



Highway Division Title VI Program

Implementation Plan

Prepared By:

MassDOT Office of Diversity & Civil Rights

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CHAPTER 1

Standard DOT Assurances

TITLE VI/NONDISCRIMINATION ASSURANCES

The United States Department of Transportation (U.S. DOT) Order No. 1050.2A

The Massachusetts Department of Transportation (MassDOT) (hereinafter referred to as the “Recipient”) hereby agrees that, as a condition to receiving any Federal financial assistance from the U. S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

STATUTORY/REGULATORY 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 (including limited English proficiency));
- 49 C.F.R. Part 21 (entitled *Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites are referred to as the “Acts” and “Regulations,” respectively.

GENERAL ASSURANCES

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurances that:

No person in the United States shall, on the grounds of race, color, 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 Recipient receives Federal financial assistance from U. S. DOT, including FHWA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

SPECIFIC ASSURANCES

More specifically, and without limiting the above general Assurance, the Recipient gives the following Assurances:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all its programs and activities and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

The Massachusetts Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby affirmatively ensures that for any contract entered into pursuant to this advertisement, all bidders, including disadvantaged business enterprises, will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin in consideration for an award.

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to the Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith for the duration of Recipient ownership of the facility and future deeds, leases, licenses, permits, or similar transfers where the use of the facility remains transportation related (see Specific Assurance #8, below).
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program (Appendix C); and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program (Appendix D).
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Acts, the Regulations and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations and this Assurance.

By signing this Assurance, the Massachusetts Department of Transportation also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by FHWA. You must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Massachusetts Department of Transportation gives this Assurance in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal-aid Highway Program. This Assurance is binding on the Massachusetts Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the Federal-aid Highway Program. The person signing below is authorized to sign this Assurance on behalf of the Recipient.

SIGNED FOR THE RECIPIENT:



Gina Fiandaca

Secretary/CEO

Massachusetts Department of Transportation



Date

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 Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), 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 (including limited English proficiency), age, sex, disability, or low-income status 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. **Solicitations for Subcontractors, 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 nondiscrimination on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status.
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 Massachusetts Department of Transportation (MassDOT) or 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 this information, the contractor will so certify to MassDOT or 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 Nondiscrimination provisions of this contract, MassDOT will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. 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 MassDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction,

the contractor may request MassDOT to enter into any litigation to protect the interests of MassDOT. 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 (hereinafter referred to as “U.S. DOT”), as authorized by law, and upon the condition that the Massachusetts 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 above statute, and the policies and procedures prescribed by the Federal Highway Administration (hereinafter referred to as “FHWA”) of the U.S. DOT 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, Nondiscrimination in Federally-assisted programs of the U.S. DOT 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 Massachusetts Department of Transportation all the right, title and interest of the U.S. DOT 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 Massachusetts 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 shall be binding on the Massachusetts Department of Transportation, its successors and assigns.

The Massachusetts Department of Transportation, in consideration of the conveyance of said lands and interests 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, national origin (including limited English proficiency), age, sex, disability, or low-income status 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 Massachusetts Department of Transportation will use the lands and interests in lands and interests 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, Nondiscrimination 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 nondiscrimination conditions, U.S. DOT will have a right to enter or re-enter said lands and facilities on said land, and that above-described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. DOT 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 effectuate 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 all deeds, licenses, leases, permits, or similar agreements entered into by the Massachusetts Department of Transportation, pursuant to the provisions of Assurance 7a:

1. *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:*
 - a. *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 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, national origin (including limited English proficiency), age, sex, disability, or low-income status will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.*
2. *With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the Massachusetts 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.**
3. *With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Massachusetts Department of*

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

*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 Massachusetts Department of Transportation and its assigns.**

APPENDIX D

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

The following clauses will be included in all deeds, licenses, leases, permits, or similar instruments/agreements entered into by the Massachusetts Department of Transportation pursuant to the provisions of Assurance 7b.

1. *“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, national origin (including limited English proficiency), age, sex, disability, or low-income status will be excluded from participation in, denied the benefits of, or otherwise be 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 furnishing of services thereon, no person on the ground of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (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.*
2. *With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above non-discrimination covenants, the Massachusetts Department of Transportation will have the right to terminate the (license, permit, 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.**
3. *With respect to deeds, in the event of breach of any of the non-discrimination covenants, the [description of the property] will there upon revert to and vest in and become the absolute property of the Massachusetts 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,” which includes consultants) 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 CFR 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 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 (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits 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)
- 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 (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 People 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 Act of 1972, as amended (20 U.S.C. 1681 *et seq.*) (prohibits discrimination on the basis of sex in education programs or activities)

POLICY DIRECTIVE



Gina Fiandaca, Secretary and CEO

Supersedes Policy CR-001h (2-22)

All MassDOT employees;
subrecipients and contractors
receiving federal financial
assistance through MassDOT

Applicability

TITLE VI/NONDISCRIMINATION POLICY STATEMENT

The Massachusetts Department of Transportation (MassDOT) assures that no person shall, on the basis of race, color, national origin, 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, as required by Title VI of the Civil Rights Act of 1964 (Title VI), as amended (42 U.S.C. § 2000d et seq.), and the Civil Rights Restoration Act of 1987 (P.L. 100.259).¹ Title VI prohibits discrimination based on race, color, and national origin (including limited English proficiency). Related federal nondiscrimination authorities add the protected categories of sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability, 29 U.S.C. 790; low-income, federal Executive Order 12898; and limited English proficiency, federal Executive Order 13166.

MassDOT also upholds the Massachusetts Public Accommodation Law, M.G.L. c 272 §§92a, 98, 98a, Articles CVI & CXIV of the Massachusetts Constitution, and the Governor's Executive Order 592, section 4 which provide that access to programs, services and benefits be provided without regard to religion, creed, sexual orientation, gender identity or expression, veteran's status, ancestry, and/or background, along with the bases previously referenced. In addition, MassDOT will facilitate meaningful and nondiscriminatory public participation in transportation programs, services, and activities, including the transportation planning and project development process.

The Assistant Secretary for Civil Rights and Director of the Office of Diversity and Civil Rights (ODCR) is designated as MassDOT's Title VI Coordinator. The authority to develop, implement, and manage the agency's Title VI Program is delegated to ODCR's Director of Title VI and Accessibility and MassDOT's Title VI Specialist.

To obtain additional information on MassDOT and/or its subrecipients' nondiscrimination obligations, to request a copy of the Department's Title VI program, including the agency's Title VI Assurance, or to request such materials in alternative formats (large-print, braille, audio, etc.) or translated, please contact MassDOT's Title VI Specialist at (857) 368-8580 or via e-mail at MASSDOT.CivilRights@state.ma.us.

To file a complaint of alleged violation of nondiscrimination obligations, complaint forms and further information may be obtained from MassDOT by calling (857) 368-8580, or via our website at <https://www.mass.gov/nondiscrimination-in-transportation-program>. Any such complaint should be in writing and staff is available to assist individuals who cannot provide a written complaint. Complaints must be filed with MassDOT's Office of Diversity and Civil Rights within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.

¹ This includes relevant federal regulatory requirements of 49 C.F.R. part 21 and 49 C.F.R. part 303.

If this information is needed in another language, please contact the MassDOT Title VI Specialist at 857-368-8580.

Caso esta informação seja necessária em outro idioma, favor contar o Especialista em Título VI do MassDOT pelo telefone 857-368-8580.

Si necesita esta información en otro idioma, por favor contacte al especialista de MassDOT del Título VI al 857-368-8580.

如果需要使用其它语言了解信息，请联系马萨诸塞州交通部（MassDOT）《民权法案》第六章专员，电话857-368-8580。

如果需要使用其它語言了解信息，請聯繫馬薩諸塞州交通部（MassDOT）《民權法案》第六章專員，電話857-368-8580。

Если Вам необходима данная информация на любом другом языке, пожалуйста, свяжитесь со специалистом по Титулу VI Департамента Транспорта штата Массачусетс (MassDOT) по тел: 857-368-8580.

Si yon moun vle genyen enfòmasyon sa yo nan yon lòt lang, tanpri kontakte Espesyalis MassDOT Title VI la nan nimewo 857-368-8580.

Nếu quý vị cần thông tin này bằng tiếng khác, vui lòng liên hệ Chuyên viên Luật VI của MassDOT theo số điện thoại 857-368-8580.

Si vous avez besoin d'obtenir une copie de la présente dans une autre langue, veuillez contacter le spécialiste du Titre VI de MassDOT en composant le 857-368-8580.

Se ha bisogno di ricevere queste informazioni in un'altra lingua si prega di contattare lo Specialista MassDOT del Titolo VI al numero 857-368-8580.

ប្រសិនបើលោក-អ្នកត្រូវការបកប្រែព័ត៌មាននេះ

**សូមទាក់ទងអ្នកឯកទេសលើជំពូកទី៦ របស់MassDot តាមរយៈលេខទូរស័ព្ទ
857-368-8580**

إن كنت بحاجة إلى هذه المعلومات بلغة أخرى، يُرجى الاتصال بأخصائي الفقرة السادسة على الهاتف 857-368-8580

CHAPTER 2

Organization and Staffing

Introduction

MassDOT was established on November 1, 2009, by way of a merger of the former Executive Office of Transportation and Public Works (EOT) and its divisions with the Massachusetts Turnpike Authority (MTA), the Massachusetts Highway Department (MHD), the Registry of Motor Vehicles (RMV), and the Massachusetts Aeronautics Commission (MAC); also, ownership and operation of the Tobin Bridge was transferred to MassDOT from the Massachusetts Port Authority (Massport). In addition, MassDOT is responsible for many bridges and parkways previously operated by the Department of Conservation and Recreation (DCR). The Massachusetts Bay Transportation Authority (MBTA) and regional transit authorities (RTAs) are subject to oversight by MassDOT.

MassDOT is governed by state laws, rules, and policies. It is administered by a Secretary of Transportation, who is appointed by the Governor to serve as MassDOT's chief executive officer. The Governor also appoints a board of directors with expertise in transportation, finance, and engineering, which oversees the Department and serves as the governing body of MassDOT.

As a recipient of federal funding, MassDOT is committed to conducting all its programs and activities and operating all of its facilities in compliance with all requirements imposed by, or pursuant to Federal Highway Administration (FHWA) Title VI/Nondiscrimination Program requirements. The following sections describe MassDOT's organizational structure and responsibilities.

MassDOT Organizational Structure

MassDOT includes four divisions, Highway, Rail and Transit, Aeronautics, and the Registry of Motor Vehicles, in addition to executive offices that include Administrative Services, the Office of Performance Management and Innovation, and the Office of Transportation Planning. The Secretary appoints an administrator for each of the divisions.

Highway Division

The Highway Division is responsible for the design, construction, operation, and maintenance of the state highways and bridges in the commonwealth. The Division is responsible for overseeing traffic safety and engineering activities, including those of the Highway Operations Control Center, to ensure safe road and travel conditions.

Rail and Transit Division

The MassDOT Rail and Transit Division oversees the Commonwealth's 15 Regional Transit Authorities, MassDOT's freight and passenger rail program, and works closely with the MBTA. The Community Transit Programs Unit manages all FTA and state funding programs for the 15 regional transit authorities and nearly 200 public nonprofit agencies that provide public transportation service across the commonwealth. This unit manages the capital and operations funding programs that deliver fixed-route, paratransit, and community transit services for over 30 million annual customers. MassDOT maintains a Title VI Program for FTA related activities, including monitoring and reporting on these state managed federal funds.

The Division's Rail Unit manages the state's 300 miles of state-owned railroad properties with their operating railroads and manages the administrative program required by M.G.L. 40/54A and M.G.L. 161(d) that protects railroad corridors. The Unit also provides policy and technical assistance for major rail and freight initiatives, including high-speed and intercity rail, major corridor acquisition, and freight access programs.

Aeronautics Division

The Aeronautics Division has jurisdiction over the commonwealth's public-use airports, private-use landing areas, and seaplane bases. It is responsible for overseeing the statewide airport system, which encompasses 37 public-use general-aviation airports. The Aeronautics Division's responsibilities also include fostering airport development, enhancing aviation safety, conducting aircraft accident investigation, maintaining navigational aids, performing statewide aviation planning, licensing of airport managers, conducting annual airport inspections, and enforcing airport security regulations.

Registry of Motor Vehicles

The Registry of Motor Vehicles Division is responsible for administering the motor vehicle laws of the Commonwealth related to the issuance of identification cards, driver's licenses, and motor vehicle registrations and titles, as well as those related to the inspection of vehicles, including buses. The Registry oversees commercial-vehicle and noncommercial-vehicle inspection stations.

Enterprise Services

The Office of Enterprise Services manages all MassDOT administrative functions, ensuring that all employment policies, programs, and procedures comply with state and federal laws, regulations, and guidelines. In addition to managing administrative functions, Enterprise Services houses the Office of Diversity and Civil Rights (ODCR). The director of ODCR is the Assistant Secretary of Civil Rights and reports directly to the Secretary/CEO of MassDOT on state and federal civil rights obligations. The Office of Diversity Civil Rights is described in more detail below.

The Office of Transportation Planning (OTP), the primary source of transportation planning for MassDOT, is also a part of the Enterprises Services office and develops transportation plans, programs, and projects to advance the policies and objectives of the Governor and the Secretary. The OTP also ensures compliance with federal and state transportation and environmental laws and regulations, administers the statewide research program, and coordinates the metropolitan planning organizations (MPOs).

The Office of Diversity and Civil Rights

The Office of Diversity and Civil Rights (ODCR) is responsible for ensuring that MassDOT fulfills its Title VI obligations through effective management of the agency's Title VI Program(s). ODCR also ensures that MassDOT meets its obligations and commitments on equal opportunity and affirmative action in employment and contracting within programs, services, and activities.

At MassDOT, the Assistant Secretary for Civil Rights serves as the Director of the Office of Diversity and Civil Rights and as the agency's Title VI Coordinator. In this capacity, the Assistant Secretary for Civil Rights reports directly to the Secretary/CEO of MassDOT on overall state and federal civil rights obligations and to the MassDOT Administrator of the Rail and Transit Division on civil rights matters concerning FTA-funded programs, services, and activities.

The Director of Title VI and Accessibility reports to the Assistant Secretary for Civil Rights. The Director of Title VI and Accessibility supervises the Title VI Specialist who is charged with the responsibility of developing, implementing, and monitoring MassDOT's compliance with Title VI and related Nondiscrimination regulations.

