

City of Berkeley Title VI Implementation Plan

Updated June 1, 2025

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Introduction

The City of Berkeley (City) is a recipient and sub-recipient of federal assistance from various federal funding programs. Recipients and sub-recipients of federal funds are required to comply with various non-discrimination laws and regulations, including Title VI of the Civil Rights Act of 1964 (“Title VI”). Title VI requires 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.”

Other non-discrimination statutes that afford legal protection are: Section 162 (a) of the Federal- Aid Highway Act of 1973 (23 USC 324) (sex), Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/Americans with Disabilities Act of 1990 (disability). In addition, the Civil Rights Restoration Act of 1987 defines the word “program” to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal financial assistance.

Federal statutes and regulations require recipients of federal aid programs to prepare and implement a program to clarify roles, responsibilities, and procedures to ensure compliance with Title VI and related non-discrimination statutes. This Title VI Implementation Plan describes these elements of the City’s Title VI Program.

Non-Discrimination Policy Statement

It is the policy of the City of Berkeley that no person shall on the grounds of race, color, national origin, sex, disability, age, or other protected status be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of the City of Berkeley as provided by Title VI of the Civil Rights Act of 1964 and related statutes.

This policy applies to all operations of the City of Berkeley, including its contractors and anyone who acts on behalf of the City of Berkeley. This policy also applies to the operations of any department or agency to which the City of Berkeley extends federal financial assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, age, or other protected status include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quality, quantity, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; Discrimination in any activities related to highway and infrastructure or facility built or repaired; and Discrimination in

employment.

Title VI compliance is a condition of receipt of federal funds. The Title VI Coordinators and other City staff as described in this Plan are authorized to ensure compliance with this policy, Title VI of the Civil Rights Act of 1964, 42 U.S.C § 2000d and related statutes, and the requirements of 23 Code of Federal Regulation (CFR) pt. 200 and 49 CFR pt. 21.

Signed by:

970EE9DBEE1E480

City Manager

6/1/2025

Date

Organization, Staffing, and Structure

The City Manager is ultimately responsible for assuring full compliance with the provisions of Title VI of the Civil Rights Act of 1964 and related statutes and has directed that non-discrimination is required of all City employees, contractors, and agents pursuant to 23 CFR Part 200 and 49 CFR Part 21.

The Title VI Coordinators are responsible for implementing the City's Title VI Program and coordinating the City's compliance with Title VI and related statutes, regulations, and directives. The Title VI Coordinators have direct access to the City Manager and Department Directors.

The City of Berkeley has designated the Deputy City Manager and Public Works Director to perform the duties of Title VI Coordinators. In general, Human Resources ensures implementation of the City's Title VI program as it relates to employment opportunity programs and non-discrimination programs citywide. The Public Works Department ensures implementation of the City's Title VI program as it relates to consultants and contractors. City Management ensures implementation of the City's Title VI program as it relates to public information.

The Title VI Coordinators are responsible for:

- Submitting a Title VI plan and annual reports on the City's behalf;
- Developing procedures for the prompt processing and disposition of discrimination complaints;
- Leading investigations of complaints, logging and documenting resolution of complaints, and reporting complaints received to state and federal agencies as appropriate;
- Participating in the design, development, and dissemination of Title VI information to the public;
- Establishing procedures for resolving deficiency status and reducing to writing the remedial action agreed to be necessary.
- Coordinating Title VI program development with Department Directors including developing procedures for the collection and analysis of statistical data, developing a program to conduct Title VI reviews of program areas; and conducting annual Title VI assessments of pertinent program areas in each of their departments;
- Supporting the development and implementation of Title VI trainings for City managers, supervisors and staff;
- Establishing procedures to ensure that Title VI Assurances are incorporated into all Federal-aid Contracts and Agreements;

Each City Department Director, or designated Title VI Liaison for their department, will be responsible for the following Title VI compliance activities:

- Day-to-day operations of the Title VI program in their respective departments;

- Serving as the point of contact between the Title VI Coordinator and the department on all relevant Title VI issues, trainings, and complaints, assisting with investigations as needed and coordinating complaint disposition with the Title VI Coordinator;
- Preparing relevant department data and performing program area review for the Title VI annual report;
- Ensuring recommendations related to Title VI compliance are implemented;
- Assisting in their department's compliance efforts, including the tracking of Limited English Proficiency encounters, and/or otherwise assessing and remediating language access needs;
- Participating in all required Title VI trainings and relaying information as needed to department staff to ensure compliance;
- Reviewing all federal-aid contracts and agreements managed by their departments to ensure Title IV assurances are included.

