



Serving the City of Winchester, Urbanized area of Frederick County and the Town of Stephens City, Virginia

Title VI Plan and Procedures

Title VI of the Civil Rights Act of 1964

Winchester Frederick County Metropolitan Planning Organization

Adopted April 17, 2013

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I. INTRODUCTION

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. 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." (42 U.S.C. Section 2000d).

Recipients of public transportation funding from FTA and the Virginia Department of Rail and Public Transportation (DRPT) are required to develop policies, programs, and practices that ensure that federal and state transit dollars are used in a manner that is nondiscriminatory as required under Title VI.

This document details how the Winchester Frederick County Metropolitan Planning Organization (WinFred MPO) incorporates nondiscrimination policies and practices in providing services to the public. WinFred MPOs Title VI policies and procedures are documented in this plan and its appendices and attachments. This plan will be updated periodically (at least every three years) to incorporate changes and additional responsibilities that arise.

II. POLICY STATEMENT AND AUTHORITIES

Title VI Policy Statement

The WinFred MPO is committed to ensuring that no person shall, on the grounds of race, color, national origin, as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (PL 100.259), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, whether those programs and activities are federally funded or not.

The WinFred MPO Title VI Manager is responsible for initiating and monitoring Title VI activities, preparing required reports, and other responsibilities as required by Title 23 Code of Federal Regulations (CFR) Part 200, and Title 49 CFR Part 21.

Mark Snel

4/24/13

Signature of Authorizing Official

Date

Authorities

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (refer to 49 CFR Part 21). The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of the terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub recipients, and contractors, whether such programs and activities are federally assisted or not.

Additional authorities and citations include: Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d); Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.); Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.); Department of Justice regulation, 28 CFR part 42, Subpart F, "Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs" (December 1, 1976, unless otherwise noted); U.S. DOT regulation, 49 CFR part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964" (June 18, 1970, unless otherwise noted); Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, "Environmental Impact and Related Procedures" (August 28, 1987); Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, "Planning Assistance and Standards," (October 28, 1993, unless otherwise noted); U.S. DOT Order 5610.2, "U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations," (April 15, 1997); U.S. DOT Policy Guidance Concerning Recipients'

Responsibilities to Limited English Proficient Persons, (December 14, 2005), and Section 12 of FTA's Master Agreement, FTA MA 13 (October 1, 2006).

Annual Nondiscrimination Assurance to the Virginia Department of Rail and Public Transportation (DRPT)

As part of the Certifications and Assurances submitted to the DRPT with the Annual Grant Application and all Federal Transit Administration grants submitted to the VDRPT, the WinFred MPO submits a Nondiscrimination Assurance which addresses compliance with Title VI as well as nondiscrimination in hiring (EEO) and contracting (DBE), and nondiscrimination on the basis of disability (ADA). In signing and submitting this assurance, the WinFred MPO confirms to VDRPT the agency's commitment to nondiscrimination and compliance with federal and state requirements.

III. ORGANIZATION AND TITLE VI PROGRAM RESPONSIBILITIES

The WinFred MPOs Secretary-Treasurer is responsible for ensuring implementation of the agency's Title VI program. Title VI program elements are interrelated and responsibilities may overlap. The specific areas of responsibility have been delineated below for purposes of clarity.

Overall Organization for Title VI

- The Title VI Manager and is responsible for coordinating the overall administration of the Title VI program, plan, and assurances, including complaint handling, data collection and reporting, annual review and updates, and internal education.
- Martha Shickle, Executive Director and appointed staff is responsible for public outreach and involvement. This includes development and implementation of the Limited English Proficiency (LEP) plan. Those responsible for this area also coordinate with those who are responsible for service planning and delivery.
- Martha Shickle, Executive Director and appointed staff is responsible for service planning and delivery. This includes analysis of current services, analysis of proposed service and fare changes, and environmental justice. Those responsible for this area also coordinate with those who are responsible for service planning and delivery.

Detailed Responsibilities of the Title VI Manager

The Title VI Manager is responsible for supervising the other staff assigned with Title VI responsibilities in implementing, monitoring, and reporting on WinFred MPOs compliance with Title VI regulations. In support of this, the Title VI Manager will:

- Identify, investigate, and eliminate discrimination when found to exist.
- Process Title VI complaints received by the WinFred MPO in accordance with the agency's Nondiscrimination Complaint Procedures (presented below).
- Meet with the other staff assigned with Title VI responsibilities, including public outreach & involvement and service planning and delivery periodically to monitor and discuss progress, implementation, and compliance issues.
- Periodically review the agency's Title VI program to assess if administrative procedures are effective, staffing is appropriate, and adequate resources are available to ensure compliance.