This includes day-to-day administration of MassDOT's Title VI Program, fulfilling reporting obligations, and developing and implementing effective and innovative compliance strategies. The Director of Title VI and Accessibility is a senior leader within MassDOT who is also responsible for developing and managing MassDOT's ADA Transition Plan. The Director of Title VI and Accessibility focuses on the following efforts related to MassDOT's Title VI Program:

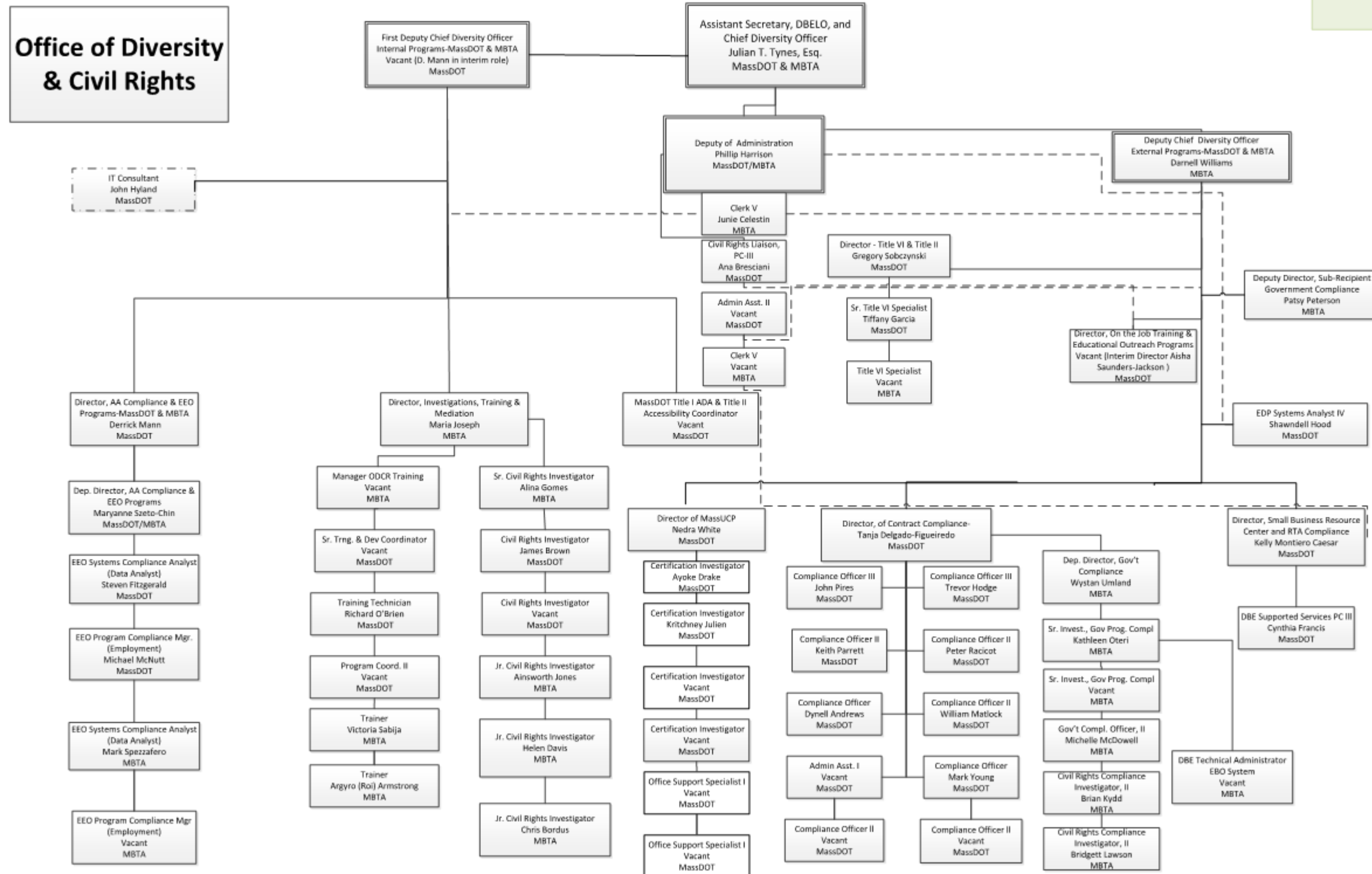
- Provide technical assistance and advice on Title VI/Nondiscrimination matters to Department program officials
- Supervise the conduct of Title VI/Nondiscrimination reviews on special emphasis program areas and activities when necessary
- Investigate complex Title VI/Nondiscrimination complaints and prepare reports of findings and conclusions and make recommendations
- Interact with MassDOT program managers in developing Title VI/Nondiscrimination information for dissemination to the public
- Interact with other Civil Rights program personnel in the review of Title VI/Nondiscrimination activities and issues
- Develop and implement the processing of discrimination complaints pursuant to Title VI/Nondiscrimination
- Work with the Title VI Specialist and program managers to resolve problems identified as discriminatory practices and policies, pursuant to Title VI/Nondiscrimination
- Oversee MassDOT's subrecipients' implementation of Title VI/Nondiscrimination activities and compliance monitoring
- Establish procedures to resolve noncompliance determinations
- Coordinate Title VI/Nondiscrimination training programs
- Supervise the preparation of an annual report summarizing all Title VI/Nondiscrimination activities, accomplishments, complaints, and future plans
- Update the Title VI/Nondiscrimination Compliance Program as necessary to reflect changes in organization, policy, or implementation
- Increase public/community awareness of Title VI/Nondiscrimination
- Develop and update Title VI/Nondiscrimination information for dissemination to the public and, where appropriate, in languages other than English

Under the direction of the Director of Title VI and Accessibility, the Title VI Specialist manages all elements of MassDOT's commitment and obligations to prohibit discrimination. The Title VI Program covers the requirements, procedures, actions, and sanctions through which MassDOT enforces Title VI and related nondiscrimination statutes, federal and state Executive Orders, and regulations. The program is designed to ensure that discrimination does not occur in connection with MassDOT programs, services, or activities that benefit from federal financial assistance.

The Title VI Specialist is responsible for developing, implementing, coordinating, and monitoring MassDOT's Title VI Program and ensuring MassDOT's compliance with Title VI regulations. The Title VI Specialist:

- Assists in the preparation and issuance of information within MassDOT on FHWA Title VI requirements, guidelines, and program directives and ensures that all department managers and subrecipients are informed of FHWA Title VI/Nondiscrimination requirements
- Provides technical assistance, guidance, and advice on the MassDOT Title VI/Nondiscrimination Program both internally and externally
- Conducts Title VI/Nondiscrimination compliance reviews through the collection and analysis of statistical data to determine the effectiveness of program activities, prepares reports on those reviews, and establishes procedures to resolve determinations of noncompliance
- In collaboration with the ODCR Investigations Unit, conducts complaint intakes, investigates discrimination complaints, and prepares reports and recommendations based on investigatory findings, as needed
- Maintains relationships and works cooperatively with upper-level administrators, managers, and program personnel across all agency functions on Title VI/Nondiscrimination compliance and develops Title VI training for MassDOT officials, employees, and subrecipients
- Conducts Title VI/Nondiscrimination training programs across MassDOT and among subrecipients
- Develops Title VI/Nondiscrimination–related information for dissemination to the general public, including, where appropriate, information in languages other than English
- Prepares and submits annual MassDOT Title VI/Nondiscrimination Accomplishments Report and Work Plan to FHWA and triennial Title VI/Nondiscrimination Program submissions
- Updates the Title VI/Nondiscrimination Program and related plans as necessary to reflect organizational, policy, or implementation changes

The Title VI Coordinator, Director of Title VI and Accessibility, and Title VI Specialist are supported by staff from each federal program area within MassDOT as well as by the dedicated staff within the Office of Diversity Civil Rights. To coordinate this work and develop workable solutions to agency-wide program development and rollout, MassDOT's Title VI personnel convenes a Title VI Steering Committee, as needed, which is chaired by the Director of Title VI and Accessibility and the Title VI Specialist. In addition, the Office of Diversity and Civil Rights is also able to obtain assistance from the MassDOT Enterprise Services departments, which includes the Office of Transportation Planning, Contracts and Records, Facilities, Human Resources, Employee Relations, Labor Relations, and other such departments. Technical assistance for Title VI and Nondiscrimination program development and compliance activities is provided to MassDOT through a consultancy contract with the Central Transportation Planning Staff.



CHAPTER 3

Program Review Procedures

Internal Program Reviews

The Title VI Specialist periodically engages in Title VI/Nondiscrimination Program process reviews to identify and address potential discrimination issues within MassDOT's federal program areas. These reviews can focus on specific functions within each of the federal program areas. The Title VI Specialist works with departmental staff and leadership to identify the sources of relevant data and documentation that will be collected and reviewed to determine if processes have the potential to lead to patterns of discrimination. The Director of Title VI and Accessibility is responsible for oversight of this process and for ensuring that the process and/or any corrective actions needed are adopted and implemented.

Transportation Planning and Research

The Office of Transportation Planning (OTP) is responsible for implementing state and federal planning requirements. It oversees the federally mandated metropolitan planning process and development of Long-Range Transportation Plans, Transportation Improvement Programs, and Unified Planning Work Programs. It develops the agency's Capital Investment Plan, Statewide Strategic Plan, State Transportation Improvement Program, and modal plans.

Services, functions, and products of OTP include:

- Sustainable transportation programs
- GIS planning and mapping
- Major-development review and traffic mitigation negotiation
- Transportation research and analysis
- Transit planning and programs
- Statewide freight planning
- Intelligent-transportation-systems planning
- Coordinator of research projects by third-party contractors

Title VI Role

Every department within the Office of Transportation Planning plays a key role in supporting MassDOT's Title VI compliance profile. Modal planning staff develops modal plans based on public input gathered through outreach efforts that include soliciting feedback from Title VI communities across the Commonwealth. MPO/RPA Liaisons in the MPO Activities department monitor the regional planning activities of the state's regional planning organizations to ensure they are meeting all federal and state regulatory requirements, including Title VI. The Research group regularly solicits ideas for research projects that include Title VI implications. The GIS Services office develops and maintains the Title VI demographic profiles for the state, including the mapping products (both hardcopy and interactive online tools) that empower MassDOT staff and partners to perform Title VI related tasks, such as developing project outreach plans designed to reach Title VI populations in a project area.

The OTP Executive Director makes every effort to identify and eliminate discrimination in the planning process. MassDOT employs civic engagement to identify mobility problems and strategies to address them. Through the solicitation of public input and coordination with the various MPOs and regional planning agencies (RPAs), potentially disparate adverse impacts from a project are identified and addressed prior to preliminary design. The Department's planning process also includes the monitoring and collection of varied data pertaining to transportation issues. Additionally, OTP coordinates public involvement through MPOs and RPAs and provides technical support when needed.

Title VI Responsibilities

To fulfill its Title VI role with regard to planning and research, OTP must:

1. Employ an effective public involvement and participation process; this must include disseminating program information (in languages other than English where appropriate) through minority and ethnic media, through local organizations, and via outreach to Title VI communities to ensure participation of a cross section of various demographics in the planning process. Specifically:
 - a) Recognize specific and prominent community issues and circumstances
 - b) Utilize mechanisms for eliciting and soliciting Title VI population involvement
 - c) Ensure availability of and accessibility to information
 - d) Make use of multiple mechanisms for involving the public
 - e) Make the process accessible
2. Consider public input, including from Title VI groups/persons
3. Conduct planning with the goal of providing equitable transportation facilities and services; review all proposed projects for their potential to have a disproportionate negative impact on Title VI populations; develop strategies to offset negative impacts (social, economic, and environmental) across investments
4. Coordinate with Native American tribal governments
5. Outreach to minorities, women, and economically disadvantaged business enterprises with research contracting opportunities
6. Work with the Title VI Specialist to conduct pre-federal-assistance reviews of potential subrecipients
7. Work with the Title VI Specialist to conduct Title VI compliance reviews of departmental activities
8. Work with the Title VI Specialist to conduct annual post-federal-assistance reviews of each MPO's and RPA
9. Ensure nondiscrimination in the distribution/solicitation of research contracts and in the consultant selection process
10. Identify minority colleges and universities (or minority technical/research associations within colleges and universities) and ensure that they receive all proposal/problem statement solicitations and instruct on how to develop/tailor the services they offer to participate in MassDOT projects
11. Ensure that Disadvantaged Business Enterprise (DBE) participation in consultant contracts is monitored and reported to the Department's DBE Liaison Officer
12. Ensure that MassDOT's work program, in accordance with 23 CFR 420.209, describing Research, Development, and Training program activities is submitted to FHWA by October 1 annually

13. Maintain records of all Title VI efforts

OTP GIS Services

The GIS Services team within OTP delivers enterprise services across the MassDOT divisions with consistency and provides confidence that Title VI, environmental justice, and other equity considerations are presented uniformly across the agency. The GIS team has a strong working relationship with the Title VI Specialist, continually collaborating on process improvements and finding innovative ways to graphically depict equity.

GIS Services has also produced interactive commenting tools for programming and project level initiatives, including the Capital Investment Plan, Massachusetts Bicycle Plan, among others. These tools allow the public to geo-locate their public comments on MassDOT initiatives. This has proven a valuable asset to equity analyses in public participation, as geographic gaps in participation are easily identified and public engagement strategies can be adapted to increase outreach to particular areas. GIS Services continues to explore increased use of these tools and continued process improvements.

Additionally, the GIS Services manages GeoDOT, a GIS-based platform of databases and data resources utilized by all entities within the agency. It contains open data portals and resources for municipal and state officials.

“Engage” Suite

OTP has created a web-based mapping tool to assist in public engagement and Title VI compliance. The tool is known as Engage and is integrated into GeoDOT. This tool is designed to help shape public outreach activities by providing information regarding demographics and language needs and includes contact information to individual and organizational stakeholders in or near a project location or the location of a public participation opportunity. OTP has completed mapping of Title VI/Nondiscrimination populations (including minority, low-income, LEP, age, sex, and disability) across the Commonwealth and has worked with MPOs to identify stakeholders in each community. OTP has worked with the MPOs to develop a more thorough and comprehensive list of community organizations and advocacy groups, including institutions such as community health centers, YMCAs, houses of worship, etc. These lists are to be updated annually.

While in live beta, the tool was presented at conferences and beta-tested with one of the MPOs which helped identify customer-experience process improvements. Now that the tool is operational and live, ODCR has begun incorporating this technology into staff trainings on Title VI, public participation, and language access obligations. Presentations and trainings are also being offered to the consultant community who are encouraged to utilize this tool as part of compliance with MassDOT’s Public Participation Plan.

Language and ADA Accessibility of OTP Products (GeoDOT, Project Pages, etc.)

OTP is committed to ensuring accessibility of hardcopy and electronic products. GIS Services is a prime example of the commitment to providing accessible content and developing new and innovative strategies to achieve it. The GIS team places strong emphasis on accessible language and word choice in the products they develop, including content uploaded to MassDOT webpages. OTP takes reasonable steps to offer mapping products in languages other than English, as indicated by the LEP Four Factor Analysis or by request. OTP considers how maps might be designed at the outset to be more universally understandable for users, such as using numbers and symbols instead of text, where appropriate. To further inform Factor 3 of the LEP Four Factor Analysis, OTP has surveyed staff and stakeholders to evaluate current reports and maps to determine which should be offered in translation.

Enhanced Equity Analysis Methodology

OTP understands its obligation to analyze for equity and continually strives to develop innovations to improve the accuracy and applicability of equity analyses by incorporating new data sources and interdisciplinary approaches, such as the incorporation of public health data, where applicable. OTP is committed to transportation equity/environmental justice and continues to seek equitable distribution of benefits and burdens in the transportation system through ongoing compliance with its own policies and consideration of Title VI and environmental justice factors through its evaluations and input from the public.

Public Outreach Effectiveness

OTP critically evaluates the effectiveness of public outreach and regularly adapts engagement strategies as necessary to reach diverse constituents. Tools such as the Engage Suite, institutional knowledge, and interactive geo-located commenting tools aid in this evaluation. Additionally, public comments that are received on any OTP projects or initiatives are distributed to appropriate parties throughout the agency to inform other projects, policies, and initiatives. Themes in public input are closely monitored and there is a strategic effort to incorporate themes from public comments into project scopes to draw a cohesive connection between public involvement and the ways in which MassDOT pursues its priorities through policies and projects.

Staff from the Office of Public Outreach and Engagement (OPEO) are available to assist the Office of Transportation Planning in conducting outreach campaigns that meet Title VI, ADA, EJ, and other civil rights obligations. MassDOT now also maintains a trained and certified team of public engagement “Producers” who facilitate the technology and logistics required for successful virtual public outreach events. Several of these volunteer producers are staff from the Office of Transportation Planning, giving them a unique insight into how to support departmental outreach efforts in a manner to meet civil rights compliance requirements.

TIP/STIP Equity Analyses

As part of 3C document development, MPOs conduct an equity analysis of TIP projects and UPWP tasks. TIP projects are mapped against Title VI and environmental justice areas and analyzed for equitable distribution of investments. Similarly, UPWP tasks are reviewed for their distribution of studies, technical assistance, and other measures. If disparities are present, the Title VI Specialist works with OTP and MPO staff to identify the reason and possible remedies, such as increased outreach to a community to assure available resources are fully understood and accessible to all communities. These TIP equity analyses inform the STIP development and equity analysis processes.

Planning Study Selection Process for Title VI Compliance

The criteria for planning study selection and the development of the OTP annual work program are structured to avoid discrimination across Title VI protected categories. All scopes of work within OTP are reviewed to assure appropriate Title VI considerations and public participation protocols, as well as cohesiveness amongst projects within the department.

Planning Study Selection for Statewide Planning and Research (SPR)

The selection of planning studies within OTP is predominantly centered on the annual Statewide Planning and Research (SPR) report. SPR is the federal funding that is provided to MassDOT for highway planning activities. Every year, this plan must be approved by FHWA.

To date, activities that are proposed in the SPR report are based on past work efforts and a solicitation for planning issues/needs among OTP managers. This approach incorporates federal planning factors and Title VI considerations. The Title VI Strategist is involved in the development of SPR to assure Title VI considerations are appropriately accounted for.

