

Civil Rights Requirements for Transit Providers

Federal Transit Administration (FTA) and Montana Department of Transportation (MDT) are responsible for ensuring public transit providers comply with all nondiscrimination requirements. FTA oversees the implementation of laws and regulations that prohibit discrimination on the basis of race, color, national origin, religion, sex, disability, and age in the provision of services to the public. Major programs FTA implements include:

- Title VI of the Civil Rights Act of 1964
- Americans with Disabilities Act of 1990 (ADA)
- Disadvantaged Business Enterprise program (DBE)
- Equal Employment Opportunity program (additional requirements if more than 50 transit-related employees and receive more than \$1 Million in capital or operating assistance or more than \$250,000 in planning assistance in a year)

FTA has several resources on their website regarding its civil rights programs:

FTA Title VI website: <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/title-vi-civil-rights-act-1964>

FTA ADA website: <https://www.transit.dot.gov/ADA>

FTA DBE website: <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/disadvantaged-business-enterprise>

FTA EEO website: <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/equal-employment-opportunity>

FTA uses contractors to conduct program oversight reviews to ensure compliance with programs. The Contractor's Manual provides resources to the contractors and recipients: <https://www.transit.dot.gov/sites/fta.dot.gov/files/2023-01/FY23-CORTAP-Contractors-Manual.pdf>

Frequently Asked Questions:

https://www.transit.dot.gov/faq?combine&term_node_tid_depth=2701

FTA uses the National Transit Institute at Rutgers to assist with training. See course listings: <https://ce-catalog.rutgers.edu/searchResults.cfm?branchid=67>

Title VI

Title VI of the Civil Rights Act of 1964 states that *"No person in the United States 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."*

As MDT receives Federal financial assistance, all programs, services, and activities conducted by its subrecipients must comply with Title VI requirements.

Title VI Plan

MDT is updating its Title VI Plan Template for transit providers (more information to come). All transit providers must update every 3 years, or as the Title VI contact person changes.

At a minimum, the Plan includes:

- Public Notice
- Public Participation Plan
- Limited English Proficiency (LEP) Plan

Public Notice

A recipient must provide information regarding its Title VI obligations to the public and notify members of the public of the protections against discrimination afforded to them by Title VI.

The notice shall include the following three elements:

- A statement that the agency operates programs without regard to race, color, or national origin,
- A description of the procedures that members of the public should follow in order to request additional information on the recipient's Title VI obligations, and
- A description of the procedures that members of the public shall follow in order to file a Title VI discrimination complaint against the recipient.

MDT printed the notice for all buses and will be printing new ones after Title VI plans are updated. Public notice should be on your website, on all buses, and in the transit facility.

Complaint forms should be on all buses and in the transit facility as well as linked on your website. The most recent version of the complaint form is located here:

<https://www.mdt.mt.gov/other/webdata/external/civilrights/FORMS/CIVIL-RIGHTS-DISCRIMINATION-COMPLAINT-FORM.PDF>

If you receive any unlawful discrimination complaints, notify Scott Hicks in the MDT Office of Civil Rights (contact information below).

Public Participation

A recipient's public participation plan shall offer early and continuous opportunities for the public, including minority and LEP populations, to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions (changing fares, routes, bus stops, transit facilities, etc.).

Recipients engaged in planning and other decision-making activities at the local level should use a documented public participation plan or process that provides adequate

notice of public participation activities, as well as early and continuous opportunities for public review and comment at key decision points.

MDT has a Public Participation Plan and Public Meeting Form that recipients can adopt through their Title VI Plan.

Facilities

If you have plans to expand, build, or buy a new transit facility, contact Scott Hicks during the Planning phase to help prepare an Equity Analysis. In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color, or national origin. The analysis will document the public involvement/community outreach, site selection process, an evaluation of benefits and burdens of different potential locations, and whether the location(s) would result in a disparate impact on the basis of race, color, or national origin.

Contact for any Title VI questions:

Scott Hicks, EEO Specialist
MDT Office of Civil Rights
shicks@mt.gov
406-444-5534

Limited English Proficiency

Transit providers must ensure meaningful access to transit services for individuals with limited English proficiency (LEP).

MDT offers the following resources to assist transit providers in meeting the requirements of Title VI:

1. **Language Assistance Plan (LAP)** – The LAP provides guidance to MDT programs and subrecipients for identifying individuals, implementing language assistance measures, and defining staff responsibilities related to providing meaningful access for LEP individuals.
www.mdt.mt.gov/other/webdata/external/civilrights/limited_english_proficiency_plan.pdf
2. **Language Identification and Assistance Guide** – This is a pocket-sized tool for MDT employees and subrecipients to use to assist in identifying the language of individuals they encounter who do not speak English and to provide interpretation services to assist those individuals.
www.mdt.mt.gov/other/webdata/external/civilrights/Language-Assistance-Guide.pdf
3. **Language Link** – Language Link is contracted by MDT to provide over the phone interpretation services for LEP individuals. Instructions for accessing Language Link services are included in the Language Identification and Assistance Guide referenced in number 2. above. The Language Link account number for transit providers is: **30481**

Questions about any of the LEP/LAP resources may be directed to:

Kim Vietz, Title VI Specialist
MDT Office of Civil Rights
kvietz@mt.gov
(406) 444-6334

ADA

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity and access for persons with disabilities.