Annual Review of Title VI Program

Each year, in preparing for the Annual Report and Updates, the Title VI Manager and Liaison(s) will review the agency's Title VI program to assure implementation of the Title VI plan. In addition, they will review agency operational guidelines and publications, including those for contractors, to verify that Title VI language and provisions are incorporated, as appropriate.

Title VI Clauses in Contracts

In all procurements requiring a written contract, WinFred MPOs contract will include the federal non-discrimination clauses. The Title VI Manager will work with the Senior Project and Operations Manager.

IV. PROCEDURES FOR NOTIFYING THE PUBLIC OF TITLE VI RIGHTS AND HOW TO FILE A COMPLAINT

WinFred MPO includes the following language on all printed information materials, on the agency's website, in press releases, in public notices and in published documents:

The WinFred MPO is committed to ensuring that no person is excluded from participation in, or denied the benefits of its transit services on the basis of race, color or national origin, as protected by Title VI of the Civil Rights Act of 1964.

For additional information on WinFred MPOs nondiscrimination policies and procedures or to file a complaint, please visit the website at www.winfredmpo.org or contact Martha Shickle, Executive Director, Northern Shenandoah Valley Regional Commission, 400 Kendrick Lane, Suite E, Front Royal, VA22630.

Instructions for filing Title VI complaints are posted on the agency's website.

If you believe you have been subjected to discrimination under Title VI based on your race, color, national origin, or any aspect of this policy, you may file a complaint up to 180 days from the date of the alleged discrimination.

The complaint should include the following information:

- *Your name, address, and how to contact you (i.e., telephone number, email address, etc.)*
- *How, when, where, and why you believe you were discriminated against.*
- *The location, names and contact information of any witnesses.*

The complaint may be filed in writing to:

Martha Shickle, Executive Director, Northern Shenandoah Valley Regional Commission, 400 Kendrick Lane, Suite E, Front Royal, VA 22630

V. PROCEDURES FOR HANDLING, TRACKING, RESOLVING AND REPORTING INVESTIGATIONS/COMPLAINTS AND LAWSUITS

Any individual may exercise his or her right to file a complaint with the WinFred MPO if that person believes that she/he or any other program beneficiaries have been subjected to unequal treatment or discrimination in the receipt of benefits/services or prohibited by non-discrimination requirements. WinFred MPO will report the complaint to DRPT within three business days (per DRPT requirements), and make a concerted effort to resolve complaints locally, using the agency's Nondiscrimination Complaint Procedures, as described below. All Title VI complaints and their resolution will be logged as described under "Data collection" and reported annually (in addition to immediately) to DRPT.

Should any Title VI investigations be initiated by FTA or DRPT, or any Title VI lawsuits be filed against the WinFred MPO, the agency will follow these procedures:

Overview

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, and the Civil Rights Restoration Act of 1987, relating to any program or activity administered by the WinFred MPO, as well as to sub-recipients, consultants, and/or contractors. Intimidation or retaliation of any kind is prohibited by law. These procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies, or to seek private counsel for complaints alleging discrimination. These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Title VI Manager may be utilized for resolution. The Title VI Manager will make every effort to pursue a resolution to the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

Procedures

1. Any individual, group of individuals or entity that believes they have been subjected to discrimination on the basis of race, color, or national origin may file a written complaint with the WinFred MPOs Title VI Manager. The complaint is to be filed in the following manner:
 - a. A formal complaint must be filed within 180 calendar days of the alleged occurrence.
 - b. The complaint shall be in writing and signed by the complainant(s).
 - c. The complaint should include:
 - the complainant's name, address, and contact information
 - (i.e., telephone number, email address, etc.)