Project ideas are formally requested from managers. These ideas can be drawn from the approved statewide long-range plan, modal plans, certification documents from MPOs, corridor studies, or agency policy priorities. The Executive Director of Planning, Deputy Executive Director, and group directors convene a meeting where these project ideas are considered for programming. The mission of MassDOT (safety and customer focus), federal planning factors, and guidance from the relevant transportation authorization requirements are considered in SPR development. Please note that this process will not fully account for all projects since priorities do arise during the year.

Study Selection for Research Group

For research study selection at MassDOT, OTP began to solicit ideas MassDOT-wide in 2012. This effort intended to gain a more diversified list of potential research topics. OTP continues this established practice. Attention is paid to whether research study selection represents a diversity of ideas and research needs throughout the agency. Attention is also paid to Title VI implications in research topics, often highlighting equity as a focal point of research projects. ODCR is invited to have representation as a member of the Research selection committee and for any committees formed related to an RFR issued for research studies.

The MassDOT Research Program continues to explore opportunities to expand research opportunities to new diversified partners, both in terms of associated faculty, research institutions, and student researchers who receive opportunities to work on our projects.

MassDOT Research – Problem Statement Solicitation Process

The MassDOT Research team has streamlined the Problem Statement Solicitation process that applies to inter-departmental service agreements (ISAs). The new Problem Statement Solicitation process places an emphasis on MassDOT/MBTA related research issues and aims to make the Principal Investigator (PI) selection process fair and equitable. A MassDOT or MBTA employee is the only person who can submit a problem statement (potential research project) and by submitting the problem statement, this individual commits to being the Project Champion for the duration of the project. This assures that research funds are responsibly spent on projects that will further MassDOT/MBTA initiatives and the agency's priority areas. Research projects are selected based off of specified criteria, such as ranking (conducted by the Division Administrator or designated affiliate), funding, and relevance to the Capital Investment Plan, assuring a competitive process.

Additionally, during the problem statement solicitation process, the Project Champion has the opportunity to choose a Principal Investigator (PI). During the initial process, the Project Champion receives the names of available PIs, the University they are associated with, e-mail contact information, and a paragraph summarizing how the PI intends to address the problem statement. The Project Champion selects their top three Principal Investigator candidates, at which point, the Project Champion receives the CVs from each potential PI for the Project Champion to choose the final candidate. The goal of this revised process is to expand to breadth of research opportunities to eligible PIs, engage more universities, and provide more opportunity throughout MassDOT to propose research projects that will facilitate increased knowledge and innovation for MassDOT initiatives.

Study Selection for Corridor Planning

The Office of Transportation Planning has added a work product to review the overall congestion levels along the major transportation corridors in the Commonwealth. Similar to the way the Top 200 Crash Locations report issued by the Highway Division informs project selection, this report will be used to identify the most congested corridors and to prioritize them for further study. As part of this effort, OTP will include a Title VI and Environmental Justice analysis to ensure that the congestion burden is not disproportionate, high, and/or adverse on minority or low-income populations. Final study topic selection will be based on a combination of factors including congestion, safety issues, other potential burdens on Title VI and environmental justice

populations and the needs identified by the operating divisions of MassDOT and the Metropolitan Planning Organizations.

Study Selection for Long Range Planning

During initial study definition and selection, OTP staff preliminarily evaluate potential study concepts for their impact – positive and negative – on Title VI communities. That evaluation will be a factor in deciding whether or not to pursue a certain study concept into formal planning. That decision and the factors that influenced it are documented.

Study Scopes Include Title VI

OTP staff includes language into study scopes for consultants to ensure that Title VI and environmental justice considerations are incorporated into all applicable phases of work. Draft project scopes take into account Title VI-related issues and outreach regarding solicitations and include efforts to reach low-income, minority, and low-English proficiency communities.

OTP recognizes that a substantial portion of our work is done by consultants and therefore, incorporates Title VI considerations from the very beginning into their scopes and monitors their work for compliance. The Office of Transportation Planning supplies prospective consultants with information on potential Title VI and environmental justice issues within each respective study area. When work is done by in-house staff, the same considerations apply. The following language is included in contracts:

Public Involvement Plan: *“...All elements of the Public Involvement Plan must include specific communication strategies to provide continuous and meaningful opportunities for involvement by the public throughout the study process. These strategies must provide the opportunity for the full and fair participation by all potentially affected communities, including minority and low-income populations, at this stage of the transportation decision-making process. Likewise, these strategies must include provisions to actively engage minorities and gather their responses, as well as mitigate against potential discrimination based on race, color, national origin, English proficiency, income, religious creed, ancestry, disability, age, gender, sexual orientation, military service, or gender identity or expression. All materials posted to the project website must be in an accessible format consistent with MassDOT guidelines. Please refer to the following address for additional information on accessibility:*

<https://helpx.adobe.com/acrobat/using/create-verify-pdf-accessibility.html>

Constraints Identification: *“...Additionally, the constraints identification should identify any existing transportation effects on minority or low-income populations which are disproportionate, high, and adverse.”*

Community Effects/Title VI/Environmental Justice Analysis: *“... The consultant will determine if any of the alternatives and resulting mitigation is likely to result in effects that are disproportionate, high, and adverse to these populations. If so, the consultant will quantify the location, severity, and impacted population and identify potential mitigation and benefits.”*

Solicitations include all language required by the FHWA Title VI/Nondiscrimination Assurance.

During consultant selection processes, OTP requires potential responders to review the OTP website and OTP maps that detail Title VI populations. OTP asks responders to address how they would approach these issues in the analytical work and outreach efforts that they include in their proposals.

Contracts for Research Group

FHWA's Title VI/Nondiscrimination Assurance is included as a term in all research agreements with all potential research partners. All contractors are provided with the maps that detail limited English proficiency and minority populations. They are required to use them for analytical purposes as well as any outreach approach associated with a project. Some Title VI language is already included in current contracts, but Research will include any new directives or guidelines that are generated by ODCR.

Study Outreach for Planning Activities

As part of the public outreach element of OTP studies – which should be scaled appropriately to the complexity and duration of each study – OTP staff and their consultant colleagues make specific outreach efforts to Title VI communities that may be impacted by the study at hand (specific techniques will be informed by the MassDOT Public Participation Plan and will vary from study to study). The study boundaries and potential area of impact is established as part of the initial planning parameters for the project. These efforts, along with the entirety of the public outreach program, are ongoing throughout the duration of the study and focus particularly around major study milestones. As with the entirety of the public outreach program, Title VI-related outreach should involve direct outreach to abutters and other potentially impacted individuals, as well as collaboration with established community groups. All of these efforts are documented.

Title VI Lens for Analysis of Alternatives

OTP includes Title VI analysis when studying alternatives in both corridor and long-range plans. This includes assessing the benefits and burdens of alternatives, according to the protocols articulated below. If the project is one that involves the evaluation of different potential implementation alternatives, evaluation of impact Title VI communities, as well as to the general public, will be considered as part of the alternatives analysis process. The exact weighting of Title VI-related issues in the overall alternatives evaluation will depend on the specific nature and goals of each project. All of these efforts will be documented.

Outreach regarding possible alternatives will follow the same Title VI compliance strategies regarding outreach as described above.

A substantial portion of OTP's work is done by consultants and therefore, OTP incorporates Title VI considerations from the very beginning into their scopes and monitors their work for compliance. When work is done by in-house staff, the same considerations apply. The following language is included:

Community Effects/Environmental Justice Analysis text to be included in scopes for consultants:

"... The consultant will determine if any of the alternatives and resulting mitigation is likely to result in effects that are disproportionate, high, and adverse to these populations. If so, the consultant will quantify the location, severity, and impacted population and identify potential mitigation and benefits."

Solicitations include all language required by the FHWA Title VI/Nondiscrimination Assurance.

Highway Design

The Deputy Chief Engineer for Design oversees the project development process and manages all aspects of Highway Division design projects to ensure that projects comply with MassDOT's *Project Development and Design Guide*, as well as state and federal regulations. Design projects have many origins, including metropolitan planning organizations' priorities, bridge or highway maintenance requirements, federal funding programs (enhancements or Congestion Mitigation and Air Quality [CMAQ]), and MassDOT Highway District requests. Project designs are generated by engineering consultants or in-house staff and generally follow the

process outlined in the *Project Development and Design Guide*. The 25%, 75% and 100% design completion points are milestones at which project plans are reviewed for compliance with environmental regulations, adherence to design criteria, utility and right-of-way considerations, and budget constraints.

During the preliminary design process, information regarding the social, economic, and environmental project impacts is reviewed to determine impacts and what mitigation, if any, is needed. Design engineers also ensure that all design criteria are met for walkways, street crossings, and pedestrian facilities in accordance with the most current Americans with Disabilities Act Accessibility Guidelines (ADAAG), including the modifications prescribed by 49 CFR Part 37, Appendix A. With regard to transportation system facilities within the public right-of-way, design engineers ensure that the standards set forth in 49 CFR Part 37.9 are applied.

Title VI Role

During the design process, provisions are made to ensure that Title VI criteria are met for each project by obtaining and acting on information pertaining to the potential adverse impacts on both the cultural and natural environments. Much of this is addressed through the project scoring process which sees Project Design staff evaluating projects against the state's Project Selection Criteria, which include Title VI (and Environmental Justice) scores made up of multiple questions and distinct inquires about the nature of the project, purpose of the project, impacted populations, and level of public engagement and support. In addition, under this Program, Design staff works with the Title VI Specialist and Director of Title VI and Accessibility to ensure that public involvement, including the involvement of Title VI populations, is solicited at public information meetings, as appropriate, for all projects. Project managers ensure that all letters and public notices regarding public meetings contain appropriate Title VI/Nondiscrimination language and that reasonable accommodations are made available for people with disabilities or limited English proficiency, as needed.

Title VI Responsibilities

To fulfill its Title VI role with regard to project design, the Design Unit must:

1. Evaluate all proposed projects for Title VI impacts/implications in accordance with the state's Project Selection Criteria.
2. Work with MassDOT's Title VI Specialist and OTP's GIS Analysts to provide relevant feedback on projects and project categories in the evaluation of the equity of the state's Transportation Improvement Program, Capital Investment Plan, and other such planning documents.
3. Ensure that efforts are made and documented to solicit involvement of Title VI communities/populations and that appropriate Title VI/Nondiscrimination language is used in all notification letters and public notices regarding public meetings
4. Establish and follow procedures to document the level of participation of Title VI communities/populations at public meetings to the extent practical and as appropriate
5. Ensure that pertinent design criteria, as mandated by the ADA and implementing Section 504 regulations, are considered and incorporated, to the extent practical, into all projects
6. Coordinate with MassDOT's DBE Liaison Officer to identify DBE consultants available to perform related work and ensure solicitation to the same
7. Ensure that DBE participation on all consultant contracts is monitored and reported to MassDOT's DBE Liaison Officer
8. Maintain records of all Title VI efforts

Environmental Services

The Environmental Services section (Environmental) is responsible for overseeing the environmental compliance activities for MassDOT to ensure that the roadway and bridge construction and repair program as well as maintenance depot operations are conducted in an environmentally sound manner. To effectuate environmental justice and to eliminate disparate impacts on populations protected under Title VI and related nondiscrimination statutes, Executive Orders, and regulations, Environmental provides the technical expertise required for analyzing the social, economic, and environmental impacts of each project.

Environmental's work is done through several component units and programs -

Cultural Resources Unit

The Cultural Resources Unit's review of MassDOT projects is generally conducted either under Section 106 of the National Historic Preservation Act of 1966 (if federally funded or permitted) or M.G.L. Chapter 9, Section 26-27C, as amended by Chapter 254 of the Acts of 1988 (if state funded). In 2004, MassHighway (now the Highway Division of MassDOT) entered into a programmatic agreement with the Massachusetts State Historic Preservation Officer (SHPO), the FHWA, and the Advisory Council on Historic Preservation that allows a streamlined Section 106 review for minor highway projects with federal funding.

The work of the Cultural Resources Unit includes:

- Ensuring that early coordination with the appropriate local historical commissions and Tribal Historic Preservation Officers is conducted
- Maintaining and expanding the Massachusetts Historic Bridge Inventory
- Performing or directing documentary research and architectural and archaeological field surveys, evaluating the historical/archaeological significance of all properties within a proposed project impact area, and reviewing project plans to identify and evaluate the project's effect on historically significant properties
- Coordinating and consulting with the FHWA, the SHPO/Massachusetts Historical Commission, local historical commissions, Tribal Historic Preservation Officers, other federal and state agencies, and interested parties regarding impacts on historic properties
- Seeking alternatives to minimize or mitigate impacts on historic properties (for example, approaches described in MassDOT's *Adaptive Reuse of Bridges*)
- Preparing and filing clearance documentation with the appropriate regulatory authority
- Providing assistance to state and federal agencies (for example, the Cultural Resources Unit evaluated the National Register eligibility of the Interstate Highway System within Massachusetts for the FHWA)

MEPA/NEPA Unit

The primary duties of the MEPA/NEPA Unit consist of project review pursuant to the Massachusetts Environmental Policy Act (MEPA) and the National Environmental Policy Act (NEPA). The MEPA/NEPA Unit is also responsible for completing environmental design reviews throughout the various design stages of projects. The Unit is consulted early in the preliminary design process to identify a project's potential impacts on environmental resources and guide the designers through its permitting requirements. The initial 25% design review includes the review of interactive GIS-based maps,

coordination with other MassDOT environmental units, and careful analysis of the project design as it relates to applicable environmental laws and regulations.

Environmental Project Development Unit

The focus of the Environmental Project Development Unit is on initiating early project coordination with the affected communities and the environmental agencies; reviewing roadway and bridge construction designs to assess impacts on the surrounding communities and the natural environment; and determining proper impact-avoidance, minimization, and mitigation strategies. Emphasis is placed on continual refinements of the Project Development Process to improve coordination with the public, local government boards, and area legislators and to become more efficient in the acquisition of permits and project approvals.

The Project Development Unit was instrumental in initiating the Early Environmental Coordination for Design Projects Engineering Directive. This directive established a standard process in which designers initiate early coordination with local groups and MassDOT ensures that community concerns and issues are appropriately addressed in the 25% design submission. This directive encompasses the full range of environmental and local concerns to help designers create projects that are environmentally sound and fit into the context of the communities in which they are constructed. Project designers are required to include written confirmation of coordination with the appropriate local boards, commissions, and interested parties and to submit sufficient detail in the 25% design for environmental permitting to be initiated.

Wetlands and Water Resources Unit

The primary role of the Wetlands and Water Resources Unit is to ensure that all projects scheduled for construction receive the applicable federal and state wetland permits prior to advertising for construction bids. Staff prepare and/or review wetland permits and wetland/storm water mitigation designs, delineate wetland boundaries in the field, conduct habitat evaluations, and determine wetland functions and values in accordance with the Department of Environmental Protection (DEP) and U.S. Army Corps of Engineers (ACOE) methodologies.

Staff review proposed projects, provide technical and regulatory advice on wetland and water quality issues, recommend design changes where possible to avoid and minimize impacts, and determine the proper mitigation based on the extent of the impact relative to the feasibility of the mitigation.

In order to meet the Department's advertising goals and to facilitate expeditious environmental agency reviews, this unit holds monthly meetings with the ACOE, holds quarterly meetings with the U.S. Coast Guard, and routinely meets with DEP regional offices and local Conservation Commissions to review projects and discuss policies and procedures related to wetland and water quality protection.

Stormwater

The stormwater unit ensures that MassDOT projects and operations meet state and federal stormwater regulations. Specific tasks include providing stormwater-related guidance to designers and plans for future stormwater projects; illicit discharge detection and elimination; and providing erosions and sediment control measures during construction to protect water quality.

Wildlife and Endangered Species

The wildlife and endangered species unit works to ensure that projects advanced by the MassDOT Highway Division protect endangered species, fisheries, and wildlife, and in compliance with applicable laws, rules, and regulations. For MassDOT Highway Division projects, the unit must follow the federal and Massachusetts Endangered Species Acts, the Magnuson-Stevens Fishery Conservation and

Management Act, Migratory Bird Treaty Act, and Fish and Wildlife Coordination Act. The unit also seeks opportunities for aquatic and terrestrial habitat connectivity, protection of rare and endangered species, ecosystem stewardship, and reduction of wildlife mortality, all while supporting the Commonwealth's transportation projects.