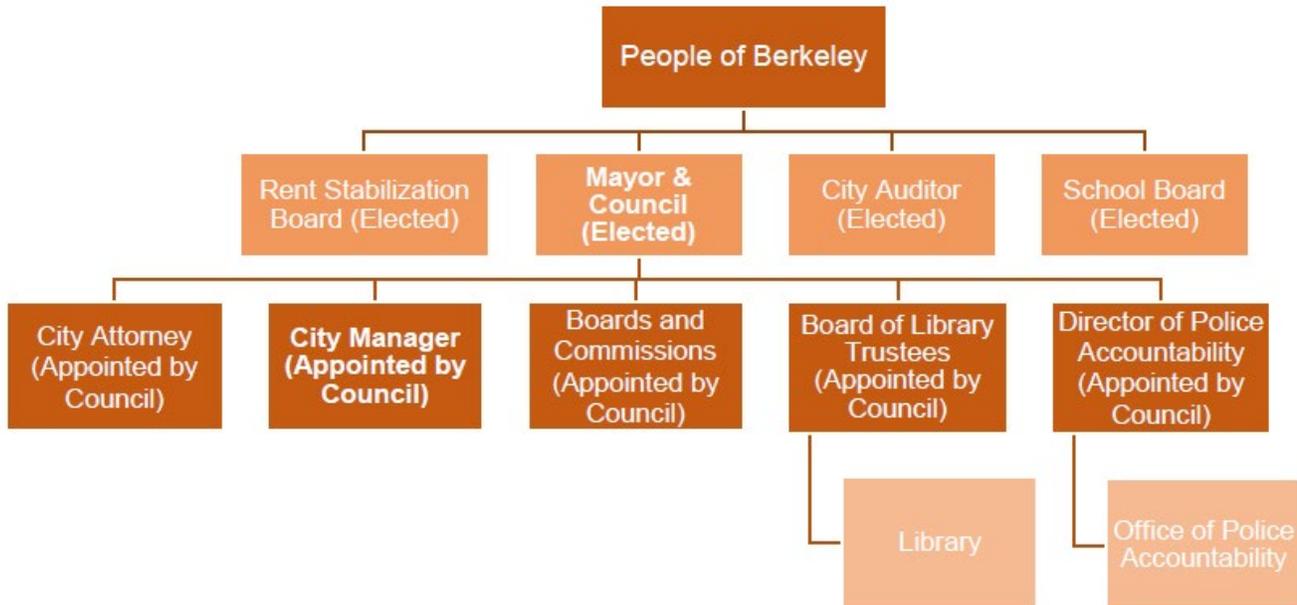
The following chart represents the reporting structure of all departments involved in the City's Title VI Program and compliance process.

Title VI Organization Chart



Primary Program Area Descriptions

The overall City Organization Chart is shown below.

