category 02, unless your Applicant is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 31 U.S.C. § 1352, and/or except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 02 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that:

- 1. As required by 31 U.S.C. § 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," specifically 49 CFR § 20.110:
  - a. The lobbying restrictions of this Certification apply to its requests:
    - (1) For \$100,000 or more in federal assistance for a grant or cooperative agreement, and
    - (2) For \$150,000 or more in federal assistance for a loan, line of credit, loan guarantee, or loan insurance, and
  - b. Your Certification on your Applicant's behalf applies to the lobbying activities of:
    - (1) The Applicant,
    - (2) Its Principals, and
    - (3) Its Subrecipients at the first tier.
- 2. To the best of your knowledge and belief:
  - a. No federal appropriated funds have been or will be paid by your Applicant or on its behalf to any person to influence or attempt to influence:
    - (1) An officer or employee of any federal agency regarding the award of a:
      - (a) Federal grant or cooperative agreement, or
      - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
    - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:

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- (a) Federal grant or cooperative agreement, or
  - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
- b. Your Applicant will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with the instructions on that form, if any funds other than federal appropriated funds have been or will be paid to any person to influence or attempt to influence:
  - (1) An officer or employee of any federal agency regarding the award of a:
    - (a) Federal grant or cooperative agreement, or
    - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
  - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
    - (a) Federal grant or cooperative agreement, or
    - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
- c. Your Applicant will include the language of this Certification in its Award documents under a federal grant, cooperative agreement, loan, line of credit, or loan insurance including, but not limited to:
  - (1) Each third party contract,
  - (2) Each third party subcontract,
  - (3) Each subagreement, and
  - (4) Each third party agreement.
- 3. Your Applicant understands that:
  - a. This Certification is a material representation of fact that the Federal Government relies on, and
  - b. It must submit this Certification before the Federal Government may award federal assistance for a transaction covered by 31 U.S.C. § 1352, including a:
    - (1) Federal grant or cooperative agreement, or
    - (2) Federal loan, line of credit, loan guarantee, or loan insurance.
- 4. Your Applicant understands that any person who does not file a required Certification will incur a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### CATEGORY 03. PROCUREMENT AND PROCUREMENT SYSTEMS.

*We request that you select the Procurement and Procurement Systems Certification in Category 03 on behalf of your Applicant, especially if your Applicant is a state, local, or Indian tribal government with a certified procurement system, as provided in 2 CFR § 200.324(c)(2), incorporated by reference in 2 CFR part 1201 or former 49 CFR § 18.36(g)(3)(ii).*

*Any provision of the Certification in Category 03 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that its procurements and its procurement system will comply with all federal laws, regulations, and requirements in accordance with applicable federal guidance, except as FTA has approved otherwise in writing.

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### CATEGORY 04. PRIVATE SECTOR PROTECTIONS.

*Before FTA may provide federal assistance for an Award that involves the acquisition of public transportation property or the operation of public transportation facilities or equipment, you must select the Private Property Protections Assurances in Category 04.A and enter into the Agreements in Category 04.B and Category 04.C on behalf of your Applicant, except as FTA determines otherwise in writing.*

*Any provision of the Assurances and Agreements in Category 04 that does not apply will not be enforced.*

#### **04.A. Private Property Protections.**

*If your Applicant is a state, local government, or Indian tribal government and seeks federal assistance from FTA to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator, the Private Property Protections Assurances in Category 04.A apply to your Applicant, except as FTA determines otherwise in writing.*

To facilitate FTA's ability to make the findings required by 49 U.S.C. § 5323(a)(1), on behalf of your Applicant, you assure that:

1. Your Applicant has or will have:
  - a. Determined that the federal assistance it has requested is essential to carrying out its Program of Projects as required by 49 U.S.C. §§ 5303, 5304, and 5306,
  - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
  - c. Paid just compensation under state or local laws to the company for any franchise or property acquired.
2. Your Applicant has completed the actions described in the preceding section 1 of this Category 04.A Certification before:
  - a. It acquires the property or an interest in the property of a private provider of public transportation, or
  - b. It operates public transportation equipment or facilities:
    - (1) In competition with transportation service provided by an existing public transportation operator, or
    - (2) In addition to transportation service provided by an existing public transportation operator.

#### **04.B. Charter Service Agreement.**

*If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the Charter Service Agreement in Category 04.B applies to your Applicant, except as FTA determines otherwise in writing.*

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To comply with 49 U.S.C. § 5323(d) and (g) and FTA regulations, "Charter Service, 49 CFR part 604, specifically 49 CFR § 604.4, on behalf of your Applicant, you are entering into the following Charter Service Agreement:

1. FTA's "Charter Service" regulations apply as follows:
  - a. FTA's Charter Service regulations restrict transportation by charter service using facilities and equipment acquired or improved under an Award derived from:
    - (1) Federal transit laws, 49 U.S.C. chapter 53,
    - (2) 23 U.S.C. §§ 133 or 142, or
    - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
  - b. FTA's charter service restrictions extend to:
    - (1) Your Applicant, when it receives federal assistance appropriated or made available for:
      - (a) Federal transit laws, 49 U.S.C. chapter 53,
      - (b) 23 U.S.C. §§ 133 or 142, or
      - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
    - (2) Any Third Party Participant that receives federal assistance derived from:
      - (a) Federal transit laws, 49 U.S.C. chapter 53,
      - (b) 23 U.S.C. §§ 133 or 142, or
      - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
  - c. A Third Party Participant includes any:
    - (1) Subrecipient at any tier,
    - (2) Lessee,
    - (3) Third Party Contractor or Subcontractor at any tier, and
    - (4) Other Third Party Participant in its Award.
  - d. You and your Applicant agree that neither it nor any governmental authority or publicly owned operator that receives federal public transportation assistance appropriated or made available for its Award will engage in charter service operations, except as permitted under:
    - (1) Federal transit laws, specifically 49 U.S.C. § 5323(d) and (g),
    - (2) FTA regulations, "Charter Service," 49 CFR part 604, to the extent consistent with 49 U.S.C. § 5323(d) and (g),
    - (3) Any other federal Charter Service regulations, or
    - (4) Federal guidance, except as FTA determines otherwise in writing.
  - e. You and your Applicant agree that the latest Charter Service Agreement selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Underlying Agreement accompanying its Award of federal assistance from FTA.
  - f. You and your Applicant agree that:
    - (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives federal assistance from FTA that has demonstrated a pattern of violating of FTA's Charter Service regulations by:
      - (a) Conducting charter operations prohibited by federal transit laws and FTA's Charter Service regulations, or



