

Data Collection:
Title VI and Environmental
Justice Requirements

Goals for Today



- Knowledge of resources available for collecting demographic data
- Understand the importance of collecting demographic data
- Understand how demographic data is used and should be used
- Explain the purpose of Title VI & Environmental Justice (EJ)
- Understand who to contact and how to contact them, regarding Title VI or Environmental Justice questions or concerns

Title VI of the Civil Rights Act of 1964



“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.”

49 CFR §21.9(b) state that, “...In general, recipients should have available for the Secretary racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.”

Legal Theories of Discrimination under Title VI Program:



- Disparate Impact
- Facially neutral procedure or practice;
- Disproportionate impact on protected individuals; and
- **A causal connection exists between policy and the impact. Often shown through statistical data.**
- In addition, the practice lacks a substantial legitimate justification and a reasonable nondiscriminatory alternative could not be identified.

Environmental Justice :



“Environmental Justice means that no community should be saddled with more environmental burdens and less environmental benefits than any other”

- Majora Carter

The US DOT EJ principles include:

- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process;
- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority or low-income populations; and
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority or low-income populations. [Executive Order 12898](#)

How is EJ a Civil Rights Issue :



- When some communities benefit from improved accessibility, congestion relief, faster transit service and others do not;
- When some communities suffer disproportionately from adverse effects of transportation policies, e.g., congestion, noise, water and air pollution.
- When some communities are paying higher transportation costs than other communities relative to benefits and service they receive
- When some communities are not represented, or underrepresented in transportation decision-making, policy development...that affect the allocation of resources

Environmental Justice

Title VI

Gender

Age

Race

National
Origin

Color

Religion

Disability

Low-Income

Minority



Key Aspects of the Authorities	Title VI	Environmental Justice
<p>What is the basis for the authority?</p>	<p>Title VI is a Federal statute and provides that no person shall, on the grounds 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.</p>	<p>The basis for addressing environmental justice is an Executive Order: EO 12898 directs each Federal agency to “make achieving environmental justice part of its mission.” The EO is intended to improve the internal management of the executive branch and not to create legal rights enforceable by a party against the U.S.</p>



Key Aspects of the Authorities	Title VI	Environmental Justice
What is the purpose of the authority?	Title VI prohibits recipients of Federal financial assistance (e.g., states, local governments, transit providers) from discriminating on the basis of race, color, or national origin in their programs or activities, and it obligates Federal funding agencies to enforce compliance.	EO 12898 calls on each Federal agency to achieve "environmental justice...by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low- income populations...."
To whom does the authority apply?	Title VI is a Federal law that applies to recipients and <u>subrecipients</u> of Federal financial assistance (e.g., States, local governments, transit providers), and not to DOT itself.	EO 12898 applies to Federal agency actions, including DOT's and FTA's actions. Title VI is one of the tools used by Federal agencies to implement this directive.
What does the authority require, and of whom?	Under Title VI, DOT has the responsibility to provide oversight of recipients and to enforce their compliance with Title VI, to ensure that recipients do not use DOT funds to subsidize discrimination based on race, color, or national origin.	EO 12898 is a directive from the President of the United States to Federal agencies intended to improve the internal management of the Federal government. DOT issued its own Order implementing EO 12898, and updated the Order in May 2012 (Order 5610.2(a)).

Key Aspects of the Authorities	Title VI	Environmental Justice
<p>What does the authority say with regard to negative effects or impacts?</p>	<p>In accordance with 49 CFR part 21 and Title VI case law, if an otherwise facially neutral program, policy, or activity will have a discriminatory impact on minority populations, that program, policy, or activity may only be carried out if (1) the recipient can demonstrate a substantial legitimate justification for the program, policy, or activity; (2) there are no comparably effective alternative practices that would result in less-disparate impacts; and (3) the justification for the program, policy or activity is not a pretext for discrimination.</p>	<p>In accordance with EO 12898 and the DOT Order on EJ, if a DOT program, policy, or activity will have a disproportionately high and adverse effect on minority or low-income populations, that program, policy, or activity may only be carried out if further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is “practicable,” the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.</p>
<p>Does the authority create any rights or remedies?</p>	<p>Title VI allows persons alleging discrimination based on race, color, or national origin by recipients of Federal funds to file administrative complaints with the Federal departments and agencies that provide financial assistance. Persons alleging intentional discrimination (i.e., disparate treatment) may bring a court action seeking to enforce Title VI but cannot do so with regard to allegations of discrimination based on agency disparate impact regulations. Disparate impact claims may be filed with the Federal agency.</p>	<p>EO 12898 establishes the Executive Branch policy on environmental justice; it is not enforceable in court and does not create any rights or remedies.</p>