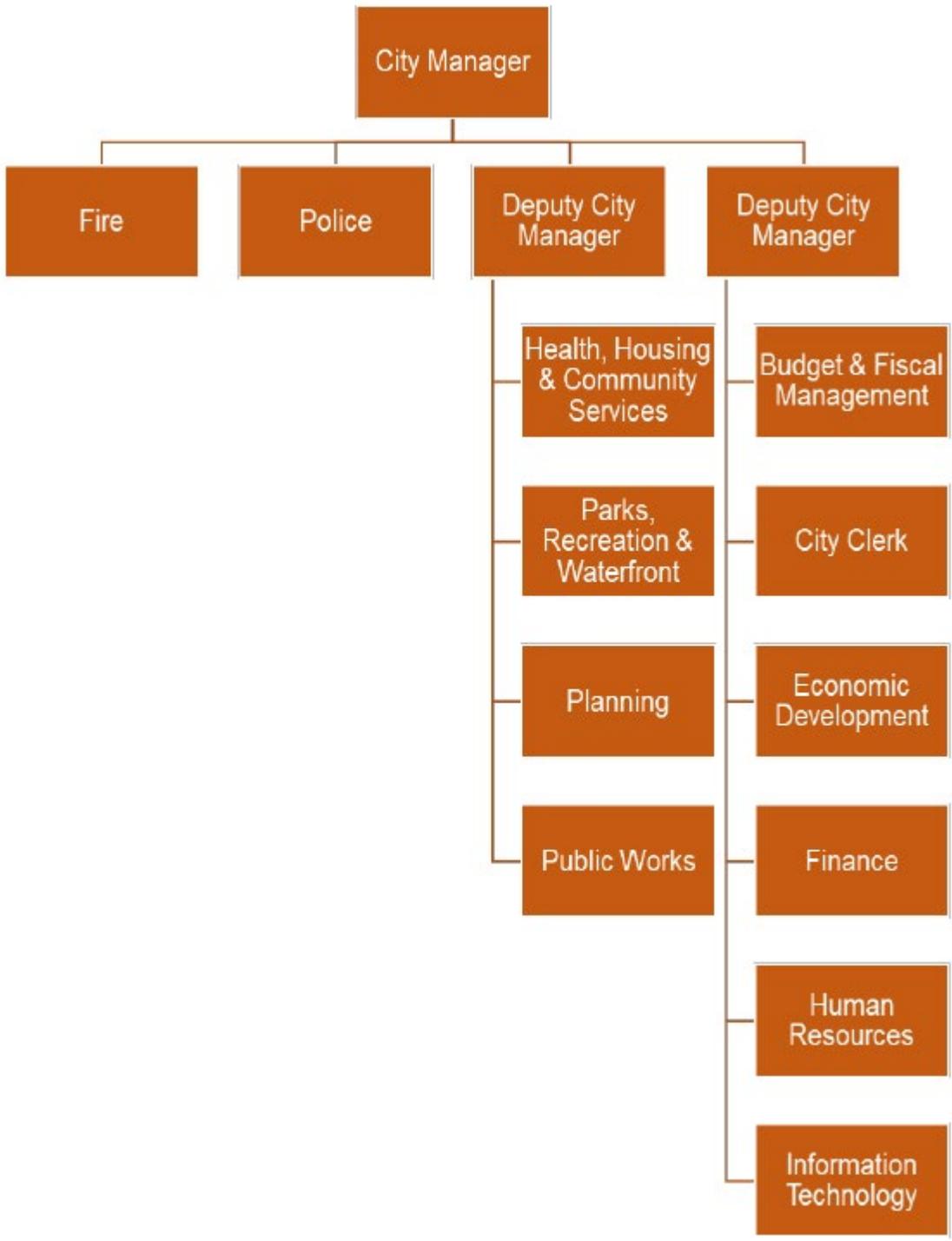


The people of Berkeley are the highest level in the City's organizational structure. They directly elect the Mayor and the eight other members of the City Council, the members of the Rent Board, the members of the School Board, and the City Auditor.

The nine members of the City Council (eight elected by district and the mayor, elected at large) appoint the members of the Board of Library Trustees and the members of the City's Boards and Commissions. Boards and Commissions serve as advisory bodies to the Council, although some have quasi-judicial functions. Berkeley Housing Authority members are appointed by the Mayor and confirmed by the Council.

The Mayor and Council select and confirm the City Manager, who acts as a Chief Executive Officer for the rest of the City government. The City Manager is responsible for the administration of City services and programs, enforcement of the City's Municipal Code and ordinances, and preparation of the annual budget. The Department directors are selected by the City Manager and confirmed by the City Council.

The departments reporting to the City Manager are shown on the organizational chart on the next page.



Title VI Complaint Procedures

Any person who believes they have been subject to discrimination within the City's programs or activities because of their race, color, national origin, or other protected status may file a Title VI complaint by completing and submitting the City's Title VI Complaint Form with the Title VI Coordinator within 180 days of the alleged incident.

The City's Title VI Coordinator will only process complaints that are complete and include the following information:

- Complainant's contact information.
- Date(s) of alleged discriminatory act(s)
- Details of alleged discrimination
- Identification of the City Department responsible for the alleged discrimination.
- Basis of the complaint (e.g. race, color, or national origin)
- Signature of the complainant or complainant's representative

The City's Title VI Complaint Form is available in Exhibit C of the Plan, and can be submitted to the Department of Public Works at City Hall (2180 Milvia Street, 3rd Floor), and online at berkeleyca.gov.

Specific complaints associated with the Federal Highway Administration and Federal Transit Administration, will be processed according to their respective guidelines:

- Title VI Complaints Processed Under the Federal Highway Administration (FHWA)
 - Title VI complaints filed with the City in which the City is named as the Respondent will be forwarded to the FHWA Division Office. The Complainant will receive an acknowledgment letter informing them that the complaint has been received and forwarded to the FHWA.
 - Per the FHWA Guidance Memorandum, Processing of Title VI Complaints, dated June 13, 2018, complaints received by a sub-recipient are to be forwarded to the City to be submitted to FHWA Division Office.
- Title VI Complaints Processed Under the Federal Transit Administration (FTA)
 - Title VI complaints filed with the City, in which the City is named as the Respondent, will be processed by the City. Per FTA, Title VI complaints are to be handled at the local level or elevated to FTA under egregious Title VI discriminatory circumstances. The Complainant will receive an acknowledgment letter informing them that the complaint has been received and whether the complaint will be processed by the City or forwarded to the FTA.
- Title VI complaints filed with the City against a sub-recipient of FHWA or FTA funds will be processed by the City. If the complaint is filed with the sub-recipient, the sub-recipient is responsible for investigating the complaint in accordance with FTA Circular 4702.IB, Title VI Requirements and Guidelines for Federal Transit Administration Recipients.

