

MARAD TITLE VI PRE-AWARD REVIEW CHECKLIST

Purpose

The U.S. Department of Transportation's (DOT) Maritime Administration (MARAD) Office of Civil Rights (OCR) is responsible for ensuring MARAD grant recipient compliance with Federal civil rights laws, regulations, and requirements, including following applicable Federal guidance on Title VI of the Civil Rights Act of 1964 (Title VI) and Americans with Disabilities Act of 1990 (ADA) requirements. All applicants must demonstrate compliance with the applicable civil rights requirements prior to execution of their grant award.

Pre-Award Requirements

The following requirements **apply to all grant recipients. All recipients are required to submit the following information to MARAD OCR prior to grant execution.**

Notification to Beneficiaries/Participants

- A copy of the recipient's public notice informing the public of their rights under Title VI/ADA
- A weblink on the recipient's website where it has posted a copy of the public notices that are accessible to the public
- A description of where the recipient has posted this notice in facilities accessible by the public (if applicable)

Complaint Procedures

- A copy of the recipient's Title VI/ADA complaint procedures, which must include, but are not limited to, instructions to the public on how to file a Title VI/ADA complaint
- A designated employee for coordinating Title VI and ADA complaint investigations
- A copy of the recipient's Title VI/ADA Complaint Form
- A weblink on the recipient's website where it has posted a copy of the Complaint Form and Procedures

External Lawsuits, Investigations, or Complaints Alleging Discrimination

- A description of any external lawsuits, investigations, or complaints alleging discrimination on the basis of race, color, national origin (including limited English proficiency), or disability filed against the recipient (or any of its proposed subrecipients, if applicable) within five years of the date of the application, together with an explanation of the status or outcome of each matter.

Status of Corrective Actions Implemented by Recipient to Address Deficiencies Previously Identified During a Civil Rights Compliance Review

- A description of any civil rights compliance reviews that are ongoing, or have been completed within the last five years, by MARAD, or other state, local, or federal agencies. This description must discuss:
- Any deficiencies identified by past reviews
 - Corrective actions taken or that are underway to address the deficiencies identified
 - Copies of any reports from compliance reviews conducted by another agency

Planning and Advisory Board Membership (If applicable)

- A table depicting the membership of any non-elected committees and councils, the membership of which is selected by the recipient, broken down by race
- A description of the process the agency uses to encourage the participation of minorities on such committees

Legacy Infrastructure

- A plan to address any legacy infrastructure or facilities that are not compliant with ADA standards

Compliance Monitoring: If a recipient intends to or is presently providing Federal funding to another entity, the recipient is responsible for monitoring the entity's (i.e., Sub-Grantee of Federal funding) compliance with DOT non-discrimination requirements. This requirement also extends to recipients with tenants, who are responsible for ensuring that port tenants do not discriminate in any of their programs or activities.

- Documentation that it includes the USDOT Standard Title VI Assurances and Non-Discrimination Provisions (DOT Order 1050.2A) in all recipient contracts, sub-recipient agreements, and tenant agreements
- A description of how the recipient will periodically evaluate and monitor the programs and activities of sub-recipients, tenants, or any other pass-through entities for nondiscriminatory treatment and potential impact on communities on the basis of race, color, national origin (including Limited English proficiency), and disability. This may include, but is not limited to:
 - The development of project or activity specific oversight procedures, schedules, tools, or documentation requirements
 - Procedures of identifying and correcting program or performance deficiencies
 - Technical assistance or training on grant requirements, including federal non-discrimination requirements
 - Regular communication
 - Routine site visits

Community Engagement Requirements:

These requirements apply to all recipients. Community Participation Plans and Language Assistance Plans will vary based upon the size, scope, and project type but are required of all MARAD recipients. Recipients are strongly encouraged to review The US DOT Title VI Program Order¹, DOT Limited English Proficiency (LEP) Guidance² and DOT Best Practices on Community Participation³ prior to submission.

General Requirements:

- A description of recipient's practices for obtaining proactive and meaningful public participation ensure that beneficiaries, as well as contractors and subrecipients (if applicable), are adequately informed about how programs, projects, and other activities will potentially affect them?
- A description of how the recipient's practices for obtaining proactive and meaningful public participation ensure that diverse views, including those of people with disabilities, are heard and considered throughout all stages of consultation, planning, and decision-making processes
- A description of key community stakeholders, including advocacy groups, community-based organizations, and other advisory bodies?

Language Assistance Plan:

- A completed 4 factor analysis
- A Language Assistance Plan for providing assistance to persons with limited English proficiency (LEP) consistent with the DOT [*Policy Guidance Concerning Recipients' Responsibilities to LEP Persons*](#)

¹ [DOT Order 1000.12C](#)

² [DOT's LEP Guidance](#) and [Executive Order 13166](#) "Improving Access to Services for Persons with Limited English Proficiency"

³ [DOT Best Practices on Community Participation](#)

Equitable Treatment and Disparate Impact:

Recipients of federal funds are prohibited from using those funds in a manner that results in a disparate impact on the basis of race, color, national origin (including Limited English Proficiency), or disability. Where a disparate impact is found, recipients shall ensure that mitigation measures are taken and documented to eliminate or minimize the disparity. Where a disparate impact cannot be eliminated, recipients shall ensure that the activity will only be undertaken if a substantial legitimate justification for the activity exists and is documented and that it is the least discriminatory alternative.

The following requirements only apply to recipients with capital project awards. Planning grant recipients, particularly those who intend to apply for a MARAD capital project in the future, are strongly encouraged to consider the following elements in the development and execution of their planning award.

Recipients with concerns about any potential disparate impacts associated with their project are strongly encouraged to seek technical assistance from OCR.

- A description of the recipient's process for determining whether its proposed project, grant, or other activity receiving federal financial assistance would discriminate or adversely affect any groups or communities based on race, color, national origin (including Limited English Proficiency), or disability
- If a recipient's project has the potential to result in inequitable treatment:**
A description of the mitigation measures the recipient has taken and documented in order to eliminate or minimize inequitable treatment
- If the inequitable treatment cannot be eliminated:**
A detailed analysis providing a substantial legitimate justification for the recipient's project or activity that documents how the proposed course of action is the least discriminatory alternative?
- Information and analysis necessary to determine whether the recipient has adequately assessed its proposed project, grant, or other assistance for equitable treatment, mitigation, and justification?