



City of Bradenton, Florida

City Council Agenda Memorandum

Agenda Item:	Resolution 16-64	Agenda Date:	12/14/2016
Originated by:	Catherine Hartley, PCD Director <i>CH</i>	Agenda Placement:	Consent
Authorized by:			

Explanation

The City is currently working on its FDOT Local Agency Program Certification. To receive federal funds, the City must adopt a formal non-discrimination policy and plan in compliance with Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities.

Financial Impact

None

Requested action to be taken by Council

Approval

Staff Recommendation

Approval

Attachments

Resolution 16-64
Title VI Policy Statement, Plan, and Procedures

RESOLUTION NO. 16-64

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BRADENTON, FLORIDA ADOPTING A NONDISCRIMINATION POLICY AND PLAN FOR COMPLIANCE WITH TITLE VI REQUIREMENTS OF THE CIVIL RIGHTS ACT OF 1964, SECTION 504 OF THE REHABILITATION ACT OF 1973, AGE DISCRIMINATION ACT OF 1975, SECTION 324 OF THE FEDERAL-AID HIGHWAY ACT OF 1973 AND THE CIVIL RIGHTS RESTORATION ACT OF 1987 AND OTHER NON-DISCRIMINATION LAWS AND AUTHORITIES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, It is the policy of the City of Bradenton under Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Age Discrimination Act of 1975; Section 324 of the Federal-Aid Highway Act of 1973; Civil Rights Restoration Act of 1987; and related statutes and regulations, that no person shall on the basis of race, color, national origin, sex, age, disability/handicap, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any federally or non-federally funded program or activity administered by the City or its sub-recipients; and

WHEREAS, Although the City regularly exercises non-discrimination policies, a formally adopted Title VI Non-discrimination Policy Statement, Plan, and Procedures document does not currently exist; and

WHEREAS, the City is in the process of obtaining a Florida Department of Transportation Local Agency Program certified City which requires an adopted Nondiscrimination Policy; and

WHEREAS, the City wishes to formally adopt, publish, and make known its Title VI Non-discrimination Policy Statement, Plan, and Procedures.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF BRADENTON CITY COUNCIL:

Section 1. Approval of Policy. The City Council Approves the Title VI Non-discrimination Policy Statement, Plan, and Procedures as illustrated in "Exhibit A".

Section 2. The Mayor, City Clerk and City Attorney are hereby authorized to do all things necessary and proper to make effective the provisions of this Resolution.

Section 3. This Resolution shall take effect immediately upon its adoption.

Adopted by the City Council on December 14, 2016.

Mayor

ATTEST:

City Clerk

Approved as to form:

City Attorney

City of Bradenton
Title VI Nondiscrimination Policy and Plan
In Fulfillment of FDOT Local Agency Program (LAP) Requirements

AUTHORITIES

Title VI of the Civil Rights Act of 1964, 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h);

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin (including Limited English Proficiency), or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21). Related statutes have broadened the grounds to include age, low income, and disability.

The Civil Rights Restoration Act of 1987 also broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities” to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

Federal Aid Highway Act of 1973, 23 USC 324: No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.

Age Discrimination Act of 1975, 42 USC 6101: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

Americans With Disabilities Act of 1990 PL 101-336: No qualified individual with a disability shall, by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district or other instrumentality of a state or local government.

Section 504 of the Rehabilitation Act of 1973: No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

USDOT Order 1050.2: Standard Title VI Assurances.

EO12250: Department of Justice Leadership and coordination of Non-discrimination Laws.

EO12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; and

28 CFR 50.3: Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

EO13166: Improving Access to Services for Persons with Limited English Proficiency.

Nondiscrimination Policy Statement:

The City values diversity and welcomes input from all interested parties, regardless of cultural identity, background or income level. Moreover, the City 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. It is the express policy of the City that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity receiving federal funds on the grounds of race, color, national origin, sex, age, disability, or income, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Federal Aid Highway Act of 1973, Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Executive Order 12898 and Executive Order 13166.

It is also the express policy of the City that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any City program or activity, whether those programs and activities are federally funded or not, on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income.