- Once the Title VI complaint is received, the City will investigate according to the details outlined in Exhibit C of this plan, record it in a complaint log, and forward it to Caltrans Office of Civil Rights within one business day of receipt. Any person may also file a complaint directly with the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), or Caltrans. In cases where a complainant is unable or incapable of providing a written complaint, a verbal complaint may be made.

Complaints may be submitted to the City of Berkeley at:

Title VI Coordinator
Department of Public Works
2180 Milvia Street, 3rd Floor
Berkeley, CA 94530
Email: TitleVI@berkeleyca.gov

Any person may also file a complaint directly with:

Federal Transit Administration
Civil Rights Division
Attention: Complaint Team East Building,
5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

Federal Highway Administration
U.S. Department of Transportation
Office of Civil Rights
1200 New Jersey Avenue, SE
8th Floor E81-105
Washington, DC 20590

California Department of Transportation
Office of Civil Rights
Attention: Title VI Branch
PO Box 942874, MS 79,
Sacramento, CA
Title.VI@dot.ca.gov

Caltrans Office of Civil Rights (OCR) Investigation Process:

If OCR is delegated the responsibility of performing an investigation, OCR has 90 days to investigate the complaint. If additional time is needed, OCR will call the Complainant and inform them.

If more information is needed to resolve the case, the OCR investigator may contact the Complainant. The Complainant has ten business days from the date of the letter to send the requested information to the investigator assigned to the case.

If the investigator is not contacted by the Complainant or does not receive the additional information within ten business days, OCR can administratively close the case. A case can be administratively closed also if the complainant no longer wishes to pursue their case.

OCR will consult with Caltrans' Headquarters Office of Civil Rights (HCR) regarding the disposition of the complaint. Disposition of Title VI complaint will be undertaken by HCR, through either (1) informal resolution or (2) issuance of a Letter of Finding of compliance or noncompliance with Title VI. A copy of the Letter of Finding will be sent to all parties via the Division Office.

Title VI Complaints Processed Under the Federal Transit Administration (FTA):

Per FTA, Title VI complaints are to be handled at the local level or elevated to FTA under egregious Title VI discriminatory circumstances. The Complainant will receive an acknowledgement letter informing them that the complaint has been received and whether the complaint will be investigated by Caltrans or forwarded to FTA.

Notice of Rights

The City will publicly display the “Notice of Rights”, available in Exhibit B of this plan, at various City Facilities and customer service counters. The notice states the City will comply with Title VI and ensure no person shall on the grounds of race, color, national origin, sex, disability, age, or other protected status be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any programs, activities, or services of the City. The notice will be provided in English, Chinese, and Spanish. Other languages and formats will be provided upon request. Title VI materials will also be available at www.berkeleyca.gov.

Data Collection

The City will be continually working to improve data collection and analysis methods to provide greater effectiveness of the Plan. City Departments may collect and analyze data related to their respective programs, projects, activities, and services. This data helps the City determine the needs and characteristics of the communities impacted by its programs, projects, and services. In turn, this supports the City in tailoring its services to its population, deliver effective and equitable services, and ensure meaningful access to information, programs, and activities. City Departments are responsible for reviewing their data collection and analysis procedures to ensure outreach methods are effective.

Demographic and related data collected and used by City staff comes from governmental sources responsible for collecting and analyzing the information for consistency and accuracy. These sources include, but are not limited to, the U.S. Bureau of Labor Statistics, U.S. Census Bureau, U.S. Bureau of Economic Analysis, California Department of Finance, California Department of Labor, the California Employment Development Department, the Association of Bay Area Governments, and the Metropolitan Transportation Commission.

For federally funded projects, City staff may employ various methods to collect project specific demographic data during the public outreach process. These methods may include social media releases, surveys, public meetings, and public comments collected on project websites.