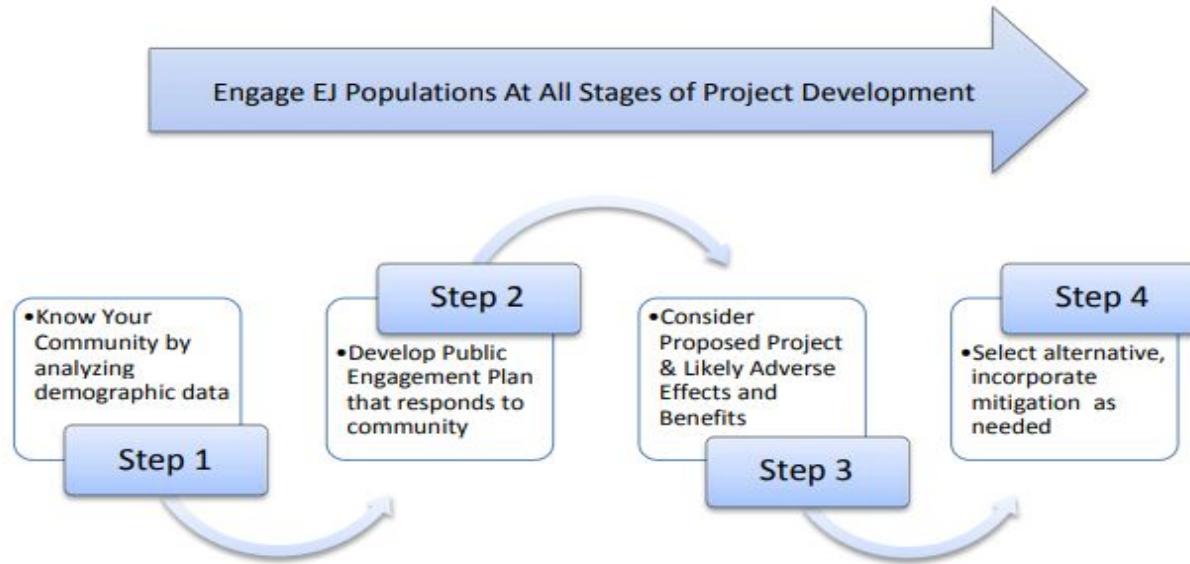
Environmental Justice Analysis

Environmental Justice :



Concern for environmental justice should be integrated into every transportation decision from the first thought about a transportation plan to post-construction operations and maintenance. The U.S. DOT Order applies to all policies, programs, and other activities that are undertaken, funded, or approved by the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), or other U.S. DOT components:

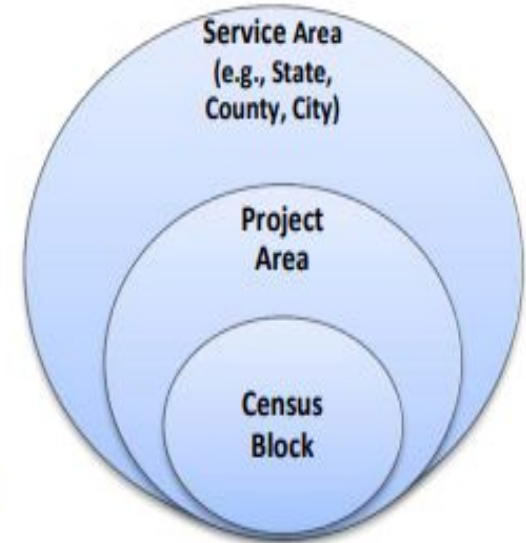
- Policy Decisions.
- Systems Planning.
- Metropolitan and Statewide Planning.
- Project Development and Environmental Review under NEPA.
- Preliminary Design.
- Final Design Engineering.
- Right-of-Way.
- Construction.
- Operations and Maintenance



Know Your Community:



- Identify population Impacted by project/Program
 - Choose boundaries that do not artificially inflate or dilute affected minority and/or low-income population
 - Examples: Light Rail Station or multi-modal transit transfer station
 - Statewide Planning: Evaluation needs to include system-level impact of a collection of projects in the long range plan.
- Non-traditional data gathering (outreach to community-based organizations and tribal governments)





Know Your Community

- Where do they work?
- Where do they relax?
- What languages do they speak at home?
- How do they get their information?

[FTA EJ Circular 4703.1](#)

- “Categorical Exclusion” designation within NEPA does not relieve an agency of the responsibility to assess whether or not a project requires further EJ analysis
- EJ must be considered at both the planning and the project level
- Unconventional outreach strategies can help to garner input from vulnerable populations
- Travel the alignment (talk to residents or community organizations)

Risk of bad data:



- If Recipients lack good data, analysis, and review procedures, they may:
 - Ignore high and adverse impacts to the public
 - Inadequately meeting CDOT/FTA oversight requirements
 - Overlook potentially long-lasting environmental consequences to EJ communities.
 - Inadequately show how well your agency has integrated Title VI and EJ requirements.