- the date(s) of the alleged act of discrimination (if multiple days, include the date when the complainant(s) became aware of the alleged discrimination and the date on which the alleged discrimination was discontinued or the latest instance).
 - a description of the alleged act of discrimination
 - the location(s) of the alleged act of discrimination (include vehicle number if appropriate)
 - an explanation of why the complainant believes the act to have been discriminatory on the basis of race, color, and national origin
 - if known, the names and/or job titles of those individuals perceived as parties in the incident
 - contact information for any witnesses
 - indication of any related complaint activity (i.e., was the complaint also submitted to DRPT or FTA?)
- d. The complaint shall be submitted to the WinFred MPO Title VI Manager at 400 Kendrick Lane, Suite E, Front Royal, Virginia.
 - e. Complaints received by any other employee of the WinFred MPO will be immediately forwarded to the Title VI Manager.
 - f. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in putting the complaint in writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled in the usual manner.
2. Upon receipt of the complaint, the Title VI Manager will immediately:
 - a. notify DRPT (no later than 3 business days from receipt)
 - b. notify the WinFred MPO Policy Board Chairman
 - c. ensure that the complaint is entered in the complaint database
 3. Within 3 business days of receipt of the complaint, the Title VI Manager will contact the complainant by telephone to set up an interview.
 4. The complainant will be informed that they have a right to have a witness or representative present during the interview and can submit any documentation he/she perceives as relevant to proving his/her complaint.
 5. If DRPT has assigned staff to assist with the investigation, the Title VI Manager will offer an opportunity to participate in the interview.
 6. The alleged discriminatory service or program official will be given the opportunity to respond to all aspects of the complainant's allegations.
 7. The Title VI Manager will determine, based on relevancy or duplication of evidence, which witnesses will be contacted and questioned.
 8. The investigation may also include:
 - a. investigating contractor operating records, policies or procedures
 - b. reviewing routes, schedules, and fare policies
 - c. reviewing operating policies and procedures
 - d. reviewing scheduling and dispatch records
 - e. observing behavior of the individual whose actions were cited in the complaint

9. All steps taken and findings in the investigation will be documented in writing and included in the complaint file.
10. The Title VI Manager will contact the complainant at the conclusion of the investigation, but prior to writing the final report, and give the complainant an opportunity to give a rebuttal statement at the end of the investigation process.
11. At the conclusion of the investigation and within 60 days of the interview with the complainant, the Title VI Manager will prepare a report that includes a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition. This report will be provided to the WinFred MPO Policy Board Chairman, DRPT, and, if appropriate, the WinFred MPOs legal counsel.
12. The Title VI Manager will send a letter to the complainant notifying them of the outcome of the investigation. If the complaint was substantiated, the letter will indicate the course of action that will be followed to correct the situation. If the complaint is determined to be unfounded, the letter will explain the reasoning, and refer the complainant to DRPT in the event the complainant wishes to appeal the determination. This letter will be copied to DRPT.
13. A complaint may be dismissed for the following reasons:
 - a. The complainant requests the withdrawal of the complaint.
 - b. An interview cannot be scheduled with the complainant after reasonable attempts.
 - c. The complainant fails to respond to repeated requests for additional information needed to process the complaint.
14. DRPT will serve as the appealing forum to a complainant that is not satisfied with the outcome of an investigation conducted by the WinFred MPO. DRPT will analyze the facts of the case and will issue its conclusion to the appellant according to their procedures.

VI. STAFF TRAINING RELATED TO THE TITLE VI PROGRAM

In an effort to continuously improve the WinFred MPOs overall compliance, nondiscrimination training will be coordinated with FHWA, VDOT, DRPT and Winchester Transit (WinTran) and made available to the WinFred MPO staff on an ongoing basis to ensure up-to-date knowledge of Title VI and other nondiscrimination statutes.

VII. LANGUAGE ASSISTANCE PLAN FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

Introduction and Legal Basis

LEP is a term that defines any individual not proficient in the use of the English language. The establishment and operation of an LEP program meets objectives set forth in Title VI of the Civil Rights Act and Executive Order 13116, Improving Access to Services for Persons with Limited English Proficiency (LEP). This Executive Order requires federal agencies receiving financial assistance to address the needs of non-English speaking persons. The Executive Order also establishes compliance standards to ensure that the programs and activities that are provided by a transportation provider in English are accessible to LEP communities. This includes providing meaningful access to individuals who are limited in their use of English. The following LEP language implementation plan, developed by the WinFred MPO is based on FTA guidelines.

As required, the WinFred MPO developed a written LEP Plan (below). Using 2010 and American Community Survey (ACS) Census data, WinFred MPO has evaluated data to determine the extent of need for translation services of its vital documents and materials.

LEP persons can be a significant market for public transit, and reaching out to these individuals can help increase their utilization of transit. Therefore, it also makes good business sense to translate vital information into languages that the larger LEP populations in the community can understand.

