

102 Federal Requirements

Federal acts, laws, and regulations affect how FDOT plans and conducts public involvement activities. The objectives identified by federal regulations that FDOT promotes for its public involvement programs and activities:

- Early and continuous opportunities for public input
- Consideration of public needs and preferences
- Informed decisions through collaborative efforts
- Mutual understanding and trust between the Department and its partners

The following are the most relevant federal laws and regulations to FDOT's projects and programs.

Americans with Disabilities Act of 1990 (ADA)

- Title II of this Act, 42 United States Code (USC) Sections 12131-12134, prohibits the exclusion of persons with disabilities from participation in services, programs, or activities of a public entity. This is the basis for the Department's standard language (see below and in Part 1, Chapter 11, Section 11.2.4.5 of the Project Development and Environment [PD&E] Manual) regarding accommodating persons with disabilities for such issues as hearing or visual impairment.
- Title III of this Act, 42 USC Sections 12181-12189, requires public accommodations to provide equivalent access to individuals with disabilities. This is important for public involvement activities as the locations of public meetings, workshops, and hearings must be accessible. When hosting a public meeting or hearing, it is important to ensure that the facility, including the parking, bathrooms, and meeting space, is accessible for all.

United States Code (USC) contains the laws of the United States adopted by Congress.

The Code of Federal Regulations (CFR) contains the rules developed by the executive departments and agencies of the federal government to implement the laws contained in the USC.



Title VI of the Civil Rights Act of 1964 and Other Nondiscrimination Laws

- Title VI, 42 USC Sections 2000d-2000d-1 states, “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.”
- Age Discrimination Act of 1975, 42 USC Sections 6101-6107, prohibits federally assisted programs from discrimination based on age.

FDOT’s Nondiscrimination Policy and Language

FDOT’s nondiscrimination policy and language demonstrates the Department’s intention to comply with the Civil Rights Act. Consistent with Title VI of the Civil Rights Act of 1964, the nondiscrimination language shown must be included in all materials sent to the public including meeting notifications and advertisements.

- Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status.
- Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact _____ at _____ at least seven days prior to the meeting.

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

- Executive Order 12898, Environmental Justice, addresses disproportionately high and adverse effects on minority populations and low-income populations.
- Executive Order 12898: Directs federal agencies to identify and address any disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations; Requires each agency to develop a strategy for evaluating environmental justice; and Promotes access by minority and low-income communities to public information and public participation.
- The Sociocultural Effects Evaluation Process is FDOT’s strategy for evaluating any environmental justice implications of transportation projects.

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency

- Executive Order 13166, Limited English Proficiency (LEP), requires federal agencies and federal funding recipients to provide meaningful access to the services provided for people for whom English is not their native language or who have a limited ability to read, speak, write, or understand English.
- FDOT, as a recipient of federal financial assistance, must ensure meaningful access to its programs, services, and activities for all affected and interested publics including LEP persons.

- Four factors outlined in USDOT's Policy Guidance Concerning Recipient's Responsibilities to Limited English Proficient Persons requires reasonable steps to ensure meaningful access by LEP persons include the:
 - Number or proportion of limited English proficiency (LEP) persons in the affected area,
 - Frequency of contact with LEP persons,
 - Importance of the service provided to LEP persons, and
 - Resources available and cost.
- What methods of communication constitute meaningful access?
 - Translation* of vital documents into non-English languages
 - Oral interpretation* through translators or other interpretive services

*These services must be provided free of cost to the recipient
- FDOT's nondiscrimination language provides the opportunity for people to request translation services free of charge, if needed.
- Refer to *Section 303 Limited English Proficiency* for further guidance on implementing Executive Order 13166.

Federal Laws and Regulations Relating to Highways

23 USC, Highways

- Section 109(h) requires the consideration of possible adverse effects on the human and natural environment as part of the project development process.
- Section 128 requires public hearings and consideration of economic and social effects, environmental impacts, and consistency with the

goals and objectives of urban planning by the community as part of planning projects for Federally-aided highways.

- Section 135 requires participation by interested parties in the development of statewide and nonmetropolitan transportation planning.

23 CFR, Federal Highway Administration (FHWA), Department of Transportation (DOT)

Part 450, Section 210

Part 450, Section 210 states, "the state shall develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points." This is the basis for the Department's public involvement program.

- Requires the public involvement process must at minimum:
 - Establish early and continuous public involvement opportunities that provide timely information about transportation issues and decision-making processes;
 - Provide reasonable access to information used to develop the statewide transportation plan and statewide transportation improvement program (STIP);
 - Provide adequate public notice of public involvement activities and time for public comment at key decision points;
 - Ensure public meetings are held at convenient and accessible locations and times, to the maximum extent possible;
 - Use visualization techniques to describe statewide transportation plans and studies, to the maximum extent possible;
 - Make public information available on the world wide web or an electronically accessible format, to the maximum extent possible;



- Demonstrate consideration and response to public input during the development of the statewide transportation plan and STIP;
- Include a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority populations; and
- Provide periodic review of the effectiveness of the public involvement process.
- This section also provides certain public involvement requirements for the statewide long range transportation plan and STIP. STIP requirements are summarized in the FDOT Work Program/STIP Public Involvement [process](#).