Title VI Outreach and Resources

Table: English Proficiency by Language Spoken at Home for Berkeley's Residents

	Population Estimate	Percentage of Population
Total	116356	
Speak only English	75578	65%
Spanish:	8557	7.4%
Speak English "very well"	6728	5.8%
Speak English less than "very well"	1829	1.6%
French, Haitian, or Cajun:	3128	2.7%
Speak English "very well"	2669	2.3%
Speak English less than "very well"	459	0.4%
German or other West Germanic languages:	1402	1.2%
Speak English "very well"	1402	1.2%
Speak English less than "very well"	0	0%
Russian, Polish, or other Slavic languages:	738	0.6%
Speak English "very well"	525	0.5%
Speak English less than "very well"	213	0.2%
Other Indo-European languages:	7470	6.4%
Speak English "very well"	6353	5.5%
Speak English less than "very well"	1117	1%
Korean:	1313	1.1%
Speak English "very well"	1075	0.9%
Speak English less than "very well"	238	0.2%
Chinese (incl. Mandarin, Cantonese):	9267	8%
Speak English "very well"	7077	6.1%
Speak English less than "very well"	2190	1.9%
Vietnamese:	1741	1.5%
Speak English "very well"	1181	1%
Speak English less than "very well"	560	0.5%
Tagalog (incl. Filipino):	735	0.6%
Speak English "very well"	735	0.6%
Speak English less than "very well"	0	0%
Other Asian and Pacific Island languages:	4382	3.8%
Speak English "very well"	3276	2.8%
Speak English less than "very well"	1106	1%
Arabic:	1181	1%
Speak English "very well"	1022	0.9%
Speak English less than "very well"	159	0.1%
Other and unspecified languages:	864	0.7%
Speak English "very well"	864	0.7%
Speak English less than "very well"	0	0%

Source: U.S. Census Bureau. "Language Spoken at Home for the Population 5 Years and Over." American Community Survey, ACS 5-Year Estimates Detailed Tables, Table C16001, 2023

Limited English Proficiency

A Limited English Proficiency (LEP) person is a person that does not speak English as a primary language and has a limited ability to read, write, or comprehend English. Per Executive Order 13166, agencies which receive Federal funding must examine their Federally-funded services and develop and implement processes that will allow LEP persons to meaningfully access said services. Executive Order 13166 also requires that agencies receiving Federal funding must establish guidance for providing meaningful access to LEPs, prepare a plan to overcome language barriers in Federally-funded programs and activities, and ensure that stakeholders have adequate opportunity to provide input.

As shown in the Table above, 6.9% of residents in the City of Berkeley are considered LEP persons, with the largest shares of those LEP persons primarily speaking Chinese (1.9% of the community), Spanish (1.6% of the community), and Other Indo-European Languages (1% of the community). As outlined in the City's LEP Plan (Exhibit D), the City has conducted an LEP Needs Assessment, using a Four Factor Analysis to identify needs and provide access to the LEP community in compliance with Executive Order 13166.

Title VI Information Dissemination

In order to ensure that Title VI and related Civil Rights information is readily available to the public, the City will develop public notices consisting of posters, flyers, complaint forms and "I Speak" cards that are available in English, Chinese, and Spanish. The languages selected for the informational materials were based upon language data provided from the U.S. Census; see Table above. Said flyers and posters will be placed in the City Hall lobby and in other highly visible and accessible locations. The public notices will also be available for viewing on the City's website, at www.berkeleyca.gov.

Moving forward, for all Federal-aid programs administered by the City, Staff will provide a translated written notice on outreach materials of the right to receive free oral interpretation of documents in Spanish and Chinese and ensure that interpreters are readily available as necessary for any LEP Persons that would like to contribute or participate.

Limited English Proficiency Plan

In accordance with Executive Order 13166, "improving Access to Services for Persons" with Limited English Proficiency", the City has developed an evaluation and implementation program to ensure that Limited English Proficiency (LEP) persons are provided, free of charge, meaningful access to programs, services, and information without unduly burdening the fundamental activities of the City (Exhibit D).

Environmental Justice in Minority and Low-Income Populations

In accordance with Executive Order 12898, "Federal Actions to Address Environmental

Justice in Minority Populations and Low-Income Populations,” City staff will identify and address environmental effects of activities, programs, or policies on minority and low-income populations for federally funded projects, ensure nondiscrimination in federal-aid programs substantially affecting human health and the environment, and provide minority and low-income communities access to public information and an opportunity for public participation in matters relating to human health or the environment. Staff will consider demographic data during project design and involve the public in the planning and development process to assess the environmental impacts of projects on the community. The public’s input and demographic data analysis will enable staff to develop measures to mitigate any potential adverse effects on minority and low-income populations.