Recipients must track, resolve, and respond to ADA-related complaints – see complaint form linked in Title VI Section.

Vehicles used in fixed-route service must be readily accessible to and usable by individuals with disabilities, including those who use wheelchairs.

Vehicles used in demand-response service are required to be readily accessible to and usable by individuals with disabilities, including those who use wheelchairs; inaccessible vehicles may only be acquired if the entity can demonstrate that the service, when viewed in its entirety, meets the requirements for equivalent service under 49 CFR 37.77(c).

States must obtain certifications of equivalent service from Sections 5307, 5311, and 5339 subrecipients before the subrecipient acquires non-accessible vehicles for demand-response service, not including ADA complementary paratransit service.

Public operators of a fixed route system must provide paratransit as a complement to the fixed-route system. Each entity providing ADA complementary paratransit service is required to establish a process for determining ADA paratransit eligibility. ADA complementary paratransit service must be origin-to-destination service provided according to the service criteria described in 49 CFR 37.1

Contact for ADA questions:

Scott Hicks, EEO Specialist
MDT Office of Civil Rights
shicks@mt.gov
406-444-5534

Facilities

Any new facility to be used in providing public transportation services must be accessible according to the standards referenced in 49 CFR 37.9, as required by 49 CFR 37.41. "Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located." Under 49 CFR 37.41(b), full compliance with these standards is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements.

“Structurally impracticable” is defined in 49 CFR 37.41(b)(1) as “those rare circumstances where the unique characteristics of terrain prevent the incorporation of accessibility features.”

If the entity alters an existing facility used to provide public transportation, the altered portions of the facility must be accessible. If the altered portion includes the path of travel, the path of travel must be accessible.

Accessibility Checklist:

<https://nwadacenter.org/sites/adanw/files/files/NWADA%20Center%20Accessibility%20Checklist%2020.pdf> [nwadacenter.org]

Contact for facility ADA questions:

Matt Maze, External ADA Specialist
MDT Office of Civil Rights
mmaze@mt.gov
(406) 444-5416

DBE

The DBE Program is designed to remedy ongoing discrimination and the continuing effects of past discrimination in federally-assisted highway, transit, and airport contracting markets. The primary goal of the DBE program is to level the playing field by providing small businesses owned and controlled by socially and economically disadvantaged individuals (women and minorities are presumed socially disadvantaged for DBE program purposes) a fair opportunity to compete for federally funded transportation contracts.

- Our proposed FTA goal for Federal Fiscal Years 2024-2026 is **2.7%**. The goal methodology document is available on our website:
<https://mdt.mt.gov/other/webdata/external/CivilRights/DBE/MDT-FTA-DBE-Goal-for-FFYs-2024-2026.pdf>
- We don't meet the goal unless everyone makes an effort:
 - We depend on referrals from providers of potentially eligible businesses. If you are working with women and minority owned businesses, please ask them to get certified so we can count their participation towards our goal!
 - Certification documents are available on our website:
<https://mdt.mt.gov/business/contracting/civil/certification.aspx>
 - Majority owner must have a personal net worth under \$1.32 million (excluding primary residence and equity in applicant business)
 - Business must meet SBA's small business size standards based on NAICS
 - Business must have annual gross receipts averaged over the last 3 years under \$30.4 million

- For any certification questions, contact Janene Shepherd (jashepherd@mt.gov or 406-444-6042)
- Looking for goods or services? Maybe there is a DBE who can help.
 - DBE Directory: <https://app.mdt.mt.gov/ess-dbe>
 - DBE Locations Map: <https://mdt.mt.gov/business/contracting/civil/dbe-map.aspx>
- Quarterly Reports in BlackCat
 - Don't abbreviate business names
 - Indicate if a listed expense was paid to an employee by adding "(emp)" behind their name.
- Commercially Useful Function (CUF) Reports
 - Required to be filled out when a DBE provides a good or service
- Facilities
 - Make sure you provide the Transit DBE Report for Facilities to report subcontractor awards and payments. This is required whether or not there are DBEs working on the project.
 - We have a quote request system to solicit quotes from DBEs for construction and professional services. You must select NON-MDT request: <https://app.mdt.mt.gov/dbegt/>

Contact for any DBE questions:

Maghan Strachan, Civil Rights Program Supervisor
 MDT Office of Civil Rights
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 406-444-0841
 Cell: 406-594-5209