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- (b) Otherwise violating its Charter Service Agreement selected in its latest annual Certifications and Assurances.
- (2) These corrective measures and remedies may include:
  - (a) Barring your Applicant or any Third Party Participant operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA,
  - (b) Withholding an amount of federal assistance as provided by Appendix D to FTA's Charter Service regulations, or
  - (c) Any other appropriate remedy that may apply.
- 2. In addition to the exceptions to the restrictions in FTA's Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
  - a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. §§ 5307 or 5311 to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under former 49 U.S.C. § 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that federal assistance from FTA for those program purposes only.
  - b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. § 5310 to be used for New Freedom activities that would have been eligible for assistance under former 49 U.S.C. § 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that federal assistance from FTA for those program purposes only.
  - c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Recipient provides a private intercity or charter transportation operator reasonable access to that Recipient's federally assisted public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes, as provided in 49 U.S.C. § 5323(r).

### 04.C. School Bus Agreement.

*If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the School Bus Agreement in Category 04.C applies to your Applicant, except as FTA determines otherwise in writing.*

To comply with 49 U.S.C. § 5323(f) and (g) and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g), your Applicant agrees to enter into the following School Bus Agreement:

- 1. FTA's "School Bus Operations" regulations at 49 CFR part 605 restricts school bus operations using facilities and equipment acquired or improved with federal assistance derived from:
  - a. Federal transit laws, 49 U.S.C. chapter 53,
  - b. 23 U.S.C. §§ 133 or 142, or
  - c. Any other Act that provides federal public transportation assistance, unless otherwise excepted.
- 2. FTA's school bus operations restrictions extend to:
  - a. Your Applicant, when it receives federal assistance appropriated or made available for:

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- (1) Federal transit laws, 49 U.S.C. chapter 53,
  - (2) 23 U.S.C. §§ 133 or 142, or
  - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
- b. Any Third Party Participant that receives federal assistance derived from:
  - (1) Federal transit laws, 49 U.S.C. chapter 53,
  - (2) 23 U.S.C. §§ 133 or 142, or
  - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
3. A Third Party Participant includes any:
  - a. Subrecipient at any tier,
  - b. Lessee,
  - c. Third Party Contractor or Subcontractor at any tier, and
  - d. Any other Third Party Participant in the Award.
4. You and your Applicant agree, and will obtain the agreement of any Third Party Participant, that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:
  - a. Federal transit laws, specifically 49 U.S.C. § 5323(f) and (g),
  - b. FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g),
  - c. Any other federal School Bus regulations, or
  - d. Federal guidance, except as FTA determines otherwise in writing.
5. You and your Applicant agree that the latest School Bus Agreement selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference and made part of the Underlying Agreement accompanying its Award of federal assistance.
6. You and your Applicant agree that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
  - a. Bar your Applicant or Third Party Participant from receiving further federal assistance for public transportation, or
  - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

### CATEGORY 05. ROLLING STOCK REVIEWS AND BUS TESTING.

*Before FTA may provide federal assistance for an Award to acquire rolling stock for use in revenue service or to acquire a new bus model, you must select the Rolling Stock Reviews and Bus Testing Certifications in Category 05, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 05 that does not apply will not be enforced.*

#### 05.A. Rolling Stock Reviews.

*If your Applicant seeks federal assistance from FTA to acquire rolling stock for use in revenue service, the Rolling Stock Reviews Certifications in Category 05.A apply to your Applicant, except as FTA determines otherwise in writing.*

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On behalf of your Applicant, you certify that, when procuring rolling stock for use in revenue service:

1. Your Applicant will comply with:
  - a. Federal transit laws, specifically 49 U.S.C. § 5323(m), and
  - b. FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, and
2. As provided in 49 CFR § 663.7:
  - a. Your Applicant will conduct or cause to be conducted the required pre-award and post-delivery reviews of that rolling stock, and
  - b. It will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

### 05.B. Bus Testing.

*If your Applicant seeks federal assistance from FTA to acquire a new bus model, the Bus Testing Certifications in Category 05.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that:

1. FTA's bus testing requirements apply to all acquisitions of new buses and new bus models that require bus testing as defined in FTA's Bus Testing regulations, and it will comply with:
  - a. 49 U.S.C. § 5318, and
  - b. FTA regulations, "Bus Testing," 49 CFR part 665.
2. As required by 49 CFR § 665.7, when acquiring the first bus of any new bus model or a bus model with a major change in components or configuration, your Applicant will not spend any federal assistance appropriated under 49 U.S.C. chapter 53 to acquire that new bus or new bus model until:
  - a. That new bus or new bus model has been tested at FTA's bus testing facility, and
  - b. It has received a copy of the test report prepared for that new bus or new bus model.
3. It will ensure that the new bus or new bus model that is tested has met the performance standards consistent with those regulations, including the:
  - a. Performance standards for:
    - (1) Maintainability,
    - (2) Reliability,
    - (3) Performance (including braking performance),
    - (4) Structural integrity,
    - (5) Fuel economy,
    - (6) Emissions, and
    - (7) Noise, and
  - b. Minimum safety performance standards established under 49 U.S.C. § 5329, when issued.
4. After FTA regulations authorized by 49 U.S.C. § 5318(e)(2) are in effect, it will ensure that the new bus or new bus model that is tested has received a passing aggregate test score under the "Pass/Fail" standard established by regulation.

### CATEGORY 06. DEMAND RESPONSIVE SERVICE.

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*Before FTA may provide federal assistance to a public entity that operates demand responsive service for an Award to acquire a non-rail vehicle that is not accessible, you must select the Demand Responsive Service Certifications in Category 06, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 06 that does not apply will not be enforced.*

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR part 37, specifically 49 CFR § 37.77(d), on behalf of your Applicant, you certify that:

1. Your Applicant offers public transportation services equivalent in level and quality of service to:
  - a. Individuals with disabilities, including individuals who use wheelchairs, and
  - b. Individuals without disabilities.
2. Viewed in its entirety, your Applicant's service for individuals with disabilities is:
  - a. Provided in the most integrated setting feasible, and
  - b. Equivalent to the service it offers individuals without disabilities with respect to:
    - (1) Response time,
    - (2) Fares,
    - (3) Geographic service area,
    - (4) Hours and days of service,
    - (5) Restrictions on priorities based on trip purpose,
    - (6) Availability of information and reservation capability, and
    - (7) Constraints on capacity or service availability.