Title VI Role

The Environmental Services Section utilizes a systematic process to study and evaluate all necessary environmental aspects of proposed projects in order to avoid, mitigate, and minimize disproportionately high adverse impacts on the social, economic, and environmental well-being of Title VI communities. Environmental Services classifies each project according to the categories identified by the National Environmental Policy Act of 1969. The environmental studies to be conducted are determined by the magnitude of potential impact. Environmental Services maintains information regarding potential adverse social and economic impacts of each project. This information is communicated to the Title VI Specialist and Director of Title VI and Accessibility, who assist, as appropriate, in determining effective alternatives or mitigation measures and ensures they are incorporated into project plans. Environmental staff play a key role in project scoring by providing the review committee with insights into possible environmental impacts associated with projects that may impact Title VI communities.

Title VI Responsibilities

To fulfill its Title VI role with regard to environmental impacts and the equity of their distribution, Environmental Services must:

1. Conduct early and continuous public involvement
2. Ensure that thorough analyses are conducted for each project to identify disproportionate adverse social, economic, and environmental (SEE) impacts and ensure that mitigation measures are implemented to avoid or minimize adverse impact
3. Maintain demographic data on Title VI populations
4. In conformance with Title VI requirements, provide information regarding project impacts and mitigation measures at public meetings/hearings and to affected communities, and ensure public participation in evaluating mitigation measures
5. Maintain and provide to the Title VI Specialist general information concerning the status of Class I and Class III projects with respect to environmental assessments, environmental impact statements, and the implementation of mitigation
6. Provide oversight/consultation for environmental activities related to federally assisted projects provided through or by MassDOT
7. Ensure that DBE participation on all consultant contracts is monitored and reported to MassDOT's DBE Liaison Officer
8. Coordinate with the MassDOT DBE Liaison Officer to identify DBE consultants available to perform related work and ensure solicitation to the same
9. Maintain records of all Title VI efforts

Right-of-Way

The MassDOT Right of Way Bureau (ROW) is responsible for securing and managing all property and rights in land required for the road and bridge program.

- The Project Section reviews preliminary ROW plans, gathers parcel and owner data relative to the project, and provides data to the Conveyance and Appraisal Sections. This Section also contacts property owners and explains the project and its impact to them.
- The Conveyance Section prepares and reviews titles, prepares leases, deeds, memoranda of understanding, and other legal documents, and records plans, orders of taking, and other related documents at the various Registries of Deeds.
- The Appraisal Section prepares and reviews appraisals to establish the value of fee acquisitions, permanent and temporary easements, and other rights in property.
- The Negotiation Section meets with property owners to explain the situation and answer questions about the impact of road and bridge projects on their property and inform them of the amount of compensation being offered. The negotiators also answer questions, address concerns, and explain the owner's rights in the eminent-domain process.
- The Relocation Section ensures that all personal property is moved from the acquired land and the owners or tenants are reimbursed for the eligible cost of the move. Relocation agents meet with the property owners or tenants living or conducting business at the acquired property, explain what benefits they are entitled to, and offer relocation assistance to them. When moves are completed, the relocation agents present the claims for payment approval and processing; they then tender the payments to the claimants.
- The Community Compliance Section ensures that municipalities follow all applicable state and federal regulations prior to the issuance of a right-of-way certificate, which allows the city or town to proceed with roadway and bridge projects.
- The Property Management Section performs typical property management duties when structures are included in the acquisition. Fair-market rent is determined and charged to the occupant of the structure acquired. Property Management is also responsible for maintenance until the structure is vacated. This Section maintains Commonwealth-owned property, collects rent, and removes or demolishes all structures acquired by MassDOT. It also handles the disposition of MassDOT-owned property.
- The Finance Section develops the annual administrative and capital budgets and is responsible for timely payments for goods, services, and property acquisitions.
- The Clerical Section provides administrative support to the other Sections of the ROW Bureau through document preparation and distribution, filing, and file maintenance.
- The Outdoor Advertising Section regulates and controls the erection and maintenance of off-premise billboards, signs, and other advertising devices. Licenses are issued to firms and individuals wishing to engage in the business of outdoor advertising, and permits are issued on an annual basis for the erection and maintenance of signs, in accordance with 711 CMR 3.00, et seq.

Title VI Role

To ensure Title VI compliance, the Right of Way Bureau's property acquisition process is conducted in accordance with the *Project Development and Design Guide* and all applicable laws and regulations. Throughout all phases of acquisition, MassDOT ensures that all Title VI requirements of nondiscrimination are observed and implemented. The Director of Right of Way establishes and enforces procedures to ensure nondiscrimination in appraisal, negotiation, acquisition, management, relocation, and adjustment of utilities. Most frequently, this includes providing vital materials to property owners and abutters in languages other than English to ensure that LEP abutters have access to critical information regarding the Right of Way process. This also includes providing multilingual support when meeting individually with property owners and abutters or in groups with parties interested in particular projects during the project development process. ROW staff coordinate these efforts with the Title VI Specialist and the Director of Title VI and Accessibility to ensure compliance with applicable Title VI requirements.

Title VI Responsibilities

To fulfill its Title VI role with regard to acquiring and maintaining rights-of-way, the Right of Way Bureau must:

1. Ensure participation by DBEs in Personal Services Contracts; typically these are appraisal contracts, but they can cover all services of real estate, including negotiation, relocation, and property management
2. Maintain data on Title VI demographics of individuals and communities impacted by the ROW process, where possible.
3. Ensure that appraisal activity complies with Title VI
4. Equitably advise affected property owners, tenants, and others involved of their rights and options regarding negotiation, relocation, condemnation, and other aspects of the acquisition process
5. Ensure that appraisal and negotiation operations do not have a disparate impact on minority or low-income populations
6. Coordinate the preparation of deeds, permits, and leases to ensure the inclusion of the appropriate Title VI clauses
7. Ensure that the determination of rent amounts is equitable and that the maintenance of rental properties is adequate and consistently performed for all renters
8. Establish procedures to document the level of participation of minority, low-income, LEP, and disabled persons at public hearings to an extent practical and appropriate
9. Ensure that hearing formats are designed to encourage participation by and comments from underrepresented persons and communities
10. Establish notification and advertising procedures to ensure that efforts are made to notify minority and low-income populations and that appropriate Title VI language is used in all letters and public notices
11. Maintain records of all Title VI efforts

Construction and Contracts/Contract Administration

The Construction Department manages all aspects of MassDOT construction projects, including contract administration, to ensure that all construction complies with MassDOT Highway plans and specifications and to ensure that construction proceeds safely and in accordance with established schedules and budgets. The

Construction Department includes a Boston Construction Office, construction departments in each of the six District offices, and the Research and Materials Section.

The Boston Construction Office is headed by the Deputy Chief Engineer for Construction. It includes Construction Management and Construction Finance. Construction Management handles all technical issues related to MassDOT Highway construction, including evaluating bids, recommending contract awards, processing contract changes, and coordinating responses to technical questions that arise during construction. Construction Finance handles all financial paperwork for construction contracts, including funding appropriations, fiscal tracking for spending, extra work order funding, and processing of contractor pay estimates.

The Construction Office in each of the six Districts is headed by a District Construction Engineer, supported by assistant construction engineers, area engineers, resident engineers, and field engineers. These individuals have direct responsibility for monitoring construction onsite, day-to-day to ensure that construction proceeds safely and in accordance with established schedules and budgets.

Title VI Role

The Construction Department monitors project construction to minimize social and environmental impacts on communities. In fulfilling this role, contract administrators ensure that prescribed mitigation measures to reduce health and safety risks, as well as environmental impacts, are effectively implemented. To further ensure compliance with Title VI, Sections II and III of Form FHWA-1273 are closely monitored by the contract administrators to facilitate the goal of increased participation of minorities and females in the federal-aid highway program.

Title VI Responsibilities

To fulfill its Title VI role with regard to project construction, contracts, and contract administration, the Construction Department must:

1. Ensure that all contract administrators are trained and cognizant of contractual requirements with respect to nondiscrimination as outlined in 23 CFR 230, Sub-part A/ FHWA Form 1273
2. Ensure that no barriers exist in prequalification, approval of subcontractors, and bonding and licensing requirements
3. Ensure that uniformity exists in the approval of plan changes and supplemental agreements, and in the assessment of sanctions, liquidated damages, withholding payments, suspension/termination of contracts, and decertification
4. Ensure that all mitigation measures are effectively implemented; for example, in the areas of health and safety, noise and air impacts, and employment and contracting goals
5. Monitor contractor activities to prevent discrimination against or disparate treatment of persons or communities, such as in the handling of waste/spill disposal or environmental compliance or in the form of harassment
6. Maintain records of all Title VI efforts

Maintenance

MassDOT Highway operations and maintenance is conducted in the six Districts according to the Maintenance Program. The Maintenance Program is developed on the basis of a comprehensive process of inspection, evaluation, and prioritization of maintenance efforts.

The Highway Division's Boston office makes the policy decisions that lead to the road improvement projects that are planned or are ongoing across the commonwealth. The Highway Division identifies roads and bridges that are in need of repair, reconstruction, or replacement and works to make the appropriate upgrades. MassDOT's priority is safety with as little inconvenience as possible to Massachusetts motorists.

Each district is under the direction of the District Highway Director (DHD), who reports to the Chief Engineer. The District Office supervises all construction within its jurisdiction, performs on-site engineering, implements maintenance and preventive maintenance programs, generates proposals for maintenance and construction work, and provides engineering support to cities and towns.

Title VI Role

Each Highway District office ensures that the development and implementation of the Maintenance Program is compliant with Title VI/Nondiscrimination requirements. Each office considers demographic information when developing maintenance plans and conducting maintenance operations to ensure that the allocation of materials and resources is fair and uniform.

Title VI Responsibilities

To fulfill its Title VI role with regard to roadway maintenance, each Highway District office must:

1. Monitor maintenance activities and inspect work to ensure the Maintenance Program is being implemented in a nondiscriminatory manner
2. Ensure that all mitigation measures are effectively implemented; for example, in the areas of health and safety, noise and air impacts, and employment and contracting goals
3. Maintain records of all Title VI efforts

Safety

The MassDOT Highway Traffic Engineering Section is responsible for overseeing traffic engineering activities to ensure that the roadway and bridge construction and maintenance programs comply with the federal Manual of Uniform Traffic Control Devices (MUTCD) and the Commonwealth of Massachusetts General Laws. This includes preparing and reviewing various traffic engineering documents such as:

- Traffic signal permits
- Speed limit regulations
- Traffic control agreements
- Highway sign policy
- Traffic Management Plan Manual
- Traffic impact studies and functional design reports
- Highway Safety Improvement Program
- Road Safety Audits
- Strategic Highway Safety Plan

The Traffic Engineering Section provides technical review services for all construction and maintenance projects prepared for MassDOT, including private development mitigation and municipal construction projects.

The staff provides regulatory guidance and technical expertise to support compliance with current state and federal standards. In addition, Traffic Engineering staff is engaged in numerous field activities to support Department policy, including traffic signal inspection, road safety audits, work zone inspections, right-of-way investigations, speed zoning, sign and pavement marking inspection, and fatal-crash investigations.

The Safety Management group of Traffic Engineering maintains a database of crash data in support of the records collected by the Registry of Motor Vehicles. Staff uses the crash data to identify locations for safety improvement projects and works with the regional planning agencies to produce a priority listing of safety project needs under the Highway Safety Improvement Program. In addition, the Safety Management staff participates in numerous statewide safety initiatives aimed at reducing fatal and severe-injury crashes and increasing safety belt usage.

Title VI Role

The Traffic Engineering Section provides safe work zones for all workers and road users while also providing for the highest level of mobility. It notifies the public of upcoming construction work and the associated impact the work is expected to have on the public way.

Traffic Engineering effectuates Title VI, Title II of the ADA, and Section 504 of the Rehabilitation Act of 1973 by ensuring that traffic control devices and signals are designed and located in a uniform manner. The Chief Engineer ensures that signals, signs, and auxiliary devices are considered in the development of all MassDOT projects and that they conform to the standards prescribed in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and the MUTCD and to the Commonwealth's applicable provisions from the Architectural Access Board. These standards will soon be more focused through the anticipated adoption of the Public Right-of-Way Accessibility Guidelines. Additionally, Traffic Engineering incorporates methods of communication into traffic control systems to ensure that communications provided to persons with disabilities are as effective as communications with others.

One of the key interfaces between Title VI populations/communities and MassDOT's Safety section is through the performance of Roadway Safety Audits. These evaluations include site visits and outreach to and collaboration with the local community. Safety staff conducts outreach to the public in a manner that is consistent with Title VI public engagement requirements to attempt to solicit feedback and participation by the diverse constituencies across the Commonwealth.

Title VI Responsibilities

To fulfill its Title VI role with regard to safety, Traffic Engineering must:

1. Equitably provide safe work zones for all workers and road users while also providing for the highest level of mobility
2. Ensure that traffic control plans, systems, and devices are provided in such a manner as not to have a disproportionate negative effect on minority or low-income populations
3. Ensure that pedestrian signals are designed and placed to accommodate persons with various disabilities in accordance with the ADAAG, Chapter 3.5, the MUTCD, and/or other applicable laws or regulations
4. Ensure that pedestrian signage complies with the criteria outlined in the MUTCD and other applicable laws or regulations
5. Ensure that DBE participation on all consultant contracts is monitored and reported to the Department's DBE Liaison Officer
6. Maintain records of all Title VI efforts

Introduction to Internal Review Process

In accordance with 23 CFR § 200.9(b)(5) and (6), MassDOT's Title VI unit, including the Title VI Specialist and the Director of Title VI and Accessibility, is responsible for conducting internal Title VI/Nondiscrimination compliance monitoring activities. The framework of these program review procedures is articulated below.

Risk-Based Prioritization

The work units that comprise MassDOT have varying degrees of interaction with and impact upon members of the public (the beneficiaries of Title VI nondiscrimination protections). The effective management of the resources the organization can devote to internal Title VI compliance takes this organizational reality into account by prioritizing internal compliance activities on the units that have the highest risk potential for noncompliance with Title VI/Nondiscrimination obligations. Factors considered include, but are not limited to, the degree to which bias can occur in operational contexts, the extent to which operations of those units most directly impact members of the public and indications of significant prior complaint activity.

Procedure

Programs scheduled for review will be notified in writing that their program has been selected for review under the current review cycle, and this notification will include a compliance review questionnaire that the Programs are required to complete.

The Title VI/Nondiscrimination Program staff will review the response to the questionnaire during the desk review process. As needed, an on-site review may be conducted and consist of a review of files and documentation and staff interviews.

A Determination of Findings (DOF) will be provided to the Department Director, Division or District Chief, Chief Diversity and Civil Rights Officer, and the appropriate executive staff of the Program being reviewed. No action on the part of the Program will be required on findings of compliance, unless a condition of compliance is specified. However, Programs or program areas found out of compliance will result in the development of a Corrective Action Plan (CAP) to overcome any deficiencies. If it is determined that the matter cannot be resolved voluntarily, by informal means, action will be taken to effectuate compliance, up to and including notice to the Secretary/CEO. It is important to note that these procedures are flexible, and the need for an on-site review is determined based on the responses provided in the initial questionnaire.

Methodology

The assessment process relies on an array of methods to determine the extent of Title VI/Nondiscrimination awareness and compliance across MassDOT's federal program areas. MassDOT's Title VI staff (the Title VI Specialist and the Director of Title VI and Accessibility) are encouraged to introduce variety in their approaches to conducting these assessments. Research is conducted into the potential Title VI activities among state DOTs in the subject matter areas, complaint activity is monitored and study of the substantive area conducted to identify possible trends and glean ideas for potential risk factor considerations. Taking varied approaches to these assessments limits the risk that federal program areas will develop a tendency to rely on template responses to template inquiries. It also encourages the federal program areas to think about Title VI/Nondiscrimination principles more broadly throughout the assessment cycle, and prospectively, as the program areas carry out their business. The assessment process is designed to give MassDOT's Title VI staff an opportunity to understand the business practices of each federal program area, to determine the extent to which Title VI/Nondiscrimination factors into those practices, and to identify areas of improvement and corresponding corrective actions. This is accomplished through the following methods:

- Desk Audits

By requesting and reviewing the documents utilized by MassDOT's federal program areas, the Title VI staff is able to determine the extent to which Title VI/Nondiscrimination activities are woven into the activities of those units. This review looks primarily for the presence of standard boilerplate Title VI/Nondiscrimination Assurance language, as needed. This is also an opportunity for MassDOT's Title VI staff to identify opportunities for Title VI/Nondiscrimination data gathering and/or training opportunities.