Part 450, Section 316

Part 450, Section 316 states, “The metropolitan planning organization (MPO) shall develop and use a documented participation plan that defines a process for providing individuals, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process.”

- Requires the MPO to develop a participation plan in consultation with all interested parties that at a minimum describes explicit procedures, strategies, and desired outcomes for:
 - Providing adequate public notice of participation plan activities and the time for public review and comment at key decision points, including reasonable opportunity to comment on the proposed metropolitan transportation plan and transportation improvement program;

- Providing timely notice and reasonable access to information about transportation issues and processes;
- Employing visualization techniques to describe metropolitan transportation plans and transportation improvement programs (TIPs);
- Making public information available in an electronically accessible format, such as the internet;
- Holding any public meetings at convenient and accessible locations and times;
- Demonstrating explicit consideration and response to public input received during development of the metropolitan transportation plan and TIP;
- Seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households;
- Providing an additional opportunity for public comment, if the final metropolitan transportation plan or TIP differs significantly from the version that was made available for public comment by the MPO and raises new material issues that interested parties could not reasonably have foreseen from the public involvement efforts; and
- Periodically reviewing the effectiveness of the procedures and strategies contained in the participation plan to ensure a full and open participation process.
- This section also requires:
 - A 45-day public comment period for the public participation plan and that final plans are posted on the internet,
 - MPOs to coordinate with agencies and officials responsible for other planning activities within the metropolitan transportation planning area that are affected by

Public Engagement Resource Guide

transportation when developing the metropolitan transportation plan and TIP. This includes Indian Tribal governments and Federal land management agencies, when applicable, and

- MPOs to document roles, responsibilities, and key decision points for consulting with other governments and agencies.

Part 771, Section 111

Part 771, Section 111 requires public hearings and consideration of environmental impacts for projects involving federal funds or a federal action. Fulfilling the requirements of this law are typically addressed through the PD&E process. By following Part 1, Chapter 11 of the PD&E Manual, it ensures compliance with this federal law.

- Establishes the importance of early agency coordination and public involvement in the environmental review process. Specifically, Section 111 requires:
 - Coordination throughout the entire National Environmental Policy Act (NEPA) process;
 - Public involvement in the identification of social, community, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions;
 - Public hearing(s) at convenient times and places for any project that has a substantial impact on: right of way; layout or functions of roadways or facilities; adjacent properties; or social, community, economic, or environmental resources;
 - Reasonable notice of public hearings;
 - Explanation during the public hearing of: project purpose and need; consistency with local plans; project alternatives and major features; social, community, economic, and environmental impacts; relocation assistance and right-of-

way acquisition programs; and procedures for receiving public comments;

- Submission of a public hearing transcript to the Federal Highway Administration (FHWA);
- Public involvement opportunities in defining the purpose and need and range of alternatives to be considered in an Environmental Impact Statement (EIS); and
- Public notice and opportunity for review of Section 4(f) de minimis impact finding.



National Environmental Policy Act (NEPA) of 1969

Codified in 42 USC, Chapter 55, Sections 4321-4370, this law:

- Established the Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration (NOAA), and the Council on Environmental Quality (CEQ), which oversees the implementation of NEPA;
- Requires federal agencies to consider human, natural, and physical impacts as part of their planning and decision-making processes; and
- Established requirements for environmental impact reviews.

Section 1506.6 establishes the requirements for public involvement during the NEPA process, including:

- Use of public hearings or meetings when appropriate,
- Solicitation of information from the public,
- Explanation of where information about NEPA and ongoing environmental documents can be found,
- Public review of EISs, comments received, and any supporting documents, and
- Provision of public notice of NEPA-related hearings, public meetings, and the availability of environmental documents through direct notice to those who have requested it, publication in the Federal Register (for actions of national concern), and the following for actions that are primarily of local concern:
 - Notice to state and areawide clearinghouses,
 - Notice to Native American Tribes, where appropriate,
 - Implementation of the state's public notice procedures,

- Publication in local newspapers of general circulation,
- Notice through other local media,
- Notice to potentially interested community organizations,
- Publication in newsletters that may reach interested persons,
- Direct mailing to owners and occupants of affected property, and
- Posting of notice on and off site in the area where the action is to be located.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Act establishes the requirements for how agencies acquire property that results in the displacement of people. FDOT's right-of-way staff ensure compliance with the Uniform Relocation Act. However, for projects in the PD&E phase involving right-of-way acquisition, specific language must be included in the public hearing script. This standard language is provided in the sample script within Part 1, Chapter 11 of the PD&E Manual.

- Codified in Title 49 USC, Part 24, this Act establishes the requirements for fair, equitable, and consistent treatment of owners of real property to be acquired and persons displaced by federal or federally-assisted projects.
- Section 24.5 requires that notices provided to property owners or occupants be written in plain language or provided in an alternate manner for persons unable to read or understand a written notice.