### **CATEGORY 07. INTELLIGENT TRANSPORTATION SYSTEMS.**

*Before FTA may provide federal assistance for an Award in support of an Intelligent Transportation System (ITS), you must select the Intelligent Transportation Systems Assurances in Category 07, except as FTA determines otherwise in writing.*

*Any provision of the Assurances in Category 07 that does not apply will not be enforced.*

On behalf of your Applicant, you and your Applicant:

1. Understand that, as used in this Assurance, the term Intelligent Transportation System is defined to include technologies or systems of technologies that provide or significantly contribute to the provision of one or more Intelligent Transportation System (ITS) user services as defined in the "National ITS Architecture."
2. Assure that, as provided in 23 U.S.C. § 517(d), any Award that includes an ITS or related activity financed with appropriations made available from the Highway Trust Fund, including amounts made available to deploy ITS facilities or equipment, will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. § 517(a) or (c), unless it obtains a waiver as provided in 23 U.S.C. § 517(d)(2).

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### CATEGORY 08. INTEREST AND FINANCING COSTS AND ACQUISITION OF CAPITAL ASSETS BY LEASE.

*Before FTA may award federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support the interest, financing, or leasing costs of any Award financed under the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, any program to which the requirements of 49 U.S.C. § 5307 apply, or any other program as FTA may specify, you must select the Certifications in Category 08, except as FTA may determine otherwise in writing.*

*Any provision of the Certifications and Assurances in Category 08 that does not apply will not be enforced.*

#### **08.A. Interest and Financing Costs.**

*If your Applicant intends to use federal assistance to support the interest or any other financing costs for an Award financed under the Urbanized Area Formula Grants Program, the Fixed Guideway Capital Investment Grants Program, the New Starts, Small Starts, and Core Capacity Programs, any program that must comply with the requirements of 49 U.S.C. § 5307, or any other program as FTA may specify, the Interest and Financing Costs Certifications in Category 08.A apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that:

1. It will not seek reimbursement for interest or any other financing costs unless:
  - a. It is eligible to receive federal assistance for those costs, and
  - b. Its records demonstrate that it has shown reasonable diligence in seeking the most favorable financing terms, as FTA may require.
2. It will comply with the same favorable financing cost provisions for Awards financed under:
  - a. The Urbanized Area Formula Grants Program,
  - b. A Full Funding Grant Agreement,
  - c. An Early Systems Work Agreement,
  - d. The Fixed Guideway Capital Investment Program financed by previous FTA enabling legislation,
  - e. Any program that must comply with the requirements of 49 U.S.C. § 5307, or
  - f. Any other program as FTA may specify.

#### **08.B. Acquisition of Capital Assets by Lease.**

*If your Applicant seeks federal assistance from FTA to acquire capital assets (other than rolling stock or related equipment) through a lease, the Acquisition of Capital Assets by Lease Certifications and Assurances in Category 08.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify and assure that, as required by FTA regulations, "Capital Leases," 49 CFR part 639, to the extent consistent with the FAST Act, if your Applicant

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acquires any capital asset (other than rolling stock or related equipment) through a lease financed with federal assistance appropriated or made available under 49 U.S.C. chapter 53, it will not enter into a capital lease for which FTA can provide only incremental federal assistance unless it has adequate financial resources to meet its future lease obligations if federal assistance is not available.

### **CATEGORY 09. TRANSIT ASSET MANAGEMENT PLAN, PUBLIC TRANSPORTATION AGENCY SAFETY PLAN, AND STATE SAFETY OVERSIGHT REQUIREMENTS.**

*Before FTA may provide federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support an Award, you must select the Certifications in Category 09, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 09 that does not apply will not be enforced.*

#### **09.A. Transit Asset Management Plan.**

*If your Applicant applies for funding appropriated or made available for 49 U.S.C. chapter 53, the Transit Asset Management Certifications in Category 09.A apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that it and each of its Subrecipients will:

1. Comply with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
2. Follow federal guidance that will implement the regulations at 49 CFR part 625.

#### **09.B. Public Transportation Safety Program.**

*If your Applicant applies for funding under 49 U.S.C. chapter 53 and it is a State, local government authority, or any other operator of a public transportation system, the particular provisions under the Public Transportation Safety Program in Category 09.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that it will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

#### **09.C. State Safety Oversight Requirements.**

On behalf of your Applicant, depending on how far the Recipient has progressed in developing a State Safety Oversight program fully compliant with 49 U.S.C. § 5329(e) and FTA regulations, "State Safety Oversight," 49 C.F.R. part 674, your applicant certifies that it will comply as follows:

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1. States With a Fully Compliant Program. The Recipient agrees that FTA regulations, "State Safety Oversight," 49 C.F.R. part 674, will apply when its State Safety Oversight program is fully compliant with FTA's requirements, but
2. States Without a Fully Compliant Program. The Recipient agrees that FTA regulations, "Rail Fixed Guideway Systems; State Safety Oversight," 49 C.F.R. part 659, will continue to apply to those states that have not yet implemented a fully compliant Public Transportation Safety Program.

### **CATEGORY 10. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

*If your Applicant must comply with the alcohol and controlled substance testing requirements of 49 U.S.C. § 5331 and its implementing regulations, before FTA may provide federal assistance for an Award, you must select the Certifications in Category 10, except as FTA may determine otherwise in writing.*

*Any provision of the Certifications in Category 10 that does not apply will not be enforced.*

As required by 49 U.S.C. § 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, subpart I, specifically 49 CFR § 655.83, on behalf of your Applicant, including an Applicant that is a state, and on behalf of its Subrecipients and Third Party Contractors, you certify that:

1. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have established and implemented:
  - a. An alcohol misuse testing program, and
  - b. A controlled substance testing program.
2. Your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. § 5331.
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Applicant, its Subrecipients, or its Third Party Contractors to which these testing requirements apply reside in a state that permits marijuana use for medical or recreational purposes, your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with the federal controlled substance testing requirements of 49 CFR part 655.

### **CATEGORY 11. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY IMPROVEMENT).**

*Before FTA may provide federal assistance for an Award financed under the New Starts, Small Starts, or Core Capacity Improvement Program authorized under 49 U.S.C. § 5309, you must select the Certifications in Category 11, except as FTA may determine otherwise in writing.*

*Any provision of the Certifications in Category 11 that does not apply will not be enforced.*

Except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

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1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625,
4. It will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304, and
5. It will comply with FTA guidance, "Final Interim Policy Guidance, Federal Transit Administration Capital Investment Grant Program," June 2016.