Assessment of Needs and Resources

The need and resources for LEP language assistance were determined through a four-factor analysis as recommended by FTA guidance.

Factor 1: Assessment of the Number and Proportion of LEP Persons Likely to be Served or Encountered in the Eligible Service Population

The WinFred MPO has reviewed census data on the number of individuals in its service area that have limited English Proficiency, as well as the languages they speak.

Language Use and English-Speaking Ability for the Population by County and City										
	Total Pop. 5+ years	Speak English at Home	Speak non-English at Home							
			Total Pop. Non-English	Percent Non-English	# of Pop. Not Well/ Not at all	% of Pop. Not Well/ Not at all	English Ability- Very Well	English Ability- Well	English Ability- Not Well	English Ability- Not at all
Frederick County	72,340	66,412	5,928	8.20%	1,527	2.11%	3,248	1,347	1,270	257
Town of Stephens City	1,791	1,725	66	3.70%	4	0.22%	25	22	4	0
City of Winchester	24,338	20,618	3,270	15.30%	2,035	8.36%	1,565	1,134	1,724	311

Source: US Census Bureau 2010 ACS

Information from the 2006-2010 ACS also provides more detail on the specific languages that are spoken by those who report they speak English less than very well. Languages spoken at home by those with LEP are presented below. These data indicate the extent to which translations into other language are needed to meet the needs of LEP persons.

Languages spoken in the City of Winchester		
	Number	Percent
Spanish	2731	11.22%
Indo-European	1514	6.22%
Asian and Pacific Island	310	1.27%
Other	179	0.74%

Factor 2: Assessment of Frequency with Which LEP Individuals Come Into Contact with the Transit Services or System

The WinFred MPO has reviewed the relevant benefits, services, and information provided by DRPT and determined the extent to which LEP persons have come into contact with these functions through the following channels:

- Public involvement and public engagement meetings/hearings for all transportation related projects.
- Translator services are available through Staunton’s VDOT District Office.

We will continue to identify emerging populations as updated Census and American Community Survey data become available for our service area. In addition, when LEP persons contact our agency, we attempt to identify their language and keep records on contacts to accurately assess the frequency of contact. To assist in language identification, we use a language identification flashcard based on that which was developed by the U.S. Census. (<http://www.lep.gov/ISpeakCards2004.pdf>)]

Information from Community Organizations that Serve LEP Persons

To supplement the Census data, the WinFred MPO conducted community outreach to the following organizations that work with LEP populations:

- *Coalition for Racial Unity, Winchester, VA outreach via Facebook*

Factor 3: Assessment of the Nature and Importance of the Transit Services to the LEP Population

One of WinFred MPOs main function is to support cooperative, comprehensive, and continuing public transportation planning and services as outlined in federal transportation acts. In doing so, the WinFred MPO develops the Transportation Improvement Program, the Public Participation Plan, the Long Range Transportation Plan Year 2035 and other studies. Another key function of the MPO is to work closely with its main transit provider – Winchester Transit – in providing planning documents such as the Transit Development Plan.

DRPT’s “Public Transportation and Transportation Demand Management Grant Program Guidance Handbook” provides Winchester Transit with application guidance regarding the various state and federal public transportation grant programs. The document contains two major parts:

1. An overview of the grant programs administered by DRPT, a description of DRPTs’ public transportation investment policy, and a calendar describing each step in the grant application process.
2. A description of eligible expenses, match ratios, application evaluation criteria, and the application procedure.

DRPT is required by the FTA to ensure that recipients of FTA assistance – such as Winchester Transit, comply with federal requirements. To meet this federal mandate, DRPT conducts periodic reviews of Winchester Transit. Additional objectives of the reviews are to ensure compliance with state requirements, encourage progress, and identify training and technical assistance needs.

Factor 4: Assessment of the Resources Available to the Agency and Costs

The WinFred MPO provides access to LEP person via translation services through VDOT’s Staunton District Office.

Costs must be factored into this balancing test as part of the consideration of “resources available.” Reasonable steps may cease to be reasonable when the costs imposed substantially exceed the benefits in light of the factors outlined in the U.S. DOJ LEP Guidance. In the WinFred MPOs case, the needs of the LEP population will be met on an as needed basis by translator services:

- Translation of vital documents upon request
- VDOT’s language translator contractor

LEP Implementation Plan

Considering the area served by the WinFred MPO and the number of LEP individuals, it is necessary to provide at least the most basic and cost-effective services available to ensure compliance with Executive Order 13166.