- Interviews

MassDOT's Title VI staff relies on in-person interviews of federal program area staff to determine the extent of compliance with Title VI/Nondiscrimination obligations. These interviews reach both managerial and front-line staff. It is critical for managers to be sufficiently trained on Title VI/Nondiscrimination principles to articulate its importance to their staff and to instruct on how adherence to Title VI/Nondiscrimination is demonstrated through the particular actions of a federal program area. It is equally important that front-line staff be able to articulate the ways in which Title VI/Nondiscrimination activities are a part of their course of business as well as the resources available to address Title VI/Nondiscrimination concerns by members of the public (such as the availability of a complaint resolution process and the procedure for engaging it).

- "Shadowing"

This describes instances where MassDOT's Title VI staff will accompany federal program area staff on their business activities in order to better understand the nature of the work (and possible Title VI/Nondiscrimination risk-factors therein) as well as monitor staff for compliance with Title VI/Nondiscrimination obligations.

- Technical Assistance

MassDOT's Title VI staff provides technical assistance on Title VI/Nondiscrimination compliance across the agency. This can include identifying language needs in impacted communities, informing the reasonable accommodation interactive process, developing new methods of data collection and analysis, and providing recommendations on new and novel Title VI/Nondiscrimination related questions and issues. Often times, this technical assistance is prompted by the direct requests of federal program area staff. These instances provide MassDOT's Title VI staff with an opportunity to gauge current levels of Title VI/Nondiscrimination compliance throughout the agency as well as areas for improvement.

- Attendance at Public Outreach Events

By attending public outreach events, such as public hearings, meetings, and information sessions, MassDOT's Title VI staff is able to observe federal program area staff in their direct interactions with members of the public – the beneficiaries of Title VI/Nondiscrimination protections. This gives the Title

VI staff an opportunity to identify any needs for additional training and to ascertain the effectiveness of Title VI/Nondiscrimination related request processes (such as language services and reasonable accommodations). Attending these sessions also provides an opportunity to learn of project-level community concerns that may be Title VI/Nondiscrimination related.

- **Additional Methods**

MassDOT's Title VI staff regularly engages in research and analysis of Title VI compliance strategies across the nation and within FHWA as it strives to identify best-practices and innovate new methods to ensure Title VI/Nondiscrimination adherence. New methods of compliance monitoring produced by these efforts will be reported to FHWA in MassDOT's annual Title VI accomplishments report and work plan and will be articulated in the triennial updates to MassDOT's Title VI/Nondiscrimination Program.

Variable Prioritization

While the cycle of internal assessments is structured based on risk-based prioritization, it is not rigid. The federal program areas assessed during any given annual cycle can change based on the following factors:

- **Complaints**

The receipt of Title VI/Nondiscrimination related complaint(s) regarding the programs, services, or activities of a MassDOT federal program area can prompt not only a formal investigation but also assessment activities, even if this causes the assessment to occur out of sequence with the cycle. This approach affords MassDOT the opportunity to identify possible Title VI/Nondiscrimination noncompliance concerns and pursue independent corrective actions (such as trainings) over and above any federal corrective actions that may result from a concurrent investigation.

- **Staffing Changes**

Changes made in personnel among MassDOT's public-facing federal program areas could prompt MassDOT's Title VI staff to perform out-of-sequence Title VI/Nondiscrimination assessments to ensure that new staff is fully aware of and complying with Title VI/Nondiscrimination obligations. While training is a valuable tool in this regard, the assessment process also has a vital role to play here.

- **Changes in Protocols/Rollout of Projects**

MassDOT is constantly innovating and updating the way we conduct business activities, triggered under the efficiency and innovation components to the legislation that created our transportation enterprise. This can include revisions to protocols (ex: renegotiated Federal/State programmatic agreements) and the technology used to do the work of the organization (ex: information technology advancements). The nature of these changes may have potential Title VI/Nondiscrimination compliance implications. If such factors are identified, even if it causes an assessment to occur out of

sequence, MassDOT's Title VI staff may recommend conducting an assessment to fully understand those impacts and mitigate potential problems.

- **Patterns Indicating Noncompliance**

The completion of an assessment cycle does not guarantee that all the programs, services, or activities of a MassDOT federal program area are or will be Title VI/Nondiscrimination compliant. The assessment process culminates in the development of a tailored work plan to correct noncompliant policies and/or activities. As MassDOT's Title VI staff follows up on the progress of the action items outlined in the work plans, it may become clear that some areas remain persistently unaddressed. Such a pattern of noncompliance could prompt additional assessment activities out of sequence from the cycle.

- **Additional Factors**

MassDOT's Title VI staff regularly engages in research and analysis of Title VI compliance strategies across the nation as it strives to identify best-practices and innovate new methods to ensure good Title VI/Nondiscrimination compliance. Internal monitoring prioritization variables and methodologies incorporated into MassDOT's monitoring activities will be reported to FHWA in MassDOT's annual Title VI goals and accomplishments report and will be articulated in the triennial updates to MassDOT's Title VI/Nondiscrimination Program.

Outcome

The internal assessment process culminates in the development of tailored Title VI/Nondiscrimination work plans by MassDOT's Title VI staff for implementation by assessed units. These plans are designed to illuminate possible deficiencies and identify areas of improvement in the Title VI/Nondiscrimination activities of MassDOT's federal program areas, with specific timeframes for deliverables and action items. MassDOT's Title VI staff drafts these tailored work plans immediately following the close of assessment activities. Once developed, an exit interview with program area leadership (and staff, as needed) is arranged. These sessions afford the opportunity for Title VI staff to explain the content/purpose of the work plans as well as schedule technical assistance sessions and establish cycles and methodologies for program areas to report on and demonstrate their progress to address all work plan items.

The intervening years between assessments consist of MassDOT's Title VI staff providing both planned and ad hoc technical assistance and trainings, meeting regularly with federal program area leadership and staff to track progress on work plan items, and monitoring the programs, services, and activities of federal program areas for Title VI/Nondiscrimination compliance.

Schedule

The program review procedures detailed in this section are conducted on a recurring basis. This means that the MassDOT Title VI staff endeavors to conduct these review activities on an annual basis, focusing on particular program areas in succession, until all program areas are evaluated at which point the cyclical process resets and begins again. As described above, there are a variety of factors to consider when selecting program areas for review which prioritizes and deprioritizes program areas for review during any given year. In other words, there is not one consistent schedule of reviews that is repeatedly followed each year. Rather, the Title VI staff makes unique determinations, informed by the factors described above, regarding which program

areas will be reviewed during any given year. However, the following schedule provides a framework for guiding the program area review process year-after-year. While the actual schedule does change, this guideline helps provide a baseline for structuring each year's review activities.

- Year 1 (Current Review Cycle): Right of Way, Environmental Services
- Year 2: Planning
- Year 3: Design, Construction
- Year 4: Maintenance and Safety

Sample Questions for Program Area Review

Below is the question bank maintained by MassDOT's Title VI staff to facilitate the internal review of one of MassDOT's federal program areas, namely the Right of Way Bureau.

1. Are Title VI Assurances/Appendices included in all leases, deeds, and contracts? Please provide a copy of such documents related to a recent taking.
2. Are Title VI Provisions included in all realtor, fee appraiser, negotiator, and other ROW contracts? Please provide a recent contract.
3. What nondiscrimination training has ROW participated in? Was this mandatory or voluntary training?
4. How are those impacted by ROW activities informed of their rights under Title VI?
5. How many public meetings did ROW participate in during this federal fiscal year? If ROW staff were to receive any Title VI related requests for a meeting, how are these processed?
6. Is the ROW office making use of the public outreach and engagement services offered by the Office of Public Engagement and Outreach? If yes, what kind of services have been utilized?
7. What efforts are taken to overcome language barriers in all phases of the ROW process? If any such requests have been addressed recently, please explain and provide sample documents.
8. At what point in the process, does ROW staff typically become aware of language access needs?
9. What tools are used by ROW staff to assist LEP populations?
10. How is ROW staff trained on how to assist LEP populations?
11. Please provide a list of documents that have been translated and include the language(s). Are translated versions of documents kept up to date?
12. Is demographic data collected on ROW activities that impact members of the public (i.e. relocations, easements, etc.)?
13. Have any specific civil rights complaints been received in regard to any ROW activities? How were/would they be handled and documented?
14. Are there any civil rights related accomplishments, goals, or initiatives ROW would like to report?

CHAPTER 4

Subrecipient Review Procedures

Introduction

In accordance with 23 CFR § 200.9(b)(7), MassDOT's Title VI staff (the Title VI Specialist supervised by the Director of Title VI and Accessibility) is responsible for conducting external Title VI/Nondiscrimination compliance monitoring activities. These monitoring activities reach subrecipients of Federal-aid highway funds, including MPOs/RPAs, municipalities, and others.

Risk-Based Prioritization

Just as with MassDOT's internal Title VI/Nondiscrimination compliance monitoring program, the general structure of the external monitoring program is shaped by risk-based prioritization. The subrecipients to which FHWA financial assistance is extended through MassDOT is not a homogenous group. Title VI/Nondiscrimination risk factors are not necessarily consistent across these organizations and the amount of federal aid at issue will vary dramatically. Monitoring activities will therefore depend on the type of subrecipient at issue, the risk of noncompliance, and the impact that noncompliance could have on beneficiaries. For example, an MPO/RPA that receives significant federal financial assistance and is regularly making transportation project programming decisions about federal aid highway projects poses a greater risk of potential noncompliance under Title VI/Nondiscrimination than a university that participates in only a limited FHWA funded program (such as the National Summer Transportation Institute program) with proportionately less direct impact on beneficiaries.

Assurance

The FHWA Title VI/Nondiscrimination Agreement and Recipient Assurances (Assurance) is executed by direct recipients (such as MassDOT) as an acknowledgement of Title VI/Nondiscrimination obligations. Subrecipients (such as MPOs and RPAs) are similarly obligated to execute the Assurance. Part of MassDOT's subrecipients monitoring activities includes ensuring that subrecipients are executing this document and implementing its provisions appropriately. MassDOT requires MPOs and RPAs to execute the Assurance every three years and demonstrate the process through triennial reporting obligations. The implementation of Assurance provisions (such as the incorporation of Title VI/Nondiscrimination language in contracts) is reported by subrecipients to MassDOT annually. While currently MassDOT requires municipalities to execute Title VI/Nondiscrimination Assurance every ten (10) years, the Title VI Unit is in the process of exploring additional approaches to reduce the amount of time between submissions.

MassDOT includes the Assurance provisions into contracts and subcontracts. The required provisions are included in MassDOT's "Standard Provisions" included into all MassDOT Highway Division and Enterprise Services (including the Office of Transportation Planning) contracts. This includes contracts with colleges and universities that participate as host-sites in the National Summer Transportation Institute (NSTI) program.

Subrecipient Monitoring Methodologies

MassDOT's Title VI staff regularly interacts with subrecipients in a variety of ways. These interactions afford MassDOT the opportunity to monitor these entities for Title VI/Nondiscrimination compliance. Key methods are described below:

- The Transportation Managers Group (TMG)

This group, which convenes monthly, is comprised of MPO and RPA managers and staff from across the state. MassDOT's Title VI staff attends regularly to discuss Title VI/Nondiscrimination issues with these subrecipients. The discussions range from MassDOT's Title VI staff reporting findings and recommendations on MPO and RPA Title VI/Nondiscrimination program submissions to providing direct technical assistance or training on Title VI/Nondiscrimination program implementation.

- Workshops/Conferences

MassDOT's Title VI staff utilizes conferences and workshops to advance Title VI/Nondiscrimination program development and implementation and to troubleshoot areas of persistent concern. This includes presentations statewide to municipal officials, group and individual sessions with regional MPO and RPA staff, professional organizations, and industry events. These sessions allow MassDOT to promote best practices and to gauge awareness of and compliance with Title VI/Nondiscrimination obligations across subrecipient and beneficiary categories. It also provides a forum through which to provide direct technical assistance to subrecipients.

- Annual Reporting

MPOs and RPAs are required to submit annual Title VI/Nondiscrimination reports to MassDOT. MassDOT reviews these reports and, based on this review, makes findings that include the development of Title VI/Nondiscrimination work plans tailored to the needs of the region as well as in-person follow-up conferences to strategize how these organizations will respond to any deficiency findings or corrective actions. These reports provide subrecipients with an opportunity to give MassDOT progress reports on Title VI/Nondiscrimination work plan items, if applicable, as well as to describe and document new innovative Title VI/Nondiscrimination related activities these organizations may be engaging in.

- Triennial Reporting

MPOs and RPAs are required to submit triennial Title VI/Nondiscrimination Program updates to MassDOT. While these subrecipients can choose to adopt MassDOT's Title VI/Nondiscrimination program elements, they are also permitted to develop program components independently. These triennial submissions give MassDOT the opportunity to assess the sufficiency of program development and implementation. MassDOT's response approach to these submissions is the same as for annual reporting – determination of compliance with tailored Title VI/Nondiscrimination work plans and follow-up conferences, as needed.

- Federal MPO Certification Reviews

FHWA and FTA conduct recurring Certification Reviews of MPOs statewide. The current cycle for these reviews reaches each region about once every three (3) to four (4) years. Since 2013, MassDOT's Title VI Unit has been

directly involved in the Civil Rights portion of the Certification Review. This includes reviewing pre-site visit documentation from the MPO, participating in the on-site session (which includes detailed discussions of Title VI/Nondiscrimination obligations, current levels of compliance, and areas for improvement), and making recommendations for content in the Observations and Recommendations Report. This collaboration benefits all parties involved by facilitating information sharing and promoting consistent messaging, thus better serving the beneficiaries of Title VI/Nondiscrimination protections.

- **SharePoint**

MassDOT has created a SharePoint webpage specifically focused on Title VI/Nondiscrimination. Designated Title VI staff members for each Massachusetts MPO and RPA have been granted access to this resource. This webpage not only allows these subrecipients to submit Title VI/Nondiscrimination reports and programs electronically to MassDOT, but it also allows MassDOT to share documents with them. This resource includes sharing template Title VI/Nondiscrimination documents and program components. MassDOT uses the annual subrecipient reporting process to verify that these documents are being implemented by subrecipients.

- **Desk Audits and On-Site Visits**

MassDOT's Title VI/Nondiscrimination Program contemplates a detailed review of at least one MPO/RPA each year. In practice, MassDOT regularly considers the Title VI profile of more than one MPO/RPA each year (through reporting activities and through participation in the federal Certification Review process). When MassDOT initiates a more detailed review of such subrecipients, it includes a desk audit and an on-site visit. Similar to the federal Certification Review process, MassDOT requests a pre-site visit materials submission from the subrecipient. This outreach usually includes key Title VI/Nondiscrimination program documents (such as notice, complaint procedures, public participation plans, and language access plans) as well as requests for analytical information (such as project distribution in the region and any indication of disparities). This desk audit review is followed by an on-site session. These sessions allow MassDOT's Title VI staff to discuss the findings of their desk audit, to strategize the subrecipients corrective action plan, and to provide direct technical assistance, where needed. To facilitate compliance reviews, subrecipients are required to keep and submit records for review, as requested, as well as provide access to these records.

Variable Prioritization of Subrecipient Monitoring

While the cycle of external subrecipient monitoring is structured based on risk-based prioritization, it is not rigid. The subrecipients assessed during any given annual cycle can change based on the following factors:

- **Federal Certification Review Schedule**

MassDOT strives to coordinate its subrecipient monitoring review schedule with the federal Certification Review schedule. This can mean that MassDOT will pursue focusing its monitoring activities on subrecipient MPOs and RPAs that will be going through a Certification Review in the near future or it will

hold off on independent monitoring activities to incorporate them into an upcoming Certification Review. The goal of accommodating the Certification Review process is not only to avoid duplicative efforts with subrecipients but also to ensure the consistency of process and message from both the federal and state levels.

