

Appendix A—Federal Public Participation Mandates

A.1 TITLE 23, SECTION 450 CODE OF FEDERAL REGULATION (CFR)

A.1.1 §450.316 Interested Parties, Participation, and Consultation

The federal regulations concerning public participation in metropolitan transportation planning decision making are specified in Title 23, Section 450.316, of the Code of Federal Regulations (CFR). These regulations require that public-involvement processes be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement; they leave the choice of methods for facilitating participation to the discretion of each MPO. The regulations specify that public participation processes must provide:

- Adequate notice of involvement opportunities and time for review and comment at key decision points
- Early and continuing opportunities for public involvement
- Timely information on transportation issues and decision-making processes
- Visualization techniques to describe the proposed plans and studies
- Reasonable access to technical and policy information
- Electronically accessible public information on the Web
- Public meetings at convenient and accessible locations and convenient times
- Procedures for demonstrating explicit consideration of and responses to public input
- A process for soliciting and considering the needs of traditionally underserved populations
- Periodic review and evaluation of the participation process
- A public-review period of 45 calendar days, which includes written comment on public participation procedures in the development of the Long-Range Transportation Plan (LRTP) and the Transportation Improvement Program (TIP) before new procedures and any major revisions to existing procedures are adopted
- Coordination with the statewide transportation-planning public-involvement and consultation processes

A.1.2 §450.318

This section specifies the public participation requirements for MPO planning studies and project development.

A.1.3 §450.322

This section specifies the public participation requirements for the development and content of the MPO's LRTP.

A.1.4 §450.324

This section specifies the public participation requirements for the development and content of the MPO's TIP.

A.1.5 §450.334

This section specifies that MPOs certify at least every four years that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements including:

- 23 USC 134, 49 USC 5303 regarding metropolitan transportation planning
- Nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act, as amended (42 USC. 7504, 7506 (c) and (d)) and 40 CFR part 93
- Title VI of the Civil Rights Act of 1964, as amended (42 USC. 2000d-1) and 49 CFR part 21
- 49 USC. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity
- Section 1101(b) of the SAFETEA-LU (Pub. L. 109-59) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects
- 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts
- Americans with Disabilities Act of 1990 (42 USC. 12101 et seq.) and 49 CFR parts 27, 37, and 38

- Older Americans Act, as amended (42 USC. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance
- Section 324 of title 23 USC. regarding the prohibition of discrimination based on gender
- Section 504 of the Rehabilitation Act of 1973 (29 USC. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities

A.2 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

The Americans with Disabilities Act of 1990 states that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” Therefore, ADA requires that locations for public participation activities, as well as the information presented, must be accessible to persons with disabilities.

A.3 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI of the Civil Rights Act of 1964, together with related statutes and regulations, 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.” The entire institution, whether educational, private or governmental, must comply with Title VI and related federal civil rights laws, not just the program or activity receiving federal funds.

FTA C 4702.1B (2012), Title VI Requirements and Guidelines for Federal Transit Administration Recipients, provides guidance on promoting inclusive public participation. This circular recommends seeking out and considering the viewpoints of minority, low-income, and LEP populations when conducting public outreach and involvement activities. It identifies the following effective practices for fulfilling the inclusive public participation requirement:

- Schedule meetings at times and locations, that are convenient and accessible for minority and LEP communities
- Employ different meeting sizes or formats
- Coordinate with community- and faith-based organizations, educational institutions, and other organizations to implement public-engagement

strategies to reach out specifically to members of the affected minority and/or LEP communities

- Consider radio, television, or newspaper ads on stations and in publications that serve LEP populations (could also include audio programming on podcasts)
- Provide opportunities for public participation through means other than written communication, such as personal interviews, or audio and video recording devices

A.4 ENVIRONMENTAL JUSTICE

Executive orders and regulations regarding environmental justice (EJ) also include public participation mandates for recipients of federal funds and their subrecipients.

A.4.1 Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 1994

This executive order states that “each Federal agency shall make achieving environmental justice part of its mission 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.” Traditionally underserved groups such as low-income and minority populations must be identified and given increased opportunity for involvement in order to ensure effective participation.

A.4.2 Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 2000

This executive order requires that recipients of federal financial aid ensure that their programs and activities that are normally provided in English are accessible to persons with limited English proficiency.

A.4.3 FTA Circular 4703.1, Environmental Justice Policy Guidance for Federal Transit Administration Recipients, 2012

The purpose of this circular is to provide recipients and subrecipients of FTA financial assistance with guidance in order to incorporate EJ principles into their plans, projects, and activities. The circular identifies full and fair participation by all potentially affected communities in the transportation decision-making process as one of the guiding principles of EJ. The circular provides strategies and

techniques for public engagement that are intended to help recipients and subrecipients identify the needs and priorities of EJ populations to inform the planning process and help balance the benefits and burdens of transportation decisions.



