



Title VI Overview for DHS Recipients of Financial Assistance

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1. What is Title VI?

Title VI of the Civil Rights Act of 1964 is a federal law that protects persons from discrimination based on race, color, or national origin in programs and activities that receive federal financial assistance. Accordingly a recipient of financial assistance from the Department must provide access to their programs and services on a nondiscriminatory basis.

“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.”
42 U.S.C. 2000d *et seq.*

DHS implementing regulations, [6 C.F.R. § 21](#) and [44 C.F.R. § 7](#), also prohibit discriminatory effects in Department assisted programs and activities.

Specifically, recipients are forbidden from *“Utiliz[ing] criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.”* ([6 C.F.R. § 21.5\(b\)\(2\)](#))

2. What does Title VI require?

In operating a federally assisted program, a recipient may not, on the basis of race, color or national origin, directly or through contractual or other arrangements, take the following actions:

- Deny program services, financial aids, or other benefits;

- Provide different program services, financial aids or other benefits, or provide them in a manner different from that provided to others;
- Segregate or separately treat persons in any matter related to the receipt of any program service, financial aid or benefit;
- Restrict in any way the enjoyment of any advantage or privilege enjoyed by others receiving any program, service, financial aid or other benefits;
- Treat persons differently from others in determining eligibility to receive services, financial aids, or other benefits;
- Deny persons the opportunity to participate in the program through the provision of services, or affording the opportunity to do so differently from those afforded others under the program; or
- Deny persons the opportunity to participate as a member of a planning, advisory or similar body.

Pursuant to Title VI regulations, a recipient is also prohibited from utilizing criteria or methods of administration which have the *effect* of subjecting persons to discrimination, whether or not there was intent to discriminate.

Example: A university that received a grant from DHS to conduct research on homeland security technologies advertised opportunities for student researchers in the university’s science and technology club. Club membership comprised mostly white students, and as a result, many interested and qualified minority students did not learn of the student research opportunities. While the university did not intend to exclude minority students from the research team, the methods by which it conducted recruitment had a disparate impact on minority students, who were otherwise interested in and qualified for the research opportunity. Unless the university can provide a substantial legitimate justification for why it restricted recruitment to the university’s science and technology club, the practice could be in violation of the Department’s Title VI implementing regulations.

This list is not intended to be exhaustive as there are many forms of illegal discrimination based on race, color, or national origin that can limit the opportunities of protected populations to gain equal access to program and services. Please refer to the [Department’s implementing regulations](#) (6 C.F.R. § 21.5) for more information on specific prohibited actions.

3. Are there other affirmative obligations under Title VI?

In addition, to comply with the Department’s implementing regulations; recipients must, at a minimum:

- a. Submit assurances: Applications for and awards of federal financial assistance [must contain or be accompanied by an assurance](#) that the program will be conducted or the facility operated in compliance with applicable federal civil rights requirements. Please refer to the [Department’s implementing regulations](#) (6 C.F.R. § 21.7) for more

information on required civil assurances.

- b. Maintain compliance reports: Recipients must keep and submit records and reports containing information on its program operations and nondiscrimination activities as DHS deems necessary to ascertain compliance with civil rights requirements.
- c. Collect data on program beneficiaries: Recipients should collect and maintain data on race, ethnicity, and limited English proficiency showing the extent to which members of minority groups and/or persons with limited English proficiency are beneficiaries of their programs. (see [Office of Management and Budget Standards for Maintaining, Collecting and Presenting Federal Data on Race and Ethnicity](#) and [Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement](#))
- d. Permit access to sources of information: Recipients must give DHS access to its books, records, accounts and other sources of information, and its facilities as may be necessary, to ascertain compliance with federal civil rights requirements.
- e. Make available information on civil rights to beneficiaries and participants: Recipients must notify their program beneficiaries, participants, and other interested persons of the protections against discrimination assured by Title VI and the Department's implementing regulations. In notifications to the public, recipients should also include information on where and how to file a complaint of discrimination.
- f. Monitor sub recipients: Recipients must develop and implement procedures to monitor their sub recipients for compliance with Title VI and the Department's implementing regulations. Sub recipients must submit data and reports to the primary recipient as necessary to enable the primary recipient to ascertain whether programs and activities are administered without discrimination and to fulfill its own compliance requirements. Please refer to the [Department's implementing regulations](#) (6 C.F.R § 21.9) for more information on required compliance information.

4. What is federal financial assistance?

Federal financial assistance includes monetary and in-kind types of assistance, such as:¹

- Grants, cooperative agreements and loans of federal funds
- Donation or grant of federal property
- Sale and lease of, or permission to use, federal property at below market value
- Training
- Donation or use of equipment
- Details or loans of federal personnel

¹ U.S. DEPT. OF JUSTICE, *TITLE VI LEGAL MANUAL* 10-19 (2001), available at <http://www.justice.gov/crt/about/cor/coord/vimanual.pdf> (federal financial assistance may also be in nonmonetary form, and may include federal training, etc.).

