

Board of County Commissioners

Agenda Request

Date of Meeting: November 21, 2023

Date Submitted: October 15, 2023

To: Honorable Chairman and Members of the Board

From: Edward J. Dixon, County Administrator
Curtis Young, Public Works Director

Subject: Approval of Title VI Nondiscrimination Policy and Plan

Statement of Issue:

This agenda item seeks Board approval of the Gadsden County Board of County Commissioners Title VI nondiscrimination policy and plan for sub-recipients of the Local Agency Program (LAP).

Background:

Agencies that receive Federal Highway Administration (FHWA) funds through the Florida Department of Transportation (FDOT) are required to demonstrate their compliance with nondiscrimination requirements under federal laws. The County is in the process of getting certified as a sub-recipient of FHWA funding as a LAP agency. In order to be qualified as a LAP agency, the County has to ensure that its policies are consistent with Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities.

Analysis:

There are civil rights program requirements for LAP agencies. These requirements are not tied to a particular project, but rather to the agency as a whole and whether it is qualified to receive federal assistance. This means that regardless of how an agency funds activity, all must comply with the nondiscrimination program requirements. FDOT is responsible for verifying that an agency achieves and maintains substantial compliance for the entire period they are in the LAP program, whether they have an active, past or planned project.

In order for the County to continue to receive any current or future funding through the LAP program, we must have an approved Title VI policy for accepting and processing complaints of discrimination based upon race, color, national origin, sex, age and disability (at a minimum). Staff is requesting approval of the attached Title VI policy for Gadsden County.

Fiscal Impact:

There is no fiscal impact on the County.

Options:

1. Approve the Title VI Policy Plan and Title VI Assurance Agreement and authorize the Chairman to sign.
2. Do not approve.
3. Board Direction.

County Administrator's Recommendation:

Option 1.

Attachments:

1. Title VI Policy and Plan
2. Title VI Assurance Nondiscrimination Agreement w/ Appendices A and E

**Gadsden County
Board of County Commissioners**

**Title VI/Nondiscrimination Policy and Plan
For Sub-Recipients in the Local Agency Program (LAP)**

Policy Statement:

The county values diversity and welcomes input from all interested parties, regardless of cultural identity, background, or income level. Moreover, the county believes that the best programs and services result from careful consideration of the needs of all of its communities and when those communities are involved in the transportation decision making process. Thus, the county does not tolerate discrimination in any of its programs, services, or activities. Pursuant to Title VI of the Civil Rights Act of 1964 and other federal and state authorities, the county will not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income or family status.

Complaint Procedures:

The county has established a discrimination complaint procedure and will take prompt and reasonable action to investigate and eliminate discrimination when found. Any person who believes that he or she has been subjected to discrimination based upon race, color, national origin, sex, religion, age disability, family or income status in any of the county's programs, services or activities may file a complaint with the county Title VI/Nondiscrimination Coordinator:

Georgette Daniels
Nondiscrimination Coordinator
5-B E. Jefferson Street
P O Box 920
Quincy, FL 32351
gdaniels@gadsdencountyfl.gov
Phone: 850-875-8694
Cell: 850-743-7191

If possible, the complaint should be submitted in writing and contain the identity of the complainant; the basis for the allegations (i.e., race, color, national origin, sex, religion, age, disability or family status); and a description of the alleged discrimination with the date of occurrence. If the complaint cannot be submitted in writing, the complainant should contact the Title VI/Nondiscrimination Coordinator for assistance.

The Title VI/Nondiscrimination Coordinator will respond to the complaint within thirty (30) calendar days and will take reasonable steps to resolve the matter. Should the county be unable to satisfactorily resolve a complaint, the county will forward the complaint, along with a record of its disposition to the appropriate District of the Florida Department of Transportation (FDOT).

The county's Title VI Coordinator has 'easy access' to the County Administrator and is not required to obtain management or other approval to discuss discrimination issues with the County Administrator.

However, should the complainant be unable or unwilling to complain to the county, the written complaint may be submitted directly to Florida Department of Transportation (FDOT). FDOT will serve as a clearing house, forwarding the complaint to the appropriate state or federal agency:

Florida Department of Transportation
Equal Opportunity Office
ATTN: Title VI Complaint Processing
605 Suwannee Street MS 65
Tallahassee, FL 32399

ADA/504 Statement:

Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA) and related federal and state laws and regulations forbid discrimination against those who have disabilities. Furthermore, these laws require federal aid recipients and other government entities to take affirmative steps to reasonably accommodate the disabled and ensure that their needs are equitably represented in transportation programs, services and activities.

The county will make every effort to ensure that its facilities, programs, services and activities are accessible to those with disabilities. The county will make every effort to ensure that its advisory committees, public involvement activities and all other programs, services and activities include representation by the disabled community and disability service groups.

The county encourages the public to report any facility, program, service or activity that appears inaccessible to those who are disabled. Furthermore, the county will provide reasonable accommodation to disabled individuals who wish to participate in public involvement events or who require special assistance to access facilities, programs, services or activities. Because providing reasonable accommodation may require outside assistance, organization or resources, the county asks that requests be made at least 10 calendar days prior to the need for accommodation.