### **CATEGORY 12. STATE OF GOOD REPAIR PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the State of Good Repair Program authorized under 49 U.S.C. § 5337, you must select the Certifications in Category 12, except as FTA determines otherwise in writing.*

*Any provision of the Assurance in Category 12 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award,
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
4. It will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

### **CATEGORY 13. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS**

*Before FTA may provide federal assistance for an Award under the Buses and Bus Facilities Program authorized under 49 U.S.C. § 5339, as amended by the FAST Act, which authorizes grants for formula and competitive Bus and Bus Facilities Grants and Low or No Emission buses or an award under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), you must select the Certifications in Category 13, except as FTA determines otherwise in writing.*



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*Any provision of the Certifications in Category 13 that does not apply will not be enforced.*

### 13.A. Grants for Buses and Bus Facilities Program

*The following Certifications for the Grants for Buses and Bus Facilities Program are required by 49 U.S.C. § 5339, as amended by the FAST Act, which provides that the requirements of 49 U.S.C. § 5307 shall apply to recipients of grants made in urbanized areas and the requirements of 49 U.S.C. § 5311 shall apply to recipients of grants made in rural areas. Therefore:*

1. If your Applicant is in an urbanized area, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
  - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
  - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5339 during non-peak hours for transportation, recipients in an urbanized area will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
    - (1) Any senior,
    - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
    - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
    - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
  - e. When carrying out a procurement under 49 U.S.C. § 5339, it will comply with:
    - (1) The applicable general provisions of 49 U.S.C. § 5323, and
    - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
  - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
  - g. As required by 49 U.S.C. § 5307(d):
    - (1) It has or will have the amount of funds required for the non-federal share,
    - (2) It will provide the non-federal share from sources approved by FTA, and
    - (3) It will provide the non-federal share when needed.
  - h. It will comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

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- i. It has a locally developed process to solicit and consider public comment before:
  - (1) Raising a fare, or
  - (2) Implementing a major reduction of public transportation service.
- j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
- 2. Except as FTA determines otherwise in writing, if your Applicant is in a rural area, you certify, on behalf of your Applicant, that:
  - a. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
  - c. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
  - e. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service with transportation service financed by other federal sources.
  - f. Its Awards and Subawards in its Formula Grants for Rural Areas Program are included in:
    - (1) The statewide transportation improvement program, and
    - (2) To the extent applicable, a metropolitan transportation improvement program.
  - g. With respect to the non-federal share:
    - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5311(g),
    - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
    - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
  - h. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
    - (1) The Recipient possessing the facility or equipment consents to the transfer, and
    - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.

### 13.B. Low or No Emission Vehicle Deployment.

*If your Applicant seeks federal assistance from FTA for an Award financed under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), the*

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*Certifications and Assurances in Category 13.B apply to your Applicant, except as FTA determines otherwise in writing.*

Former section 5312(d)(5)(C)(i) of title 49, United States Code, requires the following Certifications for Low or No Emission Vehicle Deployment Program before awarding federal assistance appropriated or made available under MAP-21. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the Recipient's transit management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. When using or involving a facility or equipment acquired or improved with federal assistance under former 49 U.S.C. § 5312(d)(5) during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour to the following individuals:
  - a. Any senior,
  - b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability) and is unable to use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
  - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
  - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under this Program, it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
  - a. It has informed or will inform the public of the amounts of its federal assistance available under this Program,
  - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities to be financed,
  - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
  - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
  - e. It has assured or will assure that its proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. § 5336, as amended by the FAST Act, with federally assisted transportation services supported by other federal sources,

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- f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
  - g. It has made or will make the final list of Projects for which an Award is sought available to the public.
- 7. With respect to the non-federal share:
    - a. It has or will have the amount of funds required for the non-federal share,
    - b. It will provide the non-federal share from sources approved by FTA, and
    - c. It will provide the non-federal share when needed.
  - 8. It will comply with:
    - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - b. The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
  - 9. It has a locally developed process to solicit and consider public comment before:
    - a. Raising a fare, or
    - b. Implementing a major reduction of public transportation service.
  - 10. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **CATEGORY 14. URBANIZED AREA FORMULA GRANTS PROGRAMS AND PASSENGER FERRY GRANT PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, which authorizes federal assistance for Job Access and Reverse Commute (JARC) activities, and the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), you must select the Certifications in Category 14, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 14 that does not apply will not be enforced.*

#### **14.A. Urbanized Area Formula Grants Program under the FAST Act.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, the Certifications in Category 14.A apply to your Applicant, except as FTA determines otherwise in writing.*

The following Certifications for the Urbanized Area Formula Grants Program under 49 U.S.C. § 5307, as amended by the FAST Act, are required by 49 U.S.C. § 5307(c)(1). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

- 1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- 2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625,
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307 during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
  - a. Any senior,
  - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
  - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
  - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under 49 U.S.C. § 5307, it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
  - a. It has made or will make available to the public information on the amounts of federal assistance available to it under 49 U.S.C. § 5307,
  - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities for which federal assistance is sought,
  - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on its proposed Program of Projects and its performance as an Applicant or Recipient,
  - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
  - e. It has ensured or will ensure that its proposed Program of Projects provides for coordination of transportation services financed by FTA under 49 U.S.C. § 5336, as amended by the FAST Act, with transportation services supported by other Federal Government sources,
  - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
  - g. It has made or will make its final Program of Projects available to the public.
7. As required by 49 U.S.C. § 5307(d):
  - a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share from sources approved by FTA, and
  - c. It will provide the non-federal share when needed.
8. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and

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- b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
- 9. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
  - a. Raising a fare, or
  - b. Implementing a major reduction of public transportation.
- 10. Each fiscal year:
  - a. It will assure that at least one (1) percent of the amount of federal assistance under 49 U.S.C. § 5307 apportioned to its urbanized area must be expended for Public Transportation Security activities as described in 49 U.S.C. § 5307(c)(1)(J)(i) including:
    - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
    - (2) Increased camera surveillance of an area in or adjacent to that system,
    - (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
    - (4) Any other activity intended to increase the security and safety of an existing or planned public transportation system, or
  - b. The Designated Recipients in its urbanized area certify that such expenditures for Public Transportation Security activities are not necessary.
- 11. If it serves an urbanized area with a population of at least 200,000 individuals, as determined by the Bureau of the Census:
  - a. It will provide a report by the end of the fourth quarter of the preceding federal fiscal year that lists projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in 49 U.S.C. § 5302, and
  - b. The report of its Associated Transit Improvements or related activities is or will be incorporated by reference and made part of its Certifications and Assurances.
- 12. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **14.B. Passenger Ferry Grant Program.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), as amended by the FAST Act, the Certifications in Category 14.B apply to your Applicant, except as FTA determines otherwise in writing.*