- Complaints

Changes in the characteristics of frequency or type of complaints received against subrecipient MPOs and RPAs could indicate the need for increased scrutiny for Title VI/Nondiscrimination compliance. If MassDOT determines that a pattern of complaints warrants additional monitoring of subrecipients, the Title VI staff will do so.

- Staffing Changes

Staffing changes at MPOs and RPAs can impact the Title VI/Nondiscrimination activities in those regions. This can happen because of the reduction of corporate knowledge on these issues or through reduced resources to address these needs. In fact, even staffing changes at MassDOT's Office of Transportation Planning (which includes an MPO Activities section that interacts with and guides MPOs and RPAs on Title VI activities) can impact the degree of Title VI/Nondiscrimination compliance among these subrecipients. MassDOT may shift its subrecipient monitoring activities to those that have undergone staffing changes to ensure that Title VI/Nondiscrimination obligations are understood and continue to be fulfilled.

- Projects

Transportation projects carry with them varying degrees of Title VI/Nondiscrimination risk, impacts, and interest. When MassDOT becomes aware of transportation projects that could be considered controversial or significant from a Title VI/Nondiscrimination perspective, this can prompt increased monitoring activities at the MPO or RPA that is programming the project at issue.

- Patterns Indicating Noncompliance

The cycle of subrecipient monitoring activities does not guarantee that all the programs, services, or activities of an MPO or RPA are or will be Title VI/Nondiscrimination compliant. Several methods of MassDOT's subrecipient monitoring process involve the development and issuing of tailored work plans to bring noncompliant subrecipients into compliance. As MassDOT's Title VI staff follows up on the progress of the action items outlined in the work plans, it may become clear that some areas remain persistently unaddressed. Such patterns of noncompliance could prompt additional monitoring activities out of sequence from the cycle.

- Additional Factors

MassDOT's Title VI staff regularly engages in research and analysis of Title VI compliance strategies across the nation as it strives to identify best-practices and innovate new methods to ensure Title VI/Nondiscrimination adherence.

External monitoring prioritization variables and methodologies will be incorporated into MassDOT's monitoring activities will be reported to FHWA in MassDOT's annual Title VI goals and accomplishments report and will be articulated in the triennial updates to MassDOT's Title VI/Nondiscrimination Program.

Contractor Monitoring Methodologies

Compared to subrecipients, contractors in the Highway project development or planning contexts generally pose lower Title VI/Nondiscrimination risk factors. There is also a significantly high number of contractors when compared to subrecipients, thus MassDOT's limited monitoring resources must be strategically allocated to ensure coverage across all remaining areas of Title VI activity. This means that contractor monitoring relies heavily on the inclusion of Title VI/Nondiscrimination provisions (i.e. Appendix A of the Assurance) into all contracts with these entities. These provisions are discussed during contract negotiations and contractors sign these documents having been fully informed of the obligations and/or having had an opportunity to review them and follow up with questions if needed. For the duration of the contract, MassDOT's Title VI staff stays alert for possible Title VI/Nondiscrimination related concerns or complaints that may arise during the performance of the contract. In such situations, MassDOT relies on increased monitoring or investigative activities to address any such issues.

Subrecipient and Contractor Corrective Actions

Effective compliance with Title VI requires MassDOT to take prompt action to achieve voluntary compliance in all instances in which noncompliance is found. If a Program or subrecipient is determined to be out of compliance or is believed to be out of compliance with Title VI/Nondiscrimination obligations, MassDOT has three potential remedies:

- Resolution of the noncompliance status or potential noncompliance status by voluntary means by entering into an agreement which becomes a condition of assistance is the first option.
- Where voluntary compliance efforts are unsuccessful, a refusal to grant or continue the assistance is initiated, or
- Where voluntary compliance efforts are unsuccessful, the violation is referred to FHWA, which may undertake further resolution steps, and/or forward the matter to the U.S. Department of Justice for judicial consideration.

Every effort will be made to obtain compliance through voluntary corrective action.

CHAPTER 5

Data Collection/Reporting/Analysis

Introduction

Each MassDOT program area is required to conduct its activities in compliance with Title VI. The objective of conducting recurring reviews throughout the agency is to keep staff and leadership aware of the Title VI/Nondiscrimination implications in their work as well as provide the Office of Diversity and Civil Rights with an opportunity to review processes and suggest areas of improvement as well as identify viable sources of data collection and methods for its analysis.

This chapter describes the data collection, analysis, and reporting processes that can be carried out for evaluating the Title VI/Nondiscrimination implications throughout MassDOT. In addition, the elements of the Title VI/Nondiscrimination process review are outlined, along with the Title VI/Nondiscrimination roles and responsibilities within each program area at MassDOT. The methods described in this chapter represent the tools available to the Title VI Unit to assess compliance with the Title VI/Nondiscrimination obligation and these tools are used on a recurring basis, as needed.

Data Collection and Analysis

An integral part of the Title VI/Nondiscrimination Program is the review and analysis of program, service, and activity-related processes and data to identify any indicators of potential discrimination, whether intentional or disparate impact. MassDOT convenes ad-hoc Title VI Working Groups and/or specialty committees comprised of staff and managers from throughout the agency. Among their responsibilities is identifying programs, services, and activities that affect or involve the public from within their respective units or those with which they are familiar. Once identified, these instances of public impact are reviewed and analyzed by the Director of Title VI and Accessibility and the Title VI Specialist. Collecting and analyzing data on these processes allows MassDOT to determine whether compliance with Title VI is being maintained. Relevant findings and/or suggested corrective actions will be relayed to department heads and considered for inclusion into the annual MassDOT Title VI Implementation Plan report.

MassDOT's Office of Diversity and Civil Rights works with each program area to strategize methods to collect and analyze Title VI-related data associated with each federal Program Area—Planning/Research,¹ Design, Environmental, Right-of-Way, Construction, Maintenance, Safety, and others, as needed. Pursuant to 28 CFR 42.406(b), the following data can be collected²:

- The manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination

¹ The Planning and Research Program Areas are considered together because they are both in the Office of Transportation Planning at MassDOT.

² The descriptions of data are taken from the regulation.

- The population eligible to be served by race, color and national origin, including Limited English Proficiency (LEP)
- Data regarding language access services, including requests for document translations and/or real-time interpretation where necessary to permit effective participation by beneficiaries with limited English proficiency
- The location of existing or proposed facilities connected with the program, and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination
- The present or proposed membership, by race, color and national origin, of any planning or advisory body which is an integral part of the program
- Where relocation is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color or national origin

Additional data that can be captured includes:

- Planned and actual funding distributions, both federal and state
- Statewide demographic profile as well as demographic profiles of affected communities
- Demographics of owners of property to be taken and persons or businesses to be relocated or adversely affected, including race, color, national origin (including language), age, sex, and disability status
- Lawsuits filed (including status) alleging discrimination based on protected categories
- Brief description (including status) of applications to other federal agencies for assistance and of other federal assistance provided
- Results of compliance reviews and recommended work plan tasks designed to achieve compliance
- Record of complaints and a description of how they were processed
- Training and technical assistance provided and attendance records

Please note: The usefulness of data collected in any of the categories detailed above is directly related to the sample size and whether or not the sample represents a statistically significant percentage of the population group at issue. Where a sufficient sample size cannot be achieved, MassDOT will acknowledge this limitation in any Title VI analyses that make use of that data and clarify that the results may not be dispositive due to the lack of statistical significance. This proved to be the case with landowners involved in property takings. For several years, MassDOT's Title VI staff issued voluntary surveys to landowners involved in takings requesting demographic information. The sample rate was consistently below 10% as most property owners expressed a reluctance to provide such details therefore, the practice was halted for several reporting cycles. Currently in the event of relocations, ROW's interview sheet captures several demographic details including income and household size.

Each federal program area may be responsible for ongoing data collection for its programs and activities. The Director of Title VI and Accessibility, the Title VI Specialist, and the staff of the Office of Diversity of Civil Rights collaborate with each federal program area to accomplish these data collection requirements. One such

method of collaboration is the recurring internal reviews described below. While new sources of data or new methods of analysis may be identified through the recurring internal review process described below, the Office of Diversity and Civil Rights is available for consultation on these issues by any MassDOT unit, as needed.

Identified Data Sources

Massachusetts Project Intake Tool (MaPIT)

In 2017, MassDOT rolled out a GIS-based analytical platform that centralizes details about a project including general project parameters (cost, location, type of work to be performed) along with Title VI and Environmental Justice related parameters (such as proximity of readily identifiable Title VI and EJ populations, the nature and magnitude of impacts on protected populations, and anticipated benefits). This platform, known as MaPIT (the Massachusetts Project Intake Tool) is now integral to the project scoring, prioritization, and advancement process. MassDOT's Title VI Specialist participates in all project review and scoring meetings where project management, planning, environmental, right of way, and other relevant staff members collaborate in project evaluation and developing scoring recommendations.

This tool now plays an integral role in identifying and evaluating Title VI and EJ implications for individual projects. The outcomes of these project-level analyses then become critical components of aggregate analyses performed on the Commonwealth's Capital Investment Plans (CIPs) and Statewide Transportation Improvement Programs (STIPs).

For more information about the MaPIT tool, please see the following: <https://www.mass.gov/info-details/massdot-highway-initiating-a-project>

Office of Public Engagement and Outreach (OPEO)

This office maintains several databases with information pertaining to MassDOT's public outreach activities. This includes records related to individual instances of public engagement – such as public meetings, hearings, open-houses, and other such events. Included in these records are the meeting purpose/topic, copies of meeting materials, and survey responses from attendees. OPEO also coordinates its activities with ODCR to ensure that all civil rights requirements are met in the public engagement process. As part of this coordination, OPEO shares draft versions of community profiles for ODCR to review and provide recommendations on translations, accommodations, and outreach contacts. To generate these reports OPEO references a variety of data sources including census/ACS, MA EJ Screener, and the Justice 40 Climate and Economic Justice screen tool.

Records of these activities include coordination meeting notes where local demographics are identified to help inform decisions regarding language and ADA accessibility services. OPEO and ODCR also collaborate to track requests for support services (such as translation, interpretation, ASL, and CART) and to document the effectiveness of any such services when they are provided. This office also maintains records of the training and certification of staff on public engagement procedures. All such records are useful for evaluating the effectiveness of MassDOT's public engagement activities.

Office of Performance Management and Innovation (OPMI)

This office is part of MassDOT's Enterprises Services structure and provides in-house technical resources across a wide array of MassDOT (and MBTA) activities. This office strives to remain at the vanguard of data collection and analysis sources and methodologies. Staff are capable of producing a wide variety of data-driven products and analyses, including work that is relevant to Title VI compliance. For example, traditional data sources for Title VI compliance purposes has included things like Census data and American Community Survey Data. OPMI has been exploring new data sources that may allow for enhanced Title VI analyses. One such dataset is Streetlight data. This data is crowd sourced from users of smart devices and provides information regarding

travel patterns of roadway users. Critically, this travel pattern related data also includes demographic information of individual users, allowing for a fine grain understanding of travel pattern characteristics among different demographic groups. This can better inform transportation planning activities to ensure that all roadway users needs are being effectively met.

Office of Diversity and Civil Rights (ODCR)

There is one dataset that is unique to the MassDOT Office of Diversity and Civil Rights – complaint and investigation records. ODCR is responsible for investigating allegations of discrimination by MassDOT in all of its internal and external activities. These investigative files provide a dataset that can be scrutinized to determine if there are patterns or systemic issues of noncompliance with civil rights obligations that the Title VI staff could use as the basis for corrective actions and technical assistance, issued both internally and externally. ODCR regularly reports on these complaint investigations and the Title VI staff will scrutinize these records on a recurring basis to determine if any patterns exist that demonstrate risks of noncompliance or possible disparities.

Office of Construction

Several databases are used by the headquarters office as well as the six District offices:

- The Construction Contracts Database captures advertised projects until they are awarded with a Notice to Proceed (NTP).
- The Construction Division System captures payments and changes after the NTP.
- The Equitable Business Opportunities (EBO) Database tracks DBE/WBE and is overseen by the ODCR Construction Compliance Officer. A bond bill recently passed by the Massachusetts state senate requires wage rates to be updated each year. The ability to compare Department of Labor wage rates with the wage rates in Massachusetts is currently under development. Once complete, this information can be used to identify any relevant discrepancies.
- CommBUYS is the Commonwealth's online procurement site where agencies publicly post information on bid results and tabulations on a weekly basis.

Because construction is the final stage of project development, critical Title VI and other civil rights related information is regularly conveyed to key members of the construction staff both in the headquarters office as well as the several district offices statewide. For instance, early project development stages can often produce knowledge and awareness of a project abutter who has requested accessible informational materials regarding the project, due to a disability. On a need-to-know basis, this information can be shared by civil rights staff with appropriate construction staff to be aware of the need to provide accessible communications for the duration of construction activities, including information regarding schedules, road closures, detours, and other such developments.

Office of Highway Operations and Roadway Maintenance

The Artery Maintenance Management Information System tracks the assets inventory and maintains a rotating maintenance schedule. The Asset Management Group conducts the surveys to collect information for this system. The Title VI team can monitor the rotating maintenance schedule to ensure disparities are minimized, mitigated, or avoided.

Office of Highway Design

A new asset management database is under development which, once completed, will provide geo-located data regarding all MassDOT highway assets and will facilitate comparing the condition of assets and work to be performed on them with Title VI population concentrations/locations across the state.

Design and Environmental Offices

ProjectInfo is used for internal project management. ProjectInfo includes information about the progression of projects: PNF, PIF, PNC, Approved, 25%, 75%, 100%, Final, and Advertising. Information stored in ProjectInfo is available throughout the agency, and the user can search by project or contract number. ProjectInfo includes a planning and mapping tool that allows the user to zoom in to any municipality at street level and see the project number or contract code for MassDOT projects in that area on the map. GIS, incorporating census and other data, is used to display the level of detail required to perform this function.

The location of projects is a critical piece of data that the Title VI team relies upon for conducting funding distribution analyses and CIP and STIP equity analyses to determine if projects are being advanced among Title VI and EJ communities in an equitable manner when compared to projects advanced in non-Title VI and non-EJ communities.

Safety

The Highway Division's Safety department maintains records regarding crash incidents on the state's roadways. This includes information regarding crash location, crash type, and details regarding injuries and/or fatalities. Importantly, the location data is cross-referenced against demographic data so that the Safety department and ODCR can understand whether crash incidents are occurring in Title VI, EJ, or other such communities.

Data Analysis

MassDOT's Title VI staff, assisted by staff from across MassDOT's program areas as well as consultant staff from the Central Transportation Planning Staff (CTPS), is responsible for analyzing the data collected to identify any patterns of discrimination and recommend corrective action as appropriate. These analyses consider the impacts of MassDOT's programs and activities on protected populations.

The following types of analyses can be conducted to address compliance with Title VI:

- Based on demographic data, screening for possible disparities in MassDOT programs, services, and activities
- Distribution of benefits (dollars, facilities, systems, projects)
- Distribution of burdens (displacements, construction impacts, etc.)

Through these analyses, patterns or practices leading to potential discriminatory impact may be discovered to be inherent in a process or procedure on its face or may be found as the result of a process or procedure being unintentionally implemented in a discriminatory manner. This analysis of data will also help identify strategies and options for addressing impacts and avoiding future disparities.

Data Reporting

The Title VI Specialist acts as the clearinghouse for all Title VI reports, provides input regarding Title VI corrective actions, and meets periodically with departmental and senior leadership to discuss Title VI and related issues. The Specialist is responsible for compiling the information analyzed in MassDOT's annual Title VI

Implementation Plan report to FHWA. The Director of Title VI and Accessibility reviews the submissions to ensure completeness and identifies areas where additional information is required prior to submission to FHWA.

MassDOT Capital Investment Plan (CIP) Equity Analysis

The capital Investment Plan (CIP), which is updated annually, includes a detailed equity analysis to determine the distribution of federal and state funding among Title VI and EJ populations statewide. While the analysis looks at investments in the aggregate, geographic and social equity considerations factor in not only to the specific federal funding programs managed by MassDOT's Highway Division, but also to the totality of capital transportation investments as experienced by members of the public representing diverse demographics groups across the Commonwealth. The most recent CIP is available for review online here:

<https://www.mass.gov/doc/2024-2028-capital-investment-plan-final/download>

CHAPTER 6

Title VI Training

Training Program for Staff

MassDOT recognizes that the effectiveness of its nondiscrimination program depends upon the ability and commitment of responsible employees to understand and implement the principles and requirements of Title VI. In order to ensure that Title VI principles are integrated into MassDOT culture, the Director of Title VI and Accessibility and the Title VI Specialist continue to provide training and workshops for employees at all levels of the organization. ODCR currently provides multiple types of Title VI trainings. The breadth and scope of these recurring training sessions can vary from orientation style information sessions for agency and departmental leadership to stay apprised of the Title VI obligation to hands on trainings for staff to detail public engagement, language access, project advancement, subrecipient oversight, and other related activities with Title VI/Nondiscrimination implications.