Training

Every two years, the City will provide Title VI training in person and/or online for all City employees. The training will be developed by the Human Resources Division in coordination with the Title VI Coordinators. The Title VI training will cover the following areas:

- Review of City’s Title VI Implementation Plan, LEP, and other relevant documents
- Language assistance services offered to the public
- Review of complaint and reporting procedures
- Where to seek guidance for Title VI questions and issues

Additionally, links to Title VI resources from Caltrans, FHWA, and other relevant agencies will be posted on the City’s Title VI webpage at www.berkeleyca.gov.

Contract Documents and Agreements

Title VI Coordinators in coordination with Department Directors or their Title VI Liaisons will ensure that contracts and agreements for federally funded project documents contain Title VI Assurances Appendix A-E, other non-discrimination provisions, and applicable forms.

Annual Work Plan

Title IV Coordinators will annually establish and monitor program goals and maintain a Work Plan. Title VI Coordinators will ensure that training is conducted, language translation services continue to be available, public participation is optimal, and appropriate Title VI signage is posted. This also includes updating community statistics and corresponding with the Federal agency as necessary. The Annual Work Plan will guide updates to the Title VI Implementation Plan, which shall be updated every three years. The Annual Work Plan will be available upon request.

Compliance and Enforcement

The City shall make every effort to monitor, review, and report on compliance with Title VI. If

the City determines after desk audit review, compliance review, or complaint investigation that a sub-recipient (e.g. contractors, vendors, consultants) or City employee is not in compliance with Title VI requirements, they will be notified in writing of the violation(s) or deficiencies and recommended corrective actions to resolve the violation(s) or deficiencies. Sub-recipients and employees found to be in noncompliance are expected to implement the corrective actions within a reasonable period of time. The Title VI Coordinator will provide assistance to ensure implementation of the corrective actions and that the violation(s) or deficiencies are sufficiently corrected.

Review of City Directives

The City Attorney will review City policy and procedural directives for any possible Title VI implications that may impact individuals or communities protected under Title VI of the Civil Rights Act of 1964. If a directive is believed to have Title VI implications, it will be discussed with the Title VI Coordinator and Department Directors as appropriate.

Exhibit A: US DOT Title VI Assurance A-E

Appendix A

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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, age, sex, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, age, sex, or disability.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non- discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding payments to the contractor under the contract until the contractor complies; and/or
 2. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Appendix B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the California Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the California Department of Transportation all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the California Department of Transportation and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the California Department of Transportation, its successors and assigns.

The California Department of Transportation, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the California Department of Transportation will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department

will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

Appendix C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the California Department of Transportation pursuant to the provisions of Assurance 7(a):

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above

Non-discrimination covenants, the California Department of Transportation will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above

Nondiscrimination covenants, the California Department of Transportation will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the California Department of Transportation and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

Appendix D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the California Department of Transportation pursuant to the provisions of Assurance 7(b):

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the California Department of Transportation will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, the California Department of Transportation will there upon revert to and vest in and become the absolute property of the California Department of Transportation and its assigns.

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non- discrimination statutes and authorities, including, but not limited to: Pertinent Non-Discrimination 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 CR 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 U.S.C. § 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 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 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).

Exhibit B: Notice of Rights

Your Rights Against Discrimination Under Title VI of the Civil Rights Act of 1964 and Related Non-Discriminatory Authorities

Title VI of the Civil Rights Act of 1964 provides 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.

The following additional authorities provide protection against discrimination on the basis of sex, age, disability, religion, sexual orientation, gender identity, or any other category protected by State or Federal law:

Section 162(a) of the Federal-Aid Highway Act of 1973 (Section 324, Title 23 U.S.C.), Section 504 of the Rehabilitation Act of 1973, The Age Discrimination Act of 1975 (Section 6101-6107, Title 42 U.S.C.), The Civil Rights Restoration Act of 1987 (Public Law 200-209), Executive Order 12898 (issued February 11, 1994), Executive Order 13166 (issued August 16, 2000)

Any person who believes that they have been discriminated against may file a written complaint with the City of Berkeley within 180 days of the alleged discrimination. Additional information and Title VI Complaint Forms can be obtained on the City of Berkeley website, at www.berkeleyca.gov. Title VI Complaint Forms can also be obtained at Berkeley City Hall from the Public Works Department. To file a Title VI discrimination complaint, please use the following contact information:

City of Berkeley
Attn: Title VI Coordinator
Department of Public Works
2180 Milvia Street, 3rd Floor
Berkeley, CA 94704
Email: TitleVI@berkeleyca.gov

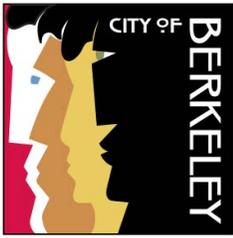


Exhibit C: Title VI Complaint Form

**City of Berkeley
Title VI and related statutes
Discrimination Complaint Form**

FOR OFFICE USE ONLY	
Date: _____	Reviewer Initials: _____

Name of Complainant: _____	Home Telephone Number: _____	Work Telephone Number: _____
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Mailing Address: _____

What is the most convenient time for us to contact you about this complaint?