The following Certifications for the Passenger Ferry Grant Program are required by 49 U.S.C. § 5307(c)(1) or (h). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

- 1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- 2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307(h) during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
  - a. Any senior,
  - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
  - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
  - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under 49 U.S.C. § 5307(h), it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. As required by 49 U.S.C. § 5307(d):
  - a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share from sources approved by FTA, and
  - c. It will provide the non-federal share when needed.
7. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
8. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
  - a. Raising a fare, or
  - b. Implementing a major reduction of public transportation service.
9. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **CATEGORY 15. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.**

*Before FTA may provide federal assistance for an Award financed under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized under 49 U.S.C. § 5310, as amended by the FAST Act, or the Pilot Program for Innovated Access and Mobility under Section 3006(b) of the FAST Act, you must select the Certifications in Category 15, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 15 that does not apply will not be enforced.*

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1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. § 5310. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
  - a. Each Subrecipient is:
    - (1) A private nonprofit organization, or
    - (2) A state or local governmental authority that:
      - (a) Is approved by a state to coordinate services for seniors and individuals with disabilities, or
      - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.
  - b. Your Applicant will comply with the following selection and planning requirements:
    - (1) The Projects it has selected or will select for an Award or Subaward of federal assistance appropriated or made available under 49 U.S.C. § 5310 are included in a public transit-human services transportation plan that has been:
      - (a) Locally developed, and
      - (b) Coordinated.
    - (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
      - (a) Seniors,
      - (b) Individuals with disabilities,
      - (c) Representatives of public, private, and nonprofit transportation providers,
      - (d) Representatives of public, private, and nonprofit human services providers, and
      - (e) Other members of the public.
    - (3) Within its Award, the Projects selected to receive federal assistance will assist in providing transportation services for seniors and individuals with disabilities are included in its Program of Projects submitted to FTA annually.
    - (4) To the maximum extent feasible, the services financed by 49 U.S.C. § 5310 will be coordinated with transportation services financed by other federal departments and agencies, including any transportation activities carried out by a recipient of federal assistance from the Department of Health and Human Services.
  - c. As required by 49 U.S.C. § 5310(e)(2)(B), it certifies that if it allocates federal assistance received under 49 U.S.C. § 5310 to any Subrecipient, it will have allocated that federal assistance on a fair and equitable basis.
  - d. It will not transfer a facility or equipment acquired or improved with federal assistance appropriated or made available for a grant under 49 U.S.C. § 5310 to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53, unless:
    - (1) The recipient possessing the facility or equipment consents to the transfer, and
    - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5310.
  - e. As required by 49 U.S.C. § 5310(b)(2), it will use at least fifty-five (55) percent of the federal assistance it receives for Capital Projects to meet the special needs of seniors and individuals with disabilities.



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- f. The requirements of 49 U.S.C. § 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized by 49 U.S.C. § 5310.
- 2. FTA has determined that certain requirements of 49 U.S.C. § 5307 are appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, some of which require Certifications. Therefore, as specified under 49 U.S.C. § 5307(c)(1), your Applicant certifies that:
  - a. It has or will have and will require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have and will require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award or Subaward.
  - c. It will maintain and will require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award or Subaward, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, it will require each Subrecipient to comply with:
    - (1) The applicable general provisions of 49 U.S.C. § 5323, and
    - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
  - e. With respect to the non-federal share:
    - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5310,
    - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
    - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
  - f. It has complied or will comply and will require each Subrecipient to comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
  - g. To the extent applicable, it will and will require its Subrecipients to comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### CATEGORY 16. RURAL AREAS AND APPALACHIAN DEVELOPMENT PROGRAMS.

*Before FTA may provide federal assistance for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311(b), as amended by FAST Act, and the Appalachian Development Public Transportation Assistance Program authorized under*

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

*49 U.S.C. § 5311(c)(2), as amended by FAST, you must select the Certifications in Category 16, except as FTA determines otherwise in writing.*

*Any provision of the Certifications and Assurances in Category 16 that does not apply will not be enforced.*

### **16.A. Formula Grants for Rural Areas Program.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311, as amended by FAST Act, the Certifications in Category 16.A apply to your Applicant, except as FTA determines otherwise in writing.*

The following Certifications apply to each state or state organization serving as your Applicant for federal assistance appropriated or made available for the Rural Areas Formula Program financed under 49 U.S.C. § 5311(b), as amended by FAST Act. On its behalf, you certify and assure that:

1. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. It will and will require each Subrecipient to comply with applicable regulations and guidance that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
5. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
6. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service authorized by 49 U.S.C. § 5311(b) with transportation service financed by other federal sources.
7. Its Awards and Subawards in its Formula Grants for Rural Areas Program are included in:
  - a. The statewide transportation improvement program, and
  - b. To the extent applicable, a metropolitan transportation improvement program.
8. With respect to the non-federal share:
  - a. It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by former 49 U.S.C. § 5311(g),
  - b. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and

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- c. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
- 9. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
  - a. The Recipient possessing the facility or equipment consents to the transfer, and
  - b. The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.
- 10. Each fiscal year:
  - a. It will spend at least fifteen (15) percent of its federal assistance authorized under 49 U.S.C. § 5311 and available that fiscal year for eligible activities to develop and support intercity bus transportation within the state including:
    - (1) Planning and marketing for intercity bus transportation,
    - (2) Capital grants for intercity bus facilities,
    - (3) Joint-use facilities,
    - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects, and
    - (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
  - b. It will provide to FTA a Certification from the governor of the state that:
    - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the state, and
    - (2) The state's intercity bus service needs are being met adequately.