Training for high-level managers provides comprehensive information on Title VI/Nondiscrimination provisions and responsibilities, application of the principles to program processes and operations, and identification of potential Title VI issues. Relevant scenarios are often discussed with these managers to identify potential vulnerabilities in current processes and opportunities for improvement. The participants are encouraged to share ideas and find commonalities regarding workable Title VI compliance strategies. ODCR is often asked, and provides, follow-ups to this training effort individuals in small groups or one-on-one discussions to focus on the Title VI issues directly related to their core functions. These trainings are offered on a recurring basis the of this Program to ensure that each federal program area receives general and focused training to address needs identified by the Director of Title VI and Accessibility and/or the Title VI Specialist.

The training program for front line employees focuses primarily on understanding the Public Participation Plan (including the Accessible Meeting Policy) and the Language Access Plan to ensure that Title VI and ADA obligations are addressed in public interactions by MassDOT staff. New employees are provided with introductory training on Title VI obligations through the onboarding process conducted by Human Resources.

Special emphasis is placed on training staff across the federal program areas that have primary responsibility for Title VI compliance, including the MPO Liaisons in the Office of Transportation Planning, the Project Managers in the Highway and Bridge Design Offices, the field agents in the Right of Way Bureau, and the analysts in the Environmental Project Development Unit.

As appropriate, the Title VI Specialist will periodically schedule training to further program efforts and to address changes in regulatory requirements. Special efforts will be made in areas identified in the Annual Work Plan focus areas, based on priority and relevance to Title VI/Nondiscrimination. Title VI-related training conducted at the agency level will be recorded and entered in the Department's training database.

Timing

The schedule for the training of staff is shaped by a number of factors, primarily the internal assessment process (where training can be recommended as a follow-up action), the drafting of new policies and procedures that structure Title VI related activities (such as updates to the Public Participation Plan) and/or new technologies to facilitate this work, the outcome of complaints, and the onboarding of new employees. While a pre-determined schedule is not an appropriate fit to represent this type of training program,

MassDOT's Title VI staff maintains detailed records of the training sessions conducted, including attendance lists, which capture these activities. These materials are available for review, upon request.

Training Program for Subrecipients

In order to ensure that public funds distributed by MassDOT are not spent in a way that encourages, subsidizes, or results in discrimination, MassDOT provides Title VI/Nondiscrimination training for its subrecipients. The MassDOT Director of Title VI and Accessibility and the Title VI Specialist develop and conduct a variety of training programs for subrecipients to provide comprehensive information on FHWA's Title VI/Nondiscrimination Program and associated requirements. Through these trainings, subrecipients are informed of the following requirements:

- Provision of signed assurances.
- Appointment of a Title VI/Nondiscrimination Coordinator.
- Development of Title VI/nondiscrimination-related procedures and mechanisms to ensure nondiscrimination in all programs, activities and services. Subrecipients may develop their own plans or adopt MassDOT's Title VI/Nondiscrimination Program.
- Production of a Title VI/Nondiscrimination Annual Update Report detailing the results of all Process Reviews and of analysis of statistical data collected during the reporting period.
- Identification of processes to address identified deficiencies in an expeditious manner.

MassDOT also offers topical trainings to subrecipients on particular facets of Title VI program development and implementation, including public engagement, language access, accessible document development, and other related efforts. MassDOT continues to organize, conduct, and lead additional training efforts in order to provide more direct guidance and answer questions that may be region-specific, as needed. Because not all subrecipients receive the same level of funding or have the same degree of impact on the public, the requirements prescribed for the subrecipients will differ based on several criteria: how much federal funding the subrecipient receives through MassDOT and how often, the impact the subrecipient's work has on the public, and the resources the subrecipient has available to meet its obligations. This prioritization of training initiatives mirrors MassDOT's subrecipient monitoring prioritization scheme, described above in Chapter 6. The Commonwealth's MPOs and RPAs receive a significant amount of MassDOT's Title VI training resources due to the nature of the work of those organizations in programming transportation projects and the significant opportunities public input on project planning and long range projecting through the MPO/RPA process. Related training efforts also reach the state's Transportation Management Associations (TMAs) as subrecipients of FHWA funds as well as those universities that participate in the National Summer Transportation Institute (NSTI).

While not directly implicating FHWA funds, subrecipients of USDOT funding through MassDOT from the other federal modal administrations (FTA, NHTSA, FAA, etc.) also receive Title VI training from MassDOT's Title VI team. The highest priority subrecipients in these categories are the grant recipients in FTA's Community Transit Grant Program, administered by MassDOT's Rail and Transit Division. Each grantee is required to go through two Title VI trainings, pre-award and post-award, and provide documentation of Title VI program implementation.

Since municipal resources are generally limited, MassDOT provides templates and other documents for municipal subrecipients to use in developing processes that are required under Title VI. Each municipality is required to execute Title VI/Nondiscrimination Assurances with MassDOT on a decennial basis. The request

process is supported by a memorandum to the chief elected official(s) of each municipality as well as background information on the Title VI obligation. This correspondence serves not only to facilitate the execution of the Assurance document but also to further educate and train municipal staff and leadership on Title VI matters. The Director of Title VI and Accessibility and/or Title VI Specialist are always available to answer individual subrecipients' questions as they arise.

In addition to providing subrecipients with training on Title VI obligations, MassDOT's Title VI unit also holds capacity building workshops with groups of subrecipients to encourage and facilitate innovation in this area. These trainings are designed to delve deeper into the nuance of Title VI compliance in transportation.

CHAPTER 7

Complaint Procedures

Introduction

This chapter describes the MassDOT procedures for the processing and disposition of Title VI discrimination complaints. These procedures are designed to provide due process for complainants and respondents.. In the spirit of uniformity and transparency, ODCR staff makes complaint procedures across federal and state nondiscrimination obligations program areas (such as Title VI and Title VII) as consistent as feasible and presented in such a way that members of the public can easily understand the process.

Please note: In accordance with the MassDOT Language Access Plan, the complaint process and form detailed below are provided in the top ten LEP languages in the Commonwealth: Spanish, Portuguese, Chinese (simplified and traditional), Vietnamese, Russian, Khmer, Arabic, Haitian Creole, French, Italian, and Portuguese. The procedures and forms are disseminated through this Title VI program document, electronically on the MassDOT website, and are made available in hardcopy in MassDOT's public facing offices, such as the Office of Diversity and Civil Rights.

Purpose and Applicability

The purpose of this document is to establish procedures for the processing and disposition of both discrimination complaints filed directly with the Massachusetts Department of Transportation (MassDOT) or the Massachusetts Bay Transportation Authority (MBTA), and discrimination complaints that MassDOT/MBTA have the delegated authority to process under Title VI of the Civil Rights Act of 1964 (Title VI) and related state and federal nondiscrimination authorities, including the Americans with Disabilities Act (ADA).

The processing of discrimination complaints will follow the steps outlined below and are further detailed throughout this document.

Step 1: Complainant submits their complaint.

Step 2: MassDOT/MBTA issues the complainant an acknowledgment letter.

Step 3: Complaint is assigned to, and reviewed by, an investigator.

Step 4: Investigator conducts interviews of complainants, witnesses, and the respondent.

Step 5: Investigator reviews the evidence and testimonies to determine whether a violation has occurred.

Step 6: Complainant and Respondent are issued a letter of resolution or a letter of finding and offered appeal rights.

Step 7: Once the appeal period has expired, the investigation is closed.

The procedures describe an administrative process aimed at identifying and eliminating discrimination in federally funded programs and activities. The procedures do not provide an avenue for relief for complainants seeking individual remedies, including punitive damages or compensatory remuneration; they do not prohibit complainants from filing complaints with other state or federal agencies; nor do they deny complainants the right to seek private counsel to address acts of alleged discrimination.

The procedures described in this document apply to MassDOT/MBTA and their subrecipients, contractors, and subcontractors in their administration of federally funded programs and activities.

As part of their efforts to comply with Title VI, subrecipients of federal financial assistance through MassDOT/MBTA are encouraged to adopt these complaint procedures. In so doing, these subrecipients acknowledge their obligation to afford members of the public with an opportunity to file complaints alleging violations of nondiscrimination policies in place across their organization and in their programs, services, and activities. In accordance with federal guidance, subrecipients of transit-related funds understand they have the authority to process Title VI complaints and will inform their recipients, MassDOT/MBTA, of complaints received and the outcome of investigations as the matters are resolved.

Subrecipients of highway-related funds further understand they do not have the authority to investigate Title VI violation claims filed against their organization (where their organization is the respondent or party alleged to have violated Title VI). All such claims will be forwarded to the MassDOT/MBTA Office of Diversity and Civil Rights (ODCR) to determine the appropriate investigative authority. Highway-funding subrecipients retain the right to consider Title VI violation allegations as a matter of Assurance and/or internal policy compliance but are precluded from making determinations as to possible violations of Title VI. MassDOT/MBTA encourages all subrecipients to communicate with ODCR's Title VI Specialists, the Director of Title VI and Accessibility, and/or the Director of Investigations when/if Title VI complaints are received to ensure proper handling.

Definitions

Complainant – A person who files a complaint with MassDOT/MBTA.

Complaint – Written, verbal or electronic statement concerning an allegation of discrimination that contains a request for the receiving office to take action. Where a complaint is filed by a person with a disability, the term complaint encompasses alternative formats to accommodate the complainant's disability.

Discrimination – That act or inaction, whether intentional or unintentional, through which a person in the United States, solely because of race, color, national origin, or bases covered by other nondiscrimination authorities, such as gender, age, or disability, has been subjected to unequal treatment or disparate impact under any program or activity receiving federal assistance.

Operating Administrations – Agencies of the U.S. Department of Transportation, including the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Rail Administration (FRA), the National Highway Traffic Safety Administration (NHTSA), and the Federal Motor Carrier Safety Administration (FMSCA), that fund transportation programs or activities.

Respondent – The person, agency, institution, or organization alleged to have engaged in discrimination.

Filing of Complaints

This section details MassDOT/MBTA's procedures for processing Title VI discrimination complaints (on the basis of race, color, or national origin, including language) and complaints alleging discrimination on the basis of additional federal nondiscrimination provisions (on the basis of age, sex, and disability). Federal law and regulations governing Title VI of the Civil Rights Act of 1964 (Title VI) places the overall coordination authority for the investigation of civil rights complaints in the United States Department of Justice, which works collaboratively with federal agencies that carry out this responsibility. In the transportation sector, this investigative authority rests with the US Department of Transportation (US DOT) and its agencies for the different modes of transportation, including the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). In coordination with USDOT requirements, FHWA and FTA have established

regulations and guidance that require recipients and subrecipients of federal financial assistance to establish procedures for processing Title VI complaints filed with these organizations.

The procedures described below, modeled on recommended complaint procedures promulgated by the US Department of Justice (US DOJ), are designed to provide a fair opportunity to have complaints addressed that respect due process for both complainants and respondents. In addition to the formal complaint resolution process detailed herein, MassDOT/MBTA shall take affirmative steps to pursue informal resolution of any and all Title VI complaints, when possible.

The Complaint Process

1. Who can file a complaint?

ANY member of the public, along with all MassDOT/MBTA customers, applicants, contractors, or subrecipients who believe that they themselves, a third party, or a class of persons were mistreated or treated unfairly because of their race, color, or national origin (including limited English proficiency) in violation of Title VI of the Civil Rights Act of 1964, related federal and state laws and orders, or MassDOT/MBTA's Anti-Discrimination/Harassment Prevention (ADHP) Policy. Retaliation against a member of the public on the basis of race, color, or national origin is also prohibited under Title VI and the ADHP Policy.

2. How do I file a complaint?

A complaint may be filed with the following:

MassDOT/MBTA Title VI Specialists

Office of Diversity and Civil Rights – Title VI Unit

10 Park Plaza, Suite 3800

Boston, MA 02116

Phone: (857) 368-8580 or 7-1-1 for Relay Service

Email: MassDOT.CivilRights@state.ma.us or MBTAcivilrights@mbta.com

MassDOT/MBTA, Assistant Secretary and Chief Diversity Officer

Office of Diversity and Civil Rights – Investigations Unit

10 Park Plaza, Suite 3800

Boston, MA 02116

Phone: (857) 368-8580

Email: odcrcomplaints@dot.state.ma.us

MBTA Customer Call Center: (617) 222-3200

The Call Center staff will seek to obtain basic information about the matter from the caller, and details of the call will be forwarded to the Office of Diversity and Civil Rights for processing according to these procedures.

U.S. Department of Transportation

Office of Civil Rights

1200 New Jersey Avenue, SE

Washington, DC 20590

Website: civilrights.justice.gov/

Please note:

- When FTA receives a Title VI complaint regarding MassDOT/MBTA, a subrecipient, or a contractor, the FTA may request the matter be investigated by MassDOT/MBTA.
- If a Title VI complaint is filed with MassDOT that alleges a violation by MassDOT's Highway Division, then it will be forwarded to the local FHWA Division Office which will then forward the complaint to the FHWA Headquarters Office of Civil Rights (HCR) for processing.
- If a Title VI complaint is received by MassDOT that is filed against a subrecipient of the MassDOT Highway Division, then MassDOT may process and investigate the complaint or may refer to HCR for investigation.
- If FMCSA receives a complaint filed against MassDOT, FMCSA will forward the complaint to MassDOT for a written response. This allows MassDOT to either resolve the complaint or to provide a written response to the allegations. The written response is used to determine what steps FMCSA will take to process the complaint.

3. What do I need to include in a complaint?

A Title VI/Nondiscrimination Complaint form is available electronically on the [MassDOT website](#), the [MBTA website](#), or in hardcopy at the MassDOT/MBTA Office of Diversity and Civil Rights. Alternatively, a complainant may submit correspondence in an alternative format that should include:

- Your name, signature and, current contact information (i.e., telephone number, email address and postal mailing address);
 - The name and badge number (if known and applicable) of the alleged perpetrator;
 - A description of how, when, and where the alleged prohibited conduct occurred;
 - A detailed description of why you believe you were treated differently;
 - Names and contact information of any witnesses; and
 - Any other information you believe is relevant to your complaint.
- A. In cases where the complainant is unable to provide a written statement, a verbal complaint may be made to the Office of Diversity & Civil Rights (ODCR). Complainants will be interviewed by a Civil Rights Investigator (CRI). If necessary, the CRI will assist the person in converting the verbal complaint to writing. All complaints should be signed by the complainant.
- B. Anonymous complaints may be filed in the same manner. Anonymous complaints shall be investigated in the same manner as any other complaint.
- C. Complaints will be accepted in any recognized language. Multi-lingual complaint forms are available.

4. How long do I have to file a complaint?

- A. A complaint alleging violation of Title VI and/or MassDOT/MBTA's ADHP policy should be filed no later than one hundred and eighty (180) days from the date of the alleged violation.

- B. Complaints alleging violations of state or federal law must be filed within the time frames established by statute, regulation, or case law – in certain instances up to three hundred (300) days from the date of the alleged violation.

5. How will my complaint be handled?

When a complaint is received, it is assigned to a Civil Rights Investigator (CRI). The CRI will:

- A. Determine Jurisdiction: ODCR has jurisdiction if the complaint:
 - 1) involves a statement or conduct that violates:
 - i. MassDOT/MBTA's legal obligation and commitment to prevent discrimination, harassment, or retaliation on the basis of a protected characteristic with regard to any aspect of the Agency's service to the public;
 - ii. or
The commitment made by subrecipients and contractors working with MassDOT/MBTA to adhere to MassDOT/MBTA policies;
 - AND
 - 2) is timely filed.
- B. Acknowledge receipt of the complaint and provide jurisdictional determination within ten (10) business days of receipt of the complaint.
 - 1) If the CRI determines that any complaint does not have the potential to establish a civil rights violation, then the CRI shall notify the complainant and Title VI Specialist in writing of its finding and the matter shall be closed.
- C. Conduct a thorough investigation of the allegations contained in the complaint in accordance with the MassDOT/MBTA Internal Complaint Procedures.

