



U.S. Department
of Transportation

**Federal Highway
Administration**

NM DIV Civil
Rights
NM DOT OCR

Program Review



U.S. Department
of Transportation
**Federal Highway
Administration**

ERM EQUITY-1 Review FY 2022:

*Title VI Compliance in MPO Amendments to
Transportation Improvement Programs (TIPs)*

August 31, 2022



REVIEW REPORT



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Executive Summary

The New Mexico Division conducted an interagency review to determine whether MPO processes for amending Transportation Improvement Program (TIP) plans comply with Title VI of the Civil Rights Act of 1964 and the FHWA Title VI regulations at 23 CFR 200. The review included examining each of the five MPO Public Participation Plans, as well as NMDOT's STIP Manual and Public Involvement Plan. The review also solicited information from the MPOs in preparation for a site visit to three of the five. Finally, the review team collected and validated demographic data on high race and ethnic areas with MPO planning boundaries.

The evidence shows that

Background

On September 3, 2021, HCR distributed a memo instructing division civil rights specialists to conduct a review to determine whether STA programs and activities comply with Title VI. The divisions were permitted to select the program area for review, providing that it was relevant to state highway programs and included the use of demographic data. The instructions also encouraged both desk audits and site visits in conducting the review (Attachment I – ERM Equity-1 Action Memorandum).

In April 2016, NMDOT was one of the six states selected for a national Title VI review by the Performance Management Improvement (PMI) team. The review was intended to develop a national baseline of regulatory adherence and not to determine whether the states were in substantial compliance. However, During the site visit to NM, the PMI team collected anecdotal statements suggesting that while NMDOT and its MPOs followed robust public outreach procedures in development of long range and transportation improvement plans, they did not sufficiently engage the public in advance of TIP and STIP amendments. The PMI team also learned that NMDOT and its MPOs process numerous amendments both scheduled and out of cycle.

Though both the Division Civil Rights Specialist and the NMDOT Title VI Coordinator intended a follow-up review to determine the accuracy of the anecdotal evidence, both left their positions before doing so. The Division decided that examining public involvement in TIP amendments met each of HCR's requirements in that:

- Public involvement is a cornerstone of nondiscrimination in transportation planning¹
- Demography is essential to understanding the location and needs of underserved communities (as well as a requirement of 23 CFR 200.9(b)(4))²
- Both the Division and NMDOT Civil Rights Office are staffed by those new to the program, seeking a greater understanding of the Title VI program areas.

¹ Title VI has three prohibitions – recipients cannot *exclude from participation in*, deny benefits of, or subject anyone to discrimination on the bases of race, color or national origin in any federally-assisted program, service or activity (emphasis added).

² See 23 CFR 450.210(a)(1)(viii) – State DOT and 23 CFR 450.316(a)(1)(vii).



Objective

The purpose of the Equity-1 review was to determine whether MPO TIP plans in New Mexico are amended in consultation with all parties, including traditionally underserved racial and ethnic groups, consistent with Title VI of the Civil Rights Act of 1964 and the FHWA operating regulations at 23 CFR 200.

Scope and Methodology

To meet the review objectives, the Division drafted a plan and developed a Division/NMDOT joint review team³. It then assigned team members the review of MPO TIP and PPP documents, following a checklist to ensure consistency. Next, the team issued RFIs to the MPOs, requesting an explanation of how demography is used in TIP amendments, and the process for completing amendments. It compared the responses to NMDOT official guidance materials before selecting three MPOs for site visits. With the assistance of HCR, the team obtained race and ethnic data for the planning areas served by each of the sampled MPOs. Finally, the team visited areas of significant racial/ethnic representation, validating the census tables. Attempting to normalize information to the greatest extent possible, the team chose data and amendments dating to 2020, two years before the pandemic. Once all the information was assembled, the team completed a final review and preliminary discussion of findings, followed by developing a report draft.

Team Members

The Division Civil Rights Officer conducted the review with the assistance of highway engineering (OHE) and civil rights (OCR) managers at USVI Department of Public Works (DPW) on St. Croix. The following table pertains:

Team:	Title & Office	Review Roles
Jodi McCann	Civil Rights Manager - NM DIV	FHWA Review Team Lead
Rudolfo Monge-Oviedo	DDA – NM DIV	Leadership POC & Liaison
Charles Trujillo	Title VI Coordinator NMDOT	NMDOT Lead & Liaison to MPOs
Isabel Benavidez	Title VI Manager NMDOT	NMDOT Lead & Liaison to MPOs & NMDOT
Carey Shepherd	CRO – FL DIV	DSS CR Buddy to NM DIV

Observations

Observation 1:

Observation 2:

Observation 3:

³ At NMDOT request, the Division agreed to a joint review under the Stewardship & Oversight Agreement in that both offices have new staff in need of Title VI learning & development opportunities.



Recommendations

The Division provides three recommendations, the adoption of which should strengthen overall MPO compliance with and demonstrate commitment to Title VI in MPO amendment of TIP plans:

1. NMDOT must
2. NMDOT should
3. NMDOT might wish to

Conclusion

The Division's Equity-1 Title VI Review finds that

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