Basis of Discriminatory Action(s): _____ RACE _____ COLOR _____ NATIONAL ORIGIN _____ INTIMIDATION/RETALIATION	_____ <u>SEX</u> _____	_____ <u>AGE</u> _____	_____ <u>DISABILITY</u> _____
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Date and place of alleged discriminatory actions. Please include earliest date of discrimination and most recent date of discrimination:

How were you discriminated against? Describe the nature of the action, decision, or conditions of the alleged discrimination. Explain as clearly as possible what happened and why you believe your protected status was a factor in the discrimination. Include how other persons were treated differently from you. (Attach additional page(s), if necessary).

Name(s) of City agency or program/activity responsible for the discriminatory action(s):

Names of persons (witnesses, or others) whom we may contact for additional information to support or clarify your complaint: (Attached additional page(s), if necessary).

<u>Name</u>	<u>Address</u>	<u>Telephone</u>
_____	_____	_____
_____	_____	_____

Signature of Complainant _____

Date _____

Exhibit D: Limited English Proficiency Plan

Background

Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency” requires that Federal agencies work to ensure that the recipients of Federal financial assistance provide meaningful access to their Limited English Proficiency (LEP) applicants and beneficiaries.

As such, local agencies are required to ensure that Federally-funded programs and activities normally provided in English are accessible to LEP Persons. Each local agency shall perform an annual assessment to determine if modifications are needed to their programs and activities to ensure meaningful access by LEP persons. The assessment which is referred to as a “Four- Factor” analysis is based on the following factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered.
2. The frequency of LEP contacts.
3. The nature and importance of the programs, services, or activities provided by the City of Berkeley.
4. The resources available for LEP persons and costs.

The City of Berkeley is located on the eastern shore of the San Francisco Bay, is approximately 10.5 square miles of land and 7.2 square miles of water, and has a population of approximately 116,356 (US Census: American Community Survey 2023 5-Year Estimate). Of the 116,356 residents, approximately 35% speak a language other than English at home. However, as shown in the table below, only 6.9% of the population is estimated to speak English less than “very well”, with no individual language-group representing more than 8 percent of the population.

Four-Factor Analysis

- 1. The number or proportion of LEP persons eligible to be served or likely to be encountered.**

As shown in Table 1 below, approximately 6.9% of residents in the City of Berkeley are considered LEP persons, with the largest shares of those LEP persons primarily speaking Chinese (1.9% of the community), Spanish (1.6% of the community), and Other Indo-European Languages (1% of the community). The table shows that no individual language-based population with limited English proficiency represented more than 8 percent of the City of Berkeley community.

Table: English Proficiency by Language Spoken at Home for Berkeley's Residents

	Population Estimate	Percentage of Population
Total	116356	
Speak only English	75578	65%
Spanish:	8557	7.4%
Speak English "very well"	6728	5.8%
Speak English less than "very well"	1829	1.6%
French, Haitian, or Cajun:	3128	2.7%
Speak English "very well"	2669	2.3%
Speak English less than "very well"	459	0.4%
German or other West Germanic languages:	1402	1.2%
Speak English "very well"	1402	1.2%
Speak English less than "very well"	0	0%
Russian, Polish, or other Slavic languages:	738	0.6%
Speak English "very well"	525	0.5%
Speak English less than "very well"	213	0.2%
Other Indo-European languages:	7470	6.4%
Speak English "very well"	6353	5.5%
Speak English less than "very well"	1117	1%
Korean:	1313	1.1%
Speak English "very well"	1075	0.9%
Speak English less than "very well"	238	0.2%
Chinese (incl. Mandarin, Cantonese):	9267	8%
Speak English "very well"	7077	6.1%
Speak English less than "very well"	2190	1.9%
Vietnamese:	1741	1.5%
Speak English "very well"	1181	1%
Speak English less than "very well"	560	0.5%
Tagalog (incl. Filipino):	735	0.6%
Speak English "very well"	735	0.6%
Speak English less than "very well"	0	0%
Other Asian and Pacific Island languages:	4382	3.8%
Speak English "very well"	3276	2.8%
Speak English less than "very well"	1106	1%
Arabic:	1181	1%
Speak English "very well"	1022	0.9%
Speak English less than "very well"	159	0.1%
Other and unspecified languages:	864	0.7%
Speak English "very well"	864	0.7%
Speak English less than "very well"	0	0%