- Publish vital documents such as the discrimination complaint form on the WinFred MPO website in languages other than English as requested.
- Disseminate the LEP Plan to community organizations, governmental entities, and other interested persons; in languages other than English upon request.
- With advance notice of seven calendar days, provide interpreter services at any meeting or public hearing. This will include foreign language and hearing impaired interpreter services.
- Place statements in notices and publications that interpreter services are available for meeting, with seven days advance notice.
- Include a LEP policy updates of the Public Participation Plan.

VIII. PUBLIC OUTREACH AND INVOLVEMENT

Transportation has a direct and personal impact on the population of a region and is of critical importance to economic vitality and quality of life. The WinFred MPO continually endeavors to provide citizens, affected public agencies, and other interested parties with reasonable opportunities to be involved in the transportation planning process.

WinFred MPO is responsible for evaluating and monitoring compliance with applicable nondiscrimination authorities in all aspects of the WinFred MPO public participation process. WinFred MPO staff members will:

- Ensure that all communications and public participation efforts comply with nondiscrimination authorities.
- Develop and distribute information on nondiscrimination and WinFred MPO programs to the general public. This item will be addressed by posting information on the WinFred MPO website as well as distributing brochures to local libraries and other public spaces.
- Provide services for individuals with special needs. This may include providing interpretation services.
- Include the following statement in all of the WinFred MPO public notices:

“The WinFred MPO ensures nondiscrimination and equal employment in all programs and activities in accordance with Title VI and Title VII of the Civil Rights Act of 1964. If you have questions or concerns about your civil rights in regards to this project or special assistance for persons with disabilities or limited English proficiency, please contact the WinFred MPO. Sign language or non-English language interpreters will be provided if needed and requested in advance of this meeting. Please contact the WinFred MPO at 540-636-8800 to request an interpreter no later than <enter date at least 14 days prior to meeting>.”

- Include the above Title VI Statement in press releases and on the WinFred MPO website.

IX. DATA COLLECTION AND REPORTING PROCEDURES

Data collection

To ensure that Title VI reporting requirements are met, WinFred MPO maintains:

- A log and database of Title VI complaints received. The investigation of and response to each complaint is tracked within the database.
- A log of the public outreach and involvement activities undertaken to ensure that minority and low-income people had a meaningful access to these activities. The agency maintains the following records related to public outreach and involvement:
 - Paper files with copies of materials published or distributed for each planning project, as well as all news releases, public service announcements, surveys, and written summaries of in-person outreach events.
 - A log/database of public outreach and involvement activities, including dates, planning project, type of activity, LEP assistance requested/provided, target audience, number of participants, and location of documentation within paper files.

Maintenance of these records is the responsibility of Title VI Coordinator and/or appointed staff.

Annual Report and Triennial Updates

Annual Reporting

As a subrecipient providing service in an area with less than 200,000 population, WinFred MPO submits an annual report to the DRPT that documents any Title VI investigations/complaints/lawsuits during the preceding 12 months.

Triennial Reporting

Every three years, the WinFred MPO submits to DRPT, a complete list of the investigations/complaints/lawsuits received in the prior three years, a summary of the public outreach and involvement activities undertaken to ensure that minority and low-income people had a meaningful access to these activities, and any updates to this Title VI plan.

Updates to the Title VI Plan

As noted above, every three years, the WinFred MPO submits to DRPT an update to this Title VI Plan. The triennial Title VI update includes the following items, or a statement to

the effect that these items have not been changed since the previous submission, indicating date.

- A copy of any compliance review report for reviews conducted in the previous three years, along with the purpose or reason for the review, the name of the organization that performed the review, a summary of findings and recommendations, and a report on the status or disposition of the findings and recommendations
- WinFred MPOs Limited English Proficiency (LEP) plan
- WinFred MPOs procedures for tracking and investigating Title VI complaints
- A complete list of Title VI investigations, complaints or lawsuits filed with the WinFred MPO since the last submission
- A copy of WinFred MPOs agency's notice to the public that it complies with Title VI and instructions on how to file a discrimination complaint

X. Environmental Justice

For new construction and major rehabilitation or renovation projected where National Environmental Policy Act (NEPA) documentation is required, the WinFred MPO will integrate an environmental justice analysis into the NEPA documentation for submission to DRPT. The development of environmental justice analyses is the responsibility of the WinFred MPO Planning Staff.