Thus, the City 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 City 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 City 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 City's programs, services or activities may file a complaint with the City Title VI/Nondiscrimination Coordinator:

Nondiscrimination Coordinator Name: Timothy Parks

Address: 101 Old Main Street Bradenton, Florida 34205

Email: timothy.parks@cityofbradenton.com

Phone: 941-932-9482

Hearing Impaired: 711

Florida has a number of options for hearing and speech impaired persons. Below is a chart with the options:

TTY	800-955-8771	If you are using TTY equipment.
Voice	800-955-8770	If you are a standard (voice) user, and are trying to connect with a Relay user.
ASCII	800-955-1339	If you are utilizing a computer.
Voice Carry Over (VCO)	877-955-8260	If you prefer to speak directly to the hearing person. When the hearing person speaks to you, the Relay Operator serves as your "ears" and types everything said to your TTY or VCO phone.
Speech to Speech (STS)	877-955-5334	If you have a speech disability and would prefer to have our specially trained Relay Operators serve as your voice and repeat your responses to the called party.
Video Assisted STS	877-955-5334	<p>Video-Assisted STS supports a one-way video call between the CA and STS user. The video connection assists the CA in understanding the STS user's speech. Callers can enter contact information in the STS Profile to reduce set-up time.</p> <p>In order to use Video-Assisted STS, please inform the Operator after dialing the toll free number that you would like to utilize Video-Assisted STS. You can make this request before or during the call. You may also add this to your customer profile if you would prefer Video-Assisted STS on all calls.</p>
Spanish to Spanish	877-955-8773	If you prefer to conduct your conversations in Spanish.
Spanish to English Translation	844-463-9710	If your primary language is Spanish, however your caller is an English speaker. Our Relay Operators are able to translate your conversation into English.
French to French	877-955-8707	If you prefer to conduct your conversation using the French language
900 Pay Per Call	900-230-6868	With Pay per calls the Relay user is responsible for direct billing. Rates vary depending on the service called.

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 City be unable to satisfactorily resolve a complaint, the City will forward the complaint, along with a record of its disposition to the appropriate District of the Florida Department of Transportation (FDOT).

Should the complainant be unable or unwilling to complain to the City, the written complaint may be submitted directly to 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 City will make every effort to ensure that its facilities, programs, services, and activities are accessible to those with disabilities. The City will make every effort to keep the processing time reasonable to avoid barring the complainant from court, 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 City encourages the public to report any facility, program, service or activity that appears inaccessible to those who are disabled. Furthermore, the City 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 City asks that requests be made at least 2 calendar days prior to the need for accommodation.

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

Name: Tim McCann Public Information Officer
Address: 101 Old Main Street Bradenton, Florida 34205
Email: Tim.McCann@cityofbradenton.com
Phone: 941-932-9497

Hearing Impaired: Florida Relay 711

Assurances:

The City of Bradenton hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-42 USC 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs for the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of gender, race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the City received Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and hereby gives assurances that it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7 (a) (1) and (b) of the Regulations.

The City of Bradenton also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies and activities on minority and low-income populations. In addition, the City will take reasonable steps to provide meaningful access to services for persons with Limited English Proficiency. The City will, where necessary and appropriate, revise, update and incorporate nondiscrimination requirements into appropriate manuals, directives and regulations.

In the event the City distributes federal-aid funds to a second-tier subrecipient, the City shall include Title VI language in all written agreements.

Limited English Proficiency (LEP):

Introduction:

On August 11, 2000, President William J. Clinton signed an executive order, Executive Order 13166: Improving Access to Service for Persons with Limited English Proficiency, to clarify Title VI of the Civil Rights Act of 1964. It had as its purpose, to ensure accessibility to programs and services to otherwise eligible persons who are not proficient in the English language.

This executive order stated that individuals who do not speak English well and who have a limited ability to read, write and speak, or understand English are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounter. These individuals are referred to as being limited English in their ability to speak, read, write, or understand English, hence the designation, "LEP," or Limited English Proficient. The Executive Order states that:

"Each federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities."

Not only do all federal agencies have to develop LEP plans as a condition of receiving federal financial assistance, recipients have to comply with Title VI and LEP guidelines of the federal agency from which funds are provided as well. As the City of Bradenton receives federal funding through the FDOT, the Guidance implies the City as an organization that must follow this guidance.