Questions, concerns, comments, or requests for accommodation should be made to the county's ADA Officer:

Allan Meeks
Title VI ADA Officer
9-B E Jefferson Street
P O Box 1799
Quincy, FL 32351
ameeks@gadsdencountyfl.gov
Phone: 850-875-8658
Cell: 850-694-2227

Limited English Proficiency (LEP) Guidance:

Title VI of the Civil Rights Act of 1964, Executive Order 13166, and various directives from the US Department of Justice (DOJ) and US Department of Transportation (DOT) require federal aid recipients to take reasonable steps to ensure meaningful access to programs, services and activities by those who

do not speak English proficiently. To determine the extent to which LEP services are required and in which languages, the law requires the analysis of four factors:

- The number of proportions of LEP persons eligible to be served or likely to be encountered by the County's programs, services or activities.
 - The frequency with which LEP individuals come in contact with these programs, services or activities.
 - The nature and importance of the program, service, or activity to people's lives and;
 - The resources available to the county and the likely costs of the LEP services.
1. Using census data, the county has determined that LEP individuals speaking English less than well represent approximately 10.3% of the community. The county realizes that such statistical data can be outdated or inaccurate. Therefore, county contacted local law enforcement, social services agencies and the school board to determine the proportion of LEP serviced by those entities. 95% Spanish was reported to be the prevalent LEP language and an estimated 10% of calls for service for these agencies were in the Spanish language.
 2. The county has received requests for translation or interpretation of its programs, services or activities into Spanish or any other language. Informal data collection at these community events indicates that an estimated 10% are LEP.
 3. The county believes that transportation is of critical importance to its public, as access to health care, emergency services, employment, and other essentials would be difficult or impossible with reliable transportation systems.
 4. The county is fortunate to house within its jurisdiction a number of institutions of higher education which has extensive language services. Further, the county maintains cordial relationships with a number of faith based and community organizations who offer competent language services at no cost to the county.

The analyses of these factors suggest that LEP services are not required at this time. Therefore the county has committed to the following:

- Maintain a list of employees who competently speak Spanish and other languages and who are willing to provide translation and/or interpretation services.
- Distribute this list to staff that regularly has contact with the public.
- Provide notification in Spanish of the availability of LEP assistance in public meeting notices and on public involvement event signage.
- Develop agreements with (LEP churches, catholic charities, etc.) to provide oral and written LEP services with reasonable notification.
- Translate the following essential documents into Spanish.

The county understands that its community profile is changing and the four factor analysis may reveal the need for more or varied LEP services in the future. As such, it will annually examine its LEP plan to ensure that it remains reflective of the community's needs.

Persons requiring special language services should contact the county's Title VI/Nondiscrimination Officer:

Georgette Daniels
Nondiscrimination Coordinator
5-B E. Jefferson Street
P O Box 920
Quincy, FL 32351
gdaniels@gadsdencountyfl.gov
Phone: 850-875-8694
Cell: 850-743-7191

Assurances:

Every three years, or commensurate with a change in county executive leadership year, the county must certify to FHWA and FDOT that its programs, services and activities are being conducted in a nondiscriminatory manner. These certifications are termed 'assurances' and serve two important purposes. First, they document the county's commitment to nondiscrimination and equitable service to its community. Second, they serve as a legally enforceable agreement by which the county may be held liable for breach. The public may view the annual assurance on the county's website or by visiting the county's offices.

Chairperson

Date

TITLE VI

NONDISCRIMINATION ASSURANCE

Pursuant to Section 9 of US DOT Order 1050.2A, the Gadsden County Board of County Commission assures the Florida Department of Transportation (FDOT) that no person shall on the basis of race, color, national origin, sex, age, disability, family or religious status, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Florida Civil Rights Act of 1992 and other nondiscrimination authorities be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity.

The Gadsden County Board of County Commission further assures FDOT that it will undertake the following with respect to its programs and activities:

1. Gadsden County will designate a Title VI Liaison that has a responsible position within the organization and access to the Board of County Commissioners Chairperson.
2. Gadsden County will issue a policy statement signed by the Board Chairperson, which expresses its commitment to the nondiscrimination provisions of Title VI. This policy shall be circulated throughout the county and to the general public. This information shall be published where appropriate in languages other *than* English.
3. Gadsden County shall insert the clauses of *Appendices A and E* of this agreement in every contract subject to the Acts and the Regulations.
6. Gadsden County will develop a complaint process and attempt to resolve complaints of discrimination against the County. Those complaints against the county shall immediately be forwarded to the FDOT District Title VI Coordinator. Gadsden County will participate in training offered on Title VI and other nondiscrimination requirements.
7. If reviewed by FDOT or USDOT, Gadsden County will take affirmative action to correct any deficiencies found within a reasonable time period not to exceed ninety (90) calendar days. Gadsden County will develop a process to collect racial and ethnic data on persons impacted by your agency's programs.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal funds, grants, loans, contracts, properties, discounts or other federal financial assistance under all programs and activities and is binding. The person whose signature appears below is authorized to sign this assurance on behalf of the Gadsden County Board of County Commission.

Date: _____

Executed by:
BOARD OF COUNTY COMMISSIONERS

KIMBLIN E. NESMITH, J.D., CHAIRMAN

APPENDICES A and E

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- (1.) **Compliance with Regulations:** The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- (2.) **Nondiscrimination:** The Contractor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3.) **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- (4.) **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the Contractor under the contract until the Contractor complies,
 - b. cancellation, termination or suspension of the contract, in whole or in part.

- (6.) **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the 3 Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request the Florida Department of Transportation to enter into such litigation to protect the interests of the Florida Department of Transportation, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- (7.) **Compliance with Nondiscrimination Statutes and Authorities:** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which

prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).