### 16.B. Appalachian Development Public Transportation Assistance Program.

*If your Applicant seeks federal assistance from FTA for an Award financed under the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. § 5311(c)(2), the Certifications in Category 16.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify and assure that, if it is unable to use its federal assistance made available or appropriated for public transportation operating assistance, in accordance with 49 U.S.C. § 5311(c)(2)(D), it may use the federal assistance for a Highway Project only after:

- 1. It provides notice and an opportunity for comment and appeal to affected public transportation providers,
- 2. It approves such use in writing, and
- 3. In approving the use, it determines that local transit needs are being addressed.
- 4. It complies or will comply, to the extent applicable, with the recipient's transit asset management plan consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
- 5. It complies or will comply, to the extent applicable, with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

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### CATEGORY 17. TRIBAL TRANSIT PROGRAMS (PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAMS).

*Before FTA may provide federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), you must select the Certifications in Category 17, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 17 that does not apply will not be enforced.*

FTA has established terms and conditions for Tribal Transit Program grants financed with federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). On behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.4. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
4. With respect to its procurement system:
  - a. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, for Awards made on or after December 26, 2014,
  - b. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
  - c. It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
5. It will comply with the Certifications, Assurances, and Agreements in:
  - a. Category 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
  - b. Category 05.B (Bus Testing),
  - c. Category 06 (Demand Responsive Service),
  - d. Category 07 (Intelligent Transportation Systems), and
  - e. Category 10 (Alcohol and Controlled Substances Testing).

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### **CATEGORY 18. STATE SAFETY OVERSIGHT GRANT PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the State Safety Oversight Grant Program authorized under 49 U.S.C. § 5329(e)(6), you must select the Certifications in Category 18, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 18 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the Recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. When carrying out a procurement under its Award, it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
5. As required by 49 U.S.C. § 5329(e)(6)(C):
  - a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share only from sources approved by FTA, and will not be met by:
    - (1) Any federal assistance,
    - (2) Any funds received from a public transportation agency, or
    - (3) Any revenues earned by a public transportation agency, and
  - c. Will provide the non-federal share when needed.
6. Depending on how far the Recipient has progressed in developing a State Safety Oversight program fully compliant with 49 C.F.R. part 674, the following FTA regulations will apply:
  - a. States With a Fully Compliant Program. The Recipient agrees that FTA regulations, "State Safety Oversight," 49 C.F.R. part 674, will apply when its State Safety Oversight program is fully compliant with FTA's requirements;
  - b. States Without a Fully Compliant Program. The Recipient agrees that FTA regulations, "Rail Fixed Guideway Systems; State Safety Oversight," 49 C.F.R. part 659, will continue to apply to those states that have not yet implemented a fully compliant Public Transportation Safety Program.

### **CATEGORY 19. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the Public Transportation Emergency Relief Program authorized under 49 U.S.C. § 5324, you must select the Certifications in Category 19, except as FTA determines otherwise in writing.*

*Any provision of the Assurance in Category 19 that does not apply will not be enforced.*

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As required by 49 U.S.C. § 5324(d), on behalf of your Applicant, you assure that it will:

1. Comply with the requirements of the Certifications and Assurances as FTA determines will apply to an Applicant for federal assistance appropriated or made available for the Public Transportation Emergency Relief Program, and
2. Comply with FTA regulations, "Emergency Relief," 49 C.F.R. part 602.

### **CATEGORY 20. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the Expedited Project Delivery Pilot Program authorized under section 3005(b) of the FAST Act, you must select the Certifications in Category 20, except as FTA determines otherwise in writing.*

*To the extent that any Certification in Category 20 does not apply, it will not be enforced.*

As required by section 3005(b)(3)(B) of the FAST Act, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. It will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

### **CATEGORY 21. INFRASTRUCTURE FINANCE PROGRAMS.**

*Before FTA may provide credit assistance for an Award that also is or will be financed under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program authorized under 23 U.S.C. §§ 601 – 609, or the State Infrastructure Banks (SIB) Program authorized under 23 U.S.C. § 610, you must select the Certifications in Category 21.*

*If the Applicant does not receive credit assistance under the TIFIA or SIB programs, the Certifications and Assurances in Category 21 will not be enforced.*

#### **21.A. Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.**

*If your Applicant seeks federal assistance from FTA for an Award that also is or will be financed under the TIFIA Program authorized under 23 U.S.C. §§ 601 – 609 the Certifications and Assurances in Category 21.A apply to your Applicant. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.*

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On behalf of your Applicant, you certify and assure, as required by 49 U.S.C. § 5323(o), that federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, apply to any Project under 49 U.S.C. chapter 53 that receives TIFIA credit assistance under 23 U.S.C. §§ 601 – 609.

- I. To comply with 49 U.S.C. § 5307, specifically 49 U.S.C. § 5307(c)(1), on your Applicant's behalf, you certify that:
  - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
  - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. For transportation during non-peak hours and using or involving a facility or equipment of an Award financed using 49 U.S.C. § 5307 funds, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
    - (1) Any senior,
    - (2) Any individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
    - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
    - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
  - e. When carrying out a TIFIA-financed procurement, the Applicant will comply with:
    - (1) The applicable provisions of 49 U.S.C. § 5323, and
    - (2) The applicable provisions of 49 U.S.C. § 5325.
  - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
  - g.
    - (1) It has or will have no more than 80 percent of the Total Award Budget as the sum of all federal grants and any TIFIA-financed awards,
    - (2) It will provide the non-federal share from sources approved by FTA, and
    - (3) It will provide the non-federal share when needed.
  - h. It will comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
  - i. It has a locally developed process to solicit and consider public comment before:
    - (1) Raising a fare, or
    - (2) Implementing a major reduction of public transportation.
  - j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

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2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award that must be in compliance with those requirements unless:
  - a. It is eligible to receive federal assistance for those expenses, and
  - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).
4. Pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 5321 *et seq.*, the Project will qualify for an environmental categorical exclusion or receive a finding of no significant impact or a record of decision under NEPA before the Applicant undertakes activities for which it expects to receive federal assistance.
5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. § 5326(d).

### 21.B. State Infrastructure Banks (SIB) Program.

*If your Applicant is a state and seeks federal assistance from FTA for a project that also is or will be financed under the SIB Program authorized under 23 U.S.C. § 610, the Certifications and Assurances in Category 21.B apply to your state and its Award, except as the Secretary determines in writing. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.*

On behalf of the state Applicant for federal assistance for its SIB Program, you certify and assure that:

1. It will comply with the following applicable federal laws establishing the various SIB Programs since 1995:
  - a. 23 U.S.C. § 610,
  - b. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or
  - c. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181.
2. It will comply with or follow the Grant Agreement between it and FTA that provides federal assistance to the SIB, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that, unless FTA determines otherwise in writing, a provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
  - a. 23 U.S.C. § 610, as amended by the FAST Act,
  - b. 23 U.S.C. § 610 or its predecessor before the FAST Act was signed into law,
  - c. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181 note,
  - d. Federal guidance pertaining to the SIB Program,
  - e. The SIB Cooperative Agreement establishing the state's SIB Program,
  - f. The Grant Agreement with FTA.
3. As required by 49 U.S.C. § 5323(o), federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, as amended by the FAST Act, apply to any Award



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under 49 U.S.C. chapter 53 that receives SIB support or financing under title 23, United States Code.