Methodology for Assessing Needs and Reasonable Steps for an Effective LEP Policy:

The FDOT guidance outlines four factors recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the City'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 City and the likely costs of the LEP services.

Four Factor Analyses:

This plan uses the recommended four-factor analysis of an individualized assessment considering the four factors outlined above. Each of the following factors is examined to determine the level and extent of language assistance measures required to sufficiently ensure meaningful access to City services and

activities that may affect their quality of life. Recommendations are then based on the results of the analysis.

1. Using 2010 census data, the City has determined that LEP individuals speaking English less than well represent approximately 15% of the City's population. The City realizes that such statistical data can be outdated or inaccurate. Therefore, City contacted local law enforcement, social services agencies and the school board to determine the proportion of LEP served by those entities. Spanish was reported to be the prevalent LEP language and an estimated 15% of calls for service for these agencies were in the Spanish language. Given this information, the City reasons that a relatively small portion of its service population are LEP speakers of Spanish or other languages.
2. The City has not received requests for translation or interpretation of its programs, services or activities into Spanish or any other language. The City has conducted community outreach at public events attended by significant numbers of Spanish speakers. Informal data collection at these events indicates that an estimated 15% are LEP.
3. The City believes that transportation is of critical importance to its public, as access to health care, emergency services, employment, housing, and other essentials would be difficult or impossible without reliable transportation systems. In that spirit, the City advises the public of how to access its nondiscrimination and public involvement by posting notices in all public city buildings, noting information on published city Board agendas, and other printed program materials.
4. The City is fortunate to have several employees who speak Spanish and have agreed to translate when requested. The City will provide language services as needed.

The analyses of these factors suggest that LEP services are not required at this time. Therefore the City 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.
- Translate the following essential documents into Spanish: Any plans that receive Federal funding, including but not limited to transportation plans, comprehensive plans, Community Development Block Grant Consolidated and Action Plans, and any agendas, surveys or public notice related to such plans.

Public Involvement

In order to plan for efficient, effective, safe, equitable and reliable transportation systems, the City must have the input of its public. The City spends extensive staff and financial resources in

furtherance of this goal and strongly encourages the participation of the entire community. The City and its community partners (MPO, Traffic Safety Team, School Board, ect) hold a number of transportation meetings, workshops and other events designed to gather public input on project planning and construction. The City attends and participates in other community events to promote its services to the public.

Persons wishing to request special presentations by the City, volunteer in any of its activities, or offer suggestions for improvement of City public involvement may contact Tim Parks at timothy.parks@cityofbradenton.com or at 941-932-9482.

The City 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 bi-annually examine its LEP plan to ensure that it remains reflective of the community's needs.

Environmental Justice

Compliance with Title VI includes ensuring that no minority or low income population suffers “disproportionately high and adverse human health or environmental effect” due to any “programs, policies and activities” undertaken by any agency receiving federal funds. Disproportionate effects are those effects which are appreciably more severe for one group or predominantly borne by a single group.

Federal Highway Administration regulations require federal-aid recipients to collect racial, ethnic and other similar demographic data on beneficiaries of or those affected by transportation programs, services and activities. The City accomplishes this through the use of:

- Census data
- American Community Survey reports
- Police Department data
- Planning and Community Development Department data

From time to time, the City may find it necessary to request voluntary identification of certain racial, ethnic or other data from those who participate in its public involvement events. This information assists the City with improving its targeted outreach and measures of effectiveness. Self-identification of personal data to the City will always be voluntary and anonymous. Moreover, the City will not release or otherwise use this data in any manner inconsistent with the federal regulations.

Where a project impacts a small number or area of low income or minority populations, the City will document that:

- Other reasonable alternatives were evaluated and were eliminated for reasons such as the alternatives impacted a far greater number of people or did greater harm to the environment, etc.
- The project’s impact is unavoidable
- The benefits of the project far out-weigh the overall impacts
- Mitigation measures are being taken to reduce the harm to low income or minority populations

If it is concluded that no minority and/or low income population groups are present in the project area, the City will document how the conclusion was reached. If it is determined that one or more of these population groups are present in the area, the City will outline the decision making process, findings, and determinations in the environmental document prepared for the project.