Example: DHS awards a grant to a non-profit organization to provide citizenship preparation services to Legal Permanent Residents. The grant constitutes federal financial assistance to the organization; thus Title VI applies and the recipient organization must ensure nondiscrimination in its programs and services.

A note on federal financial assistance:

- Procurement contracts are not considered federal financial assistance *unless* the contract has as one of its purposes the provision of assistance. For example, if DHS provides a subsidy to a contractor, the subsidy may constitute federal financial assistance.
- Programs “owned and operated” by the federal government do not constitute federal financial assistance.

Please refer to the Department’s implementing regulations at [6 C.F.R § 21.4\(c\)](#) and the [U.S. Department of Justice Title VI Legal Manual](#) for more information on federal financial assistance.

5. Who has to comply with Title VI?

What is a recipient and how is it different from a beneficiary?

A recipient is an entity to which federal financial assistance is extended, directly or through another recipient or third party. Recipients can be public or private entities, but do not include the ultimate beneficiaries of a covered program or activity. A recipient can also include a successor, transferee, or assignee of federal assistance, such as federal property, under certain circumstances.

Beneficiaries include individuals and/or entities that directly or indirectly receive an advantage through the operation of a federally assisted program. Beneficiaries, however, do not enter into any formal contract or agreement where compliance with Title VI is a condition of receiving the assistance.

DHS recipients may include:

- State or local homeland security agencies
- State or local emergency management agencies
- State and local fire departments
- State and local police departments
- State and local departments that operate jails and prisons
- Port and mass transit authorities
- Intercity bus programs
- State motor vehicle departments
- Non-profit organizations
- Universities and colleges

Types of recipients:

- A *primary recipient* means any recipient which is authorized or required to extend federal financial assistance to another recipient.
- A *sub recipient* means an entity to which federal financial assistance is extended by a primary recipient for the purpose of carrying out a program or activity.

Example: DHS awards a grant to a state homeland security agency. The state agency then distributes the funds to local agencies to plan and conduct public education campaigns on emergency preparedness. The state agency is the primary recipient of federal financial assistance from the Department and the local agencies are sub recipients of federal financial assistance. Both the state and local agencies are subject to Title VI, and thus must ensure nondiscrimination in their programs and activities. Beneficiaries may include, but are not limited to, individuals, families, organizations and other entities targeted through the campaigns.

Please refer to the [Department's implementing regulations](#) (6 C.F.R § 21.4(d)(f)) for more information on the definition of recipient.

Only part of my organization receives DHS assistance. How broad is the reach of Title VI?
Since 1987, the Title VI definition of “program or activity” has included *all* the operations of any entity, *any part of which* is extended financial assistance. Therefore, Title VI and its prohibition against discrimination are not limited to the aspect of the recipient’s operations that specifically received the federal financial assistance, but rather apply to all operations of the recipient.

Example: DHS awards a grant to a state parks and recreation department to support its recreational boating safety program. The “program or activity” receiving federal financial assistance is the state parks and recreation department, including *all* of its operations. Although the funding is specifically used to support operations of the department’s boating division, all programs and activities of the department are now covered by Title VI. However, the entire state would not be covered.

6. What are the consequences for noncompliance with Title VI?

If a recipient fails to comply with the requirements of Title VI and the DHS Title VI implementing regulations, the Department will make every effort to secure the recipient’s voluntary compliance through a variety of means (e.g. negotiation, remedial agreements, etc.). In the event that voluntary compliance efforts are unsuccessful and after the appropriate actions have been taken in accordance with [6 C.F.R. § 21.13](#), which may include, but is not limited to, the opportunity for a hearing, the Department may take the following enforcement actions:

- Termination of or refusal to grant or to continue federal financial assistance; or
- Other means authorized by law, which may include, but is not limited to, referral to the Department of Justice for judicial action.

7. What are my obligations under Title VI with regard to persons with limited English proficiency (LEP)?

Recipients are required to take reasonable steps to provide LEP persons with meaningful access to their programs and services. Federal regulations implementing Title VI have long been

interpreted to mean that failure to take reasonable steps to provide meaningful language access constitutes national origin discrimination prohibited under Title VI.

DHS [published guidance in the Federal Register](#) to help recipients understand and implement their obligations to provide meaningful access for LEP persons. The guidance includes a four-factor analysis for determining the extent of language services to be provided:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and
4. The resources available to the grantee/recipient and costs

After conducting this analysis, many recipients will determine that they should develop LEP policies and implementation plans to address identified language needs. Please refer to the guidance for more information on how to comply with the Title VI prohibition against national origin discrimination affecting persons with LEP.

8. Can I request compliance assistance from DHS?

Yes. The DHS Office for Civil Rights and Civil Liberties coordinates the Department's Title VI program and can provide technical assistance and training to help recipients comply voluntarily with civil rights requirements. CRCL is developing additional guidance and materials to assist recipients in monitoring their programs and activities to ensure nondiscrimination and building their own comprehensive compliance programs.

For additional Title VI materials and resources, visit our website at <http://www.dhs.gov/crcl>, or contact us via email at crcl@hq.dhs.gov or by mail or phone:

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