4. As required by 49 U.S.C. § 5323(o) and 49 U.S.C. § 5307(c)(1):
  - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
  - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. When using or involving a facility or equipment acquired or improved with federal assistance under a SIB-financed Award during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
    - (1) Any senior,
    - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
    - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
    - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
  - e. When carrying out a procurement under a SIB-financed Award, it will comply with:
    - (1) The applicable general provisions of 49 U.S.C. § 5323, and
    - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
  - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
  - g. It has or will have or provide:
    - (1) The amount of funds required for the non-federal share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,
    - (2) The non-federal share from sources approved by FTA, and
    - (3) The non-federal share when needed.
  - h. It will comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
  - i. It has a locally developed process to solicit and consider public comment before:
    - (1) Raising a fare, or
    - (2) Implementing a major reduction of public transportation.
  - j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of § 5329(b)-(d), except as FTA determines otherwise in writing.
5. As required by 49 U.S.C. chapter 53, it certifies that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award unless:
  - a. It is eligible to receive federal assistance for those expenses, and

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, as FTA may require.
6. It agrees that it will adopt a transit asset management plan that complies with FTA regulations, "Transit Asset Management," 49 CFR part 625.

### CATEGORY 22. PAUL S. SARBANES TRANSIT IN PARKS PROGRAM

*Before FTA may provide federal assistance for an Award financed under the Paul S. Sarbanes Transit in Parks Program authorized under former 49 U.S.C. § 5320, in effect in FY 2012 or a previous fiscal year, except as superseded by FAST Act requirements, you must select the Certifications in Category 22, except as FTA determines otherwise in writing.*

*Any provision of the Certifications and Assurances in Category 22 that does not apply will not be enforced.*

1. Except as superseded by the FAST Act cross-cutting requirements, the following Certifications and Assurances for the Paul S. Sarbanes Transit in Parks Program (Parks Program) are required by former 49 U.S.C. § 5320, in effect in FY 2012 or a previous fiscal year. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
  - a. It will consult with the appropriate federal land management agency during the planning process, and
  - b. The requirements of former 49 U.S.C. § 5307, as determined by FTA, will apply to the Parks Program authorized by former 49 U.S.C. § 5320.
2. FTA has determined certain requirements of former 49 U.S.C. § 5307 to be appropriate for the Parks Program, of which some require Certifications. Therefore, as specified under former 49 U.S.C. § 5307(d)(1), except as superseded by the FAST Act cross-cutting requirements that apply, you certify that your Applicant:
  - a. Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
  - c. Will maintain its equipment and facilities acquired or improved under its Award.
  - d. When carrying out a procurement under former 49 U.S.C. § 5320, it will comply and will require each Subrecipient to comply with the following provisions:
    - (1) Competitive procurement (as defined or approved by FTA) requirements of 49 U.S.C. § 5325(a),
    - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. § 5323(h),
    - (3) "Buy America" requirements under 49 U.S.C. § 5323(j), as amended by the FAST Act, and FTA regulations, "Buy America Requirements," 49 CFR part 661,
    - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. § 5323(m),
    - (5) Applicable railcar option restrictions of 49 U.S.C. § 5325(e), and
    - (6) "Veterans Preference/Employment" requirements under 49 U.S.C. § 5325(k).
  - e. It will comply with other applicable requirements under 49 U.S.C. § 5323 and § 5325.

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- f. It has complied or will comply with the requirements of former 49 U.S.C. § 5307(c), and specifically:
  - (1) It has made or will make available to the public information on the amounts available for the Parks Program, former 49 U.S.C. § 5320, and the Projects it proposes to implement under its Award,
  - (2) It has developed or will develop, in consultation with interested parties including private transportation providers, Projects to be financed under its Award,
  - (3) It has published or will publish a list of proposed Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed Projects and submit comments on the proposed Projects and its performance,
  - (4) It has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed Projects,
  - (5) It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
  - (6) It has made or will make the final list of Projects for which an Award is sought available to the public.
- g. With respect to the non-federal share:
  - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5320,
  - (2) It will provide the non-federal share from sources approved by FTA, and
  - (3) It will provide the non-federal share when needed.
- h. It has complied or will comply with and will require each Subrecipient to comply with:
  - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
- i. It has a locally developed process to solicit and consider public comment before:
  - (1) Raising a fare, or
  - (2) Implementing a major reduction of public transportation.

### CATEGORY 23. CONSTRUCTION HIRING PREFERENCES.

*Before FTA may provide federal assistance for a third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C. using a geographic, economic, or any other hiring preference not otherwise authorized by federal law or regulation, you must select the Certifications in Category 23 on behalf of your Applicant, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 23 that does not apply will not be enforced.*

As provided by section 192 of division L, title I of the Consolidated Appropriations Act, 2017, Public Law No. 114-113, on behalf of your Applicant, you certify that if, in connection with any third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C., it uses a geographic, economic, or any other hiring preference not otherwise authorized by law or prohibited under 2 CFR § 200.319(b):

### **FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES**

1. Except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the third party contract requires resides in the jurisdiction where the work will be performed,,
2. It will include appropriate provisions in its bid document ensuring that its third party contractor(s) do not displace any of its existing employees in order to satisfy such hiring preference, and
3. That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

Selection and Signature Page(s) follow.

## Title VI Plan

*Civil rights, environmental justice and equity*

### **APPENDIX D. METRO TRANSPORTATION-RELATED ADVISORY COMMITTEES**

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## METRO TRANSPORTATION-RELATED ADVISORY COMMITTEES

Typically, Metro committees are made up of elected officials, technical staff from the three counties and dozens of cities inside Metro's boundaries, and subject matter experts. Most also have seats reserved for members of the community.

When appointments and confirmations to advisory committees do not require specific jurisdictional, geographical or expertise representation, recruitment efforts attempt to reflect the demographic profile of the region in committee membership.

The committees below have a role in Metro's transportation programs, policies and processes.