Types of Data Collected:



- Ridership Surveys
- LEP data (translation/interpreter services provided and LEP population in counties served)
- DBE data (participation)
- Statewide Transit Plan (Demographic profiles overlaid with funding distribution)
- For larger fixed route systems(50+ vehicles / 200,000 population) Service and Fare Equity (SAFE) Analysis is required in which the agency must evaluate the impacts of proposed fare and major service changes on minority populations

Demographic Data Collection Resources

Resources for Collecting Data

These data tools and resources can improve the ability of transportation agencies to identify and address the effects of their programs, policies and activities on low-income and minority populations. This list includes select web sites offered for your convenience in accessing related information.

[U.S. Bureau of the Census](#). In conjunction with the 2000 U.S. Census, many agencies are conducting or planning to conduct travel surveys. Agencies could follow-up with more detailed surveys to gain input from low and minority communities.

[Aerial Maps](#). This site provides downloadable aerial maps. There are many other sites providing commercial aerial maps.

[FHWA Economic Development Website](#) – Provides resources and tools on how to measure economic growth from transportation activities and highlights how transportations plays a significant role in promoting economic growth, improving the environment, and sustaining quality of life at the regional and statewide level.

[FHWA Tribal Consultation Website](#) - Provides information on tribal consultation and coordination, highlights examples of streamlining initiatives, and links to various resources related to Tribes and historic preservation

[Geographic Information System](#) (GIS). Data Contained in a GIS System can provide information about the location and proximity of populations to transportation facilities and services. This site maintained by the U.S. Bureau of Transportation Statistics (BTS) provides GIS users with a quick and easy source of information on a variety of issues.

[Job Access Grants](#) are intended to provide new transit service to assist welfare recipients in getting to jobs and training. Reverse Commute grants are designed to develop transit services to transport workers to suburban job sites. This fact sheet link provides a brief overview of the program.

[National Transit Data Base](#). The National Transit Database (NTD) is the Federal Transit Administration's (FTA) national database of statistics for the transit industry. The NTD reporting system has evolved from cooperative government and industry efforts that began in the late 1970s. NTD data are used for management and planning by transit systems, and for policy analysis and investment decision-making at all levels of government. The database is a resource for transit agencies, consultants, researchers, and industry suppliers.

[National Transit Library](#). This resource maintained by the FTA is a good starting point for acquiring other important transit data to explore issues around service levels, fares, safety and security.

[Poverty Guidelines Data](#). This U.S. Department of Health and Human Services includes information, contacts and references about poverty including Poverty Guidelines, the Poverty Thresholds, and the Development and the History of U.S. Poverty Lines.

[Poverty - Measures of Persons in Poverty](#). The U.S. Bureau of the Census maintains several relevant data programs, reports and measures about persons in poverty.

[School Data from State and Local Governments on the Free and Reduced Price Lunch Program](#). Children at a participating school may purchase a meal through the National School Lunch Program administered by the U.S. Department of Agriculture. Children from families with incomes at or below 130 percent of the poverty level are eligible for free meals. Those between 130 percent and 185 percent of the poverty level are eligible for reduced-price meals, for which students can be charged no more than 40 cents. Aggregate data can be compiled by school about participation in this program and by mapping this data, an informative post-census proxy measure of poverty and low-income communities can be compiled.

[Travel Surveys](#). The U.S. Census Bureau measures the journey-to-work including travel times, distances traveled and means of transportation. The link provides basic available information reported by the Census Bureau.

[Travel Models](#). The Travel Model Improvement Program (TMIP) is a multi-year, multi-agency program to develop new travel demand modeling procedures which accurately and reliably forecast travel for a broad range of modes, policy actions and operational conditions. This web site has been established with the assistance of the Bureau of Transportation Statistics and the Department of Transportation to assure that practitioners have access to the best transportation planning methods available.

[U.S. Bureau of Transportation Statistics](#) (BTS). The Bureau of Transportation Statistics (BTS) is an operating administration of the U.S. Department of Transportation (DOT). BTS compiles, analyzes, and makes accessible information on the Nation's transportation systems; collects information on intermodal transportation and other areas as needed; and works to enhance the quality and effectiveness of government statistics.

[U.S. Census Tiger/Line Files](#). TIGER is an acronym for "Topologically Integrated Geographic Encoding and Referencing system". These are the maps prepared for the U.S. Census Bureau which contain all the essential census geography including street addresses, governmental unit boundaries, and sub-municipal boundary data such as Census Tracts, Block Groups and Blocks. These maps enable transportation analysts and decision-makers to closely examine the spatial patterns of socioeconomic characteristics such as income and race.

[U.S. Economic Census](#). The Economic Census profiles the US economy every 5 years, from the national to the local level. This site provides reports that are now available for all geographic areas and all sectors.

[Workforce Investment Boards](#) Data from Workforce Investment Boards will be useful in designing programs that are more effective collaborative efforts between private sector and public sector groups. This gateway link provides answers to current and emerging questions about the implementation of the Workforce Investment Act. The link provides access to workforce information and resources and how best to apply that information toward innovative and effective partnerships and programs.

[**FTA EJ Circular 4703.1**](#)

[**FTA Title VI Circular 4702.1**](#)