Source: U.S. Census Bureau. "Language Spoken at Home for the Population 5 Years and Over." American Community Survey, ACS 5-Year Estimates Detailed Tables, Table C16001, 2023

2. The frequency of LEP contacts.

The City of Berkeley's experience with LEP populations has led the City to focus on making efforts primarily to Chinese and Spanish speaking populations, by translating documents, for example. As shown in the table above, this experience is largely consistent with the U.S. Census Data that shows the share of the population by language spoken at home and English proficiency.

City staff also encounter customers across Departments that speak a language other than English. Currently the City's Human Resources Division manages a program and maintains a list of all City staff who serve as Qualified Bi-lingual Translators. These employees receive extra pay and help both interpret conversations and translate documents as needed. Employees on the City of Berkeley's Qualified Bi-Lingual Translator List currently speak: Arabic, Cantonese, Japanese, Mandarin, Punjabi, Spanish, Hindi, French, Tagalog, and Vietnamese.

If City staff are not able to complete a conversation, staff will reach out to a bi-lingual employee on this list to ensure the customer is able to be served.

City staff do not regularly receive requests for translation, though as a matter of practice the City commonly translates vital documents, notices, and outreach materials into both Spanish and Chinese. Further, if translation or interpretation services are needed, Staff will provide said translation or interpretation services in a timely manner.

3. The nature and importance of programs, services, or activities provided by the City of Berkeley.

From observation provided by Public Works staff, it is rare that translation services are requested for programs, services, or activities which are Federally-funded. Though Staff has received very few requests for translation services on Federally-funded projects, programs and services, Staff is keenly aware that approximately 14 percent of the City's residents are LEPs and therefore it is highly likely that LEPs will be a stakeholder in all City projects, programs and services. As such, when Staff has encountered the need for interpretation services, Staff has provided the services readily. Moreover, as mentioned, the City often proactively translates outreach materials into Spanish and Chinese to conduct outreach to LEP populations.

4. The Resources Available for LEP persons.

After a review of the City's currently available resources for LEP persons, the City has determined that the current available resources are lacking and inconsistent. The City will remedy the lack of resources, through the action plan listed below.

Current Solutions for Engaging and Assisting LEP Persons

- Paid Bi-Lingual Employee Translator Program
- Website translation via integrated Google Translate drop down menu feature at the bottom of every web page
- Document and outreach translation to Spanish and Chinese as-needed

Action Plan

In order to ensure compliance with Title VI, and Executive Order 13166 the following publications and services will be made available for LEP person use:

- Non-Discrimination Policy Statement
 - Statement shall be printed in English, Spanish and Chinese. Said statement will be posted in the City Hall lobby in a highly visible location.
- Title VI Rights Poster
 - Posters shall be printed in English, Spanish and Chinese. Said posters will be posted in the City Hall lobby in a highly visible location, and additional copies will be available for the public to review and take.
- Title VI Complaint Form
 - Complaint forms shall be printed in English, Spanish and Chinese. Said forms will be in the City Hall lobby in a highly visible location.
- I Speak Cards
 - I Speak Cards will be produced to easily identify translation services needed for English, Spanish, and Chinese. Said cards will be placed at all public counters and with the other Title VI information.
- Title VI Webpage on City's Website
 - All of the City's Title VI resources will be posted on the City's website at the following link: www.berkeleyca.gov.
- Future Planning and Projects
 - Public Works will ensure that all future projects and planning documents that are federally-funded utilize outreach methods that are compliant with Title VI and other related non-discriminatory assurances.
 - Additionally, the City will ensure that a translated written notice of a right to receive free oral interpretation of documents is provided in English, Spanish, and Chinese and that interpreters are readily available as necessary for any LEP Persons that would like to contribute or participate.

Lastly, the Title VI Coordinator will request an updated list of Qualified Bi-Lingual Translators from the Human Resources Division annually and distribute said list to those who are likely to encounter LEP persons, such that a translator can be contacted the moment one is needed.

To ensure continuous compliance, the City will review the Title VI Implementation Plan and Limited English Proficiency Plan regularly. As new regulations are created, the City will act promptly to update the existing plans and relevant resources.