Joint Policy Advisory Committee on Transportation

**The Joint Policy Advisory Committee on Transportation (JPACT)** makes recommendations to the Metro Council on transportation needs in the region. JPACT comprises 17 members that serve as elected officials or representatives of transportation agencies across the region.

**The Metro Policy Advisory Committee (MPAC)** advises the Metro Council on the amendment or adoption of the Regional Framework Plan. MPAC comprises 21 voting members representing cities, counties and special districts, three of which are held by residents directly representing the public. Three Metro Councilors also participate as non-voting liaisons.

**The Bi-State Coordination Committee** is a standing advisory committee on bi-state issues and makes recommendations to the Southwest Washington Regional Transportation Council, the Joint Policy Advisory Committee on Transportation and Metro. Membership includes six from Clark County and seven from the greater Portland region. Its principal charge is to sustain a regional dialogue, to share information and encourage collaboration.

**The Transportation Policy Alternatives Committee (TPAC)** provides technical input to the Joint Policy Advisory Committee on Transportation on transportation planning and funding priorities for the region. TPAC's 21 members consist of technical staff from the same governments and agencies as JPACT, plus a representative from the Southwest Washington Regional Transportation Council, and six community members appointed by the Metro Council. In addition, the Federal Highway Administration and C-TRAN have each appointed an associate non-voting member to the committee.

**Metro Technical Advisory Committee (MTAC)** is a 35-member committee of planners, citizens and business representatives that provides detailed technical support to the Metro Policy Advisory Committee. Three positions held by residents directly representing the public.

**Public Engagement Review Committee (PERC)** serves as a key component of Metro's efforts to develop successful public engagement processes. The committee includes at least three at-large community members, three staff or board members from local community organizations and public involvement staff members from Clackamas, Multnomah and Washington counties.

**The Transit-Oriented Development Steering Committee** provides expert guidance, review and recommendations on Metro's transit-oriented development investment activities. The committee's mission is to create vibrant downtowns and main streets through public and private partnerships, investments and incentives for key development projects located near transit, and provide support for other alternative forms of transportation, such as walking and biking.

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## Title VI Plan

*Civil rights, environmental justice and equity*

### **APPENDIX E. FHWA TITLE VI IMPLEMENTATION PLAN CHECKLIST, INDEXED TO THIS PLAN**

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## FHWA TITLE VI PROGRAM IMPLEMENTATION PLAN CHECKLIST, INDEX

[www.fhwa.dot.gov/civilrights/programs/tvichcklist.cfm](http://www.fhwa.dot.gov/civilrights/programs/tvichcklist.cfm)

**Policy statement** Does the Plan have a Title VI Program Policy Statement signed by the CEO?

*Section I. Policy statement, p. 1*

**Standard DOT assurances** Does the Plan include a signed copy of the DOT Standard Title VI Assurances with Appendices “A,” “B,” “C,” “D,” and “E”?

*Appendix C, Standard DOT assurances*

**Organization and staffing** Does the Plan identify the Title VI Coordinator who has easy access to the head of the agency? Is there an organizational chart that identifies a Civil Rights Unit, and its placement in the agency?

*Section II.B. Metro and Title VI, environmental justice, nondiscrimination and equity, p. 4*

*Section II.C. Reporting structure for Title VI, environmental justice, nondiscrimination and equity, p. 8*

**Program review procedures** Does the Plan describe the nature of the recipient’s program areas and include procedures for conducting reviews of pertinent program areas?

*Section II.B. Metro and Title VI, environmental justice, nondiscrimination and equity, p. 4*

*Section II.C. Reporting structure for Title VI, environmental justice, nondiscrimination and equity, p. 8*

*Section XI.B. Annual reporting procedures, p. 56*

*Section XI.C. Enforcement procedures, p. 56*

**Special emphasis program areas** Does the Plan describe the process the STA uses to identify their special emphasis program areas and how they address identified trends or patterns of discrimination in those areas?

*See p. 7, Diversity Action Plan and strategic plan to advance racial equity, diversity and inclusion*

*See p. 12, strategic plan to advance racial equity, diversity and inclusion, goal C*

**Subrecipient review procedures** Does the Plan describe the process for conducting reviews of subrecipients, (cities, counties, universities/colleges, etc.)?

*Section VIII.C. Subrecipient oversight, p. 38*

**Data collection/reporting/analysis** Does the Plan contain a process for collecting and reporting Title VI data (race, color, national origin, sex, age, disability...)?

*Section V. Identifying historically marginalized populations, p. 17*

*Section VI.D. Data collection and assessment, p. 31*

**Title VI training** Does the Plan address Title VI training of staff members and sub recipients?

*Section XI.D. Training*

**Complaint procedures** Does the Plan contain complaint procedures which describe a prompt process for investigations and disposition of Title VI complaints?

*Section IX. Title VI discrimination complaints and investigations, p. 39*

**Dissemination of Title VI information** Does the Plan contain community outreach and public education procedures (making the public aware of their rights under Title VI program authorities)?

*Section IV. Notice of rights, p. 15*

**Limited English proficiency (LEP)** Does the Plan communicate how the STA implements the Title VI Program requirements of Limited English Proficiency (LEP)?

*Section IV.C. Vital documents, p. 16*

*Section V.B. English language learners (people with limited English proficiency), p. 21*

*Section VI.C. English-language learners, p. 29*

**Environmental Justice** Does the Plan communicate how the STA implements the Title VI Program requirements of Environmental Justice to include a public participation plan and outreach plan?

*Section VII. Assessing benefits and impacts for historically marginalized populations*

**Review of STA directives** Does the Plan describe how the STA reviews directives to determine if there are Title VI implications, and interpret how directives impact Title VI program areas?

*Section XI.C. Enforcement procedures, p. 56 (directives are reviewed during the staff process prior to issuance by Metro Council or chief operating officer)*

**Compliance and enforcement procedures** Does the Plan outline Title VI Program compliance and enforcement procedures to eliminate and address discrimination, resolve deficiencies, etc. when noncompliance occurs?

*Section XI.C. Enforcement procedures, p. 56*



If you picnic at Blue Lake or take your kids to the Oregon Zoo, enjoy symphonies at the Schnitz or auto shows at the convention center, put out your trash or drive your car – we’ve already crossed paths.

So, hello. We’re Metro – nice to meet you.

In a metropolitan area as big as Portland, we can do a lot of things better together. Join us to help the region prepare for a happy, healthy future.

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