6. Findings and Recommendations

At the conclusion of the investigation, the CRI will transmit to the complainant and the respondent one of the following three letters based on the findings:

- A. A letter of resolution that explains the steps the respondent has taken or will take to comply with Title VI.
- B. A letter of finding that is issued when the respondent is found to be in compliance with Title VI. This letter will include an explanation of why the respondent was found to be in compliance and provide notification of the complainant's appeal rights.
- C. A letter of finding that is issued when the respondent is found to be in noncompliance.

This letter will include each violation referenced as to the applicable regulations, a brief description of findings/recommendations, the consequences of failure to

achieve voluntary compliance, and an offer of assistance in devising a remedial plan for compliance, if appropriate.

7. Can I appeal a Finding?

If a complainant or respondent does not agree with the findings of the CRI then he/she/they may appeal to the Assistant Secretary and Chief Diversity Officer. The appealing party must provide any **new information that was not readily available during the course of the original investigation that would lead MassDOT/MBTA to reconsider its determinations**. The request for an appeal and any new information must be submitted within thirty (30) days of the date the letter of finding was transmitted. After reviewing this information, MassDOT/MBTA will respond either by issuing a revised letter of resolution or by informing the appealing party that the original letter of resolution or finding remains in force.

Investigations

Where MassDOT has the delegated authority to conduct an investigation, investigation reports shall include recommended findings and corrective actions and will be submitted to the appropriate USDOT operating administration for final determination and communication of disposition to the complainant, where necessary.

Preliminary Investigation Plan

The Preliminary Investigation Plan defines the issues raised in the complaint and serves as a guide for completing the preliminary investigation. The Preliminary Investigation Plan will include the following elements:

1. Complainant name and contact information
2. Respondent name and contact information
3. Date filed
4. Last date of alleged discrimination
5. Complaint allegations
6. Potential violations (applicable laws)
7. Basis/bases of alleged discrimination
8. Background information on file
9. Information needed
10. Sources of information needed

Notifications and Requests for Information

MassDOT will notify the complainant and respondent that MassDOT is investigating matters raised in the complaint. The notification letter will state the following:

1. The basis/bases for the complaint
2. Allegations over which MassDOT has jurisdiction
3. MassDOT's jurisdiction over the respondent
4. An admonition that the respondent shall not intimidate, threaten, coerce, retaliate against, or discriminate against anyone involved in the investigation of the complaint, including the complainant,

witnesses, and others who are sources of information regarding matters alleged or related to the complaint

5. A request that the respondent submit a position statement to MassDOT responding to the allegations within 15 days of the date of MassDOT's notification letter
6. A request for additional information relevant to matters raised in the complaint, if appropriate, to be submitted to MassDOT within 15 days of the date of MassDOT's notification letter

Interviews, Data Collection, and On-site Visits

After preparing a Preliminary Investigation Plan, MassDOT will gather information needed to complete the preliminary investigation by conducting interviews and, if necessary, on-site visits; it will also, if necessary, collect other available, relevant data through other means. All documentation will be kept on file. These documents may include, but are not limited to, transcripts, notes, letters, forms, and interview summaries.

Preliminary Investigation Report

No later than 60 days after receiving a complaint, MassDOT will transmit the complaint and a Preliminary Investigation Report to the regional or division Civil Rights Specialist of the appropriate USDOT operating administration. The Preliminary Investigation Report will discuss the issues raised in the complaint, describe the information obtained during the preliminary investigation, and explain how MassDOT obtained and evaluated that information. The Preliminary Investigation Report will also include an analysis of each allegation and provide MassDOT's recommendations.

The Preliminary Investigation Report shall include the following components:

1. Name(s) and address(es) of complainant(s)
2. Name(s) and address(es) of respondent(s)
3. Applicable law/regulation
4. Basis/bases
5. Issues
6. Findings for each issue, with a corresponding conclusion for each issue
7. Recommended decision
8. Recommendations (if applicable)

Record Keeping

A complaint log will be maintained for all USDOT complaints filed with and investigated by MassDOT. The log will identify: the Title VI/Nondiscrimination provision(s) implicated in the complaint (race, color, national origin, language, income, age, sex, and or disability); the subrecipient (when applicable); the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition; the date of disposition; and any other pertinent information. A separate log will be maintained that will include USDOT and state-level matters that are on our docket.

Title VI Complaint Investigation Procedures

The Investigative Process includes the following documents/actions:

- Investigative Plan
- Request For Information
- Conducting Interviews
- On-Site Visit
- Obtaining Evidence
- Analyzing Data
- Writing The Investigative Report

Investigative Plan

The Investigative Plan is a working document intended to define the issues and provide a roadmap to complete the investigation. The Investigative Plan is an internal document for use by the Investigator and his/her supervisor to keep the investigation on track and focused on the issues. It is the Investigator's checklist. The following elements should be contained in an Investigative Plan:

- I. Complainant(s) Name and Address/ Attorney For Complainant with Name and Address
- II. Respondent(s) Name and Address/ Attorney For Respondent with Name and Address
- III. Applicable Law (i.e., Title VI, Title VIII, Compliance Review Under Regulations)
- IV. Basis
- V. Issue(s)
- VI. Background
- VII. Name of Person(s) to be Interviewed, including Questions for the Complainant, Respondent, and Witness(es)
- VIII. Evidence to be Obtained During the Investigation

Request for Information

To prepare the Request for Information (RFI), refer to the Evidence section of the Investigative Plan. The RFI is sent to the appropriate official(s) at the Respondent's facility. Contact the Respondent to advise him/her of the complaint and to determine the appropriate official(s) to whom the RFI should be sent and eventually interviewed.

Prepare a cover letter to transmit the RFI. The cover letter should explain the process and provide information regarding any meetings that have been scheduled. Modify the cover letter to satisfy the circumstances. Provide the RFI to the Respondent prior to conducting the on-site visit. This will facilitate the availability of the evidence during the on-site visit.

Conducting Interviews

When preparing for the interviews, always remember that the main objective is to obtain information from witnesses who can provide information that will either support or refute the allegations. A list of major questions should be prepared that address the issues involved in the complaint. During the interview, the following steps are recommended:

- Introduce yourself and outline the interviewing process (i.e., whether a signed statement will be requested, whether notes will be taken, etc.);
- Place the person being interviewed at ease;
- Listen effectively;
- Differentiate factual information from opinions;
- Ask questions best worded to provide factual responses;
- Take clear and precise notes; and
- Obtain a signed statement from the person being interviewed.

Complainant – The purpose of interviews is to gain a better understanding of the situation outlined in the complaint of discrimination. The Investigator needs to contact the Complainant to ensure that he/she understands the Complainant’s allegation(s). It is recommended that the Investigator interview the Complainant prior to preparing the Investigative Plan. If this is not possible, be ready to make any changes as appropriate to the Investigative Plan based upon any new information provided by the Complainant. Always inquire of the Complainant whether he/she desires to resolve the complaint.

Respondent – Respondents are interviewed to provide an opportunity to respond to the allegations raised by the Complainant as well as to provide the Investigator the opportunity to understand the Respondent’s operation or policies that Complainant cites in the complaint. As the keeper of the records, you will need to discuss the RFI with the Respondent and be able to explain the need for requesting any document on the list. Inform the Respondent that he/she has the right to submit a formal position statement addressing the Complainant’s allegations. Question the Respondent regarding possible settlement opportunities.

Witnesses – Complainant or Respondent may request that additional persons be interviewed. Determine what relevant information, if any, a witness has to provide prior to conducting an interview. Only interview persons who have information relevant to the allegations raised in the complaint of discrimination. Determine whether the testimony to be provided is relevant. Determine when sufficient interviews have been conducted.

On-Site Visit

An On-Site visit should be conducted when:

- Personal contact with the Complainant and the Respondent may yield information and clarification that might not otherwise be discovered by only reviewing the written documents or telephone contacts;
- It is necessary to review the physical environment;
- More effective communication can be established with representatives and witnesses of the Complainant and Respondent; and
- Documentation can only be examined on-site for reasons of convenience, cost, format, or volume.

Obtaining Evidence

Evidence requested should be related to the issues cited in the complaint. An evidence request should contain some or all of the following:

- The policies and procedures regarding the practice that Complainant has alleged;
- All documents relating to Respondent's dealing with Complainant in the situation described in the complaint;
- Documents which exhibit how others, not in the Complainant's group, were treated under similar circumstances;
- Respondent's reason(s) for the action taken; and
- A formal position statement from Respondent addressing Complainant's allegations.

The Types of Evidence include the following:

- Circumstantial Evidence – Includes facts from which may be inferred intent or discriminatory motive and proves intent by using objectively observable data;
- Comparative Evidence – A comparison between similarly situated individuals;
- Direct Evidence – Related to the Respondent's motive, it is defined as any statement or action by an official of the Respondent that indicates a bias against members of a particular group;
- Documentary Evidence – Written material, which is generated during the course of normal business activity;
- Statistical Evidence – Statistics, facts, or data of a numerical type, which are assembled, classified, and tabulated so as to present significant information about a given subject; and
- Testimonial Evidence – Evidence which is provided orally.

Analyzing Data

Data must be analyzed to determine whether a violation has occurred. When analyzing data, you must:

- Review what happened to the Complainant;
- Compare Complainant's treatment with the appropriate policies and procedures;
- Compare Complainant's treatment with others in the same situation;
- Review Respondent's reason(s) for the treatment afforded the Complainant; and
- Compare Respondent's treatment of the Complainant with the treatment afforded others.

Writing the Investigative Report

The Investigative Report (IR) will contain the following sections:

- Complainant(s) Name and Address
- Respondent(s) Name and Address
- Applicable Law

- Basis
- Issues
- Findings For Each Issue with a corresponding Conclusion For Each Issue
- Recommended Decision
- Recommendations (If Applicable)

MassDOT Title VI Complaint Form

The complaint form provided below is recommended for use when filing a Title VI/Nondiscrimination complaint with MassDOT related to Highway Division activities and/or those activities funded by the Federal Highway Administration. Translations of the complaint form are available on the MassDOT Title VI website, <https://www.mass.gov/how-to/how-to-file-a-transportation-related-discrimination-complaint>

Discrimination Complaint Form

Please provide the following information in order for us to process your complaint. This form is available in alternate formats and multiple languages. Should you require these services or any other assistance in completing this form, please let us know.

Name: _____

Address: _____

Telephone Numbers: (Home) _____ (Work) _____ (Cell) _____

Email Address: _____

Please indicate the nature of the alleged discrimination:

Categories protected under *Title VI of the Civil Rights Act of 1964*:

☐ Race ☐ Color ☐ National Origin (including limited English Proficiency)

Additional categories protected under related Federal and/or State laws/orders:

☐ Disability ☐ Age ☐ Sex ☐ Sexual Orientation ☐ Religion ☐ Ancestry

☐ Gender ☐ Ethnicity ☐ Gender Identity ☐ Gender Expression ☐ Creed

☐ Veteran's Status ☐ Background ☐ Low-Income

Who do you allege was the victim of discrimination?

☐ You ☐ A Third Party Individual ☐ A Class of Persons

Name of individual and/or organization you allege is discriminating:

Do you consent to the investigator sharing your name and other personal information with other parties to this matter when doing so will assist in investigating and resolving your complaint?

☐ Yes ☐ No

Please describe your complaint. You should include specific details such as names, dates, times, witnesses, and any other information that would assist us in our investigation of your allegations. Please include any other documentation that is relevant to this complaint. You may attach additional pages to explain your complaint.

[illegible]

Have you filed this complaint with any other agency (Federal, State, or Local)?

☐ Yes ☐ No

If yes, please identify:

Have you filed a lawsuit regarding this complaint?

☐ Yes ☐ No

If yes, please provide a copy of the complaint.

Signature: _____ Date: _____

Mail to: Title VI Coordinator, MassDOT Office of Diversity and Civil Rights, Suite 3800, 10 Park Plaza, Boston, MA 02116

Email to: MassDOT.CivilRights@state.ma.us

CHAPTER 8

Dissemination of Title VI Information

Introduction

The controlling policy document for the dissemination of public information in a manner compliant with Title VI/Nondiscrimination obligations is the MassDOT Public Participation Plan (PPP). Whether a MassDOT staffer is preparing for a one-on-one in person meeting with a member of the public to discuss a property acquisition related to a project or the Office of Transportation Planning is preparing to release a long range transportation plan for public comment, the PPP is the resource that identifies the protocols for public engagement that meets the Title VI/Nondiscrimination requirements of inclusivity and accessibility. The PPP is regarded as a component part of all agency guidelines and operating procedures that reach public engagement and MassDOT's Title VI staff regularly provides training on the requirements and resources contained within the Plan.

MassDOT Public Engagement

The MassDOT PPP instructs all project managers to consider key Title VI requirements when developing public engagement plans. This includes detailed instructions on identifying the demographics of the community to be engaged, reviewing the history of prior engagements with this community to understand historic needs as well as examples of successful prior engagement, conducting research to identify points of contact within these demographic groups that can facilitate engagement, identifying locations where public meetings can be held locally, and determining whether proactive steps need to be taken to provide meeting/outreach materials in alternate languages and/or formats to support local LEP and/or ADA needs. These requirements are detailed in Chapter 3 of the MassDOT PPP, and each Project Manager receives training on these requirements on a recurring basis.

The identification of needs of Title VI populations is a top priority for all involved in the public engagement process. The activities that comprise transportation related outreach tend to be cyclical, following an annual pattern of developing deliverables. Throughout these cycles, opportunities are provided specifically for the purpose of soliciting feedback from Title VI populations regarding transportation needs as well as opportunities for MassDOT to evaluate its planning work to determine if any disparities need to be addressed.

Strategic and long-term planning activities performed by MassDOT regularly involve a robust in-person and electronic public outreach campaign to solicit feedback from diverse constituencies across all geographies throughout the state. Outreach strategies, including meeting times and locations, survey instruments, demographic data collection, and the availability of multiple ways to provide feedback are all geared towards breaking down barriers to participation and ensuring an opportunity for diverse participation and feedback.

Because the planning process often revolves around the consideration of particular projects, the project development process is also informed by Title VI and by the needs of minority populations. Project scoring and prioritization includes scoring metrics that determine whether public outreach has been adequately performed to discuss the project idea and what level of support has been expressed by diverse populations. Similarly, project scores reflect the impact of benefits and burdens on Title VI and EJ populations in and around the project area. For projects that have received public support, including from among minority populations, and for projects that positively impact Title VI and EJ communities, higher points are awarded and these projects are more likely to advance compared to lower scoring projects.

Documenting and Responding to Public Comments

MassDOT's PPP requires that project managers "demonstrate explicit consideration and response to public input" ([23 CFR 450.210](#)) in the course of developing plans, programs, or providing other services or activities. MassDOT's Title VI staff recommends and trains to a number of strategies to effectuate this requirement. Traditionally, MassDOT's Title VI staff recommends documenting all comments as they are received and categorizing them by subject matter. With all comments grouped, the project manager is able to determine if individualized responses are required for all comments, or if batch responses and/or FAQ's should be developed to facilitate addressing a multitude of comments on the same or similar topics. The themes of the comments provide the project manager with feedback to consider addressing in the plan/program at issue.

Standard practice at MassDOT when developing regulated documents (such as the CIP) is to brief the Board of Directors, prior to seeking their approval for the plan, on the nature and outcome of the public process that was conducted in development of the plan. Project managers are trained to understand that this promotes transparency and accountability while also allowing top management to understand the details of the public engagement strategies in use by MassDOT, including those that support the Title VI requirements as detailed in the Public Participation Plan.

Traditionally, MassDOT has relied on spreadsheet tools like Excel to document public comments and process them. Today, with advances in technology, MassDOT has incorporated a number of software based solutions to further refine this process. These modern comment analysis techniques and tools began being integrated into the work of MassDOT in 2016 with the software supported analysis of "Capital Conversation" comments regarding the agencies proposed Capital Investment Plan (CIP). MassDOT has recently invested in software to support the cataloguing of public comments. This software allowed the project manager to document, map, categorize, and facilitate the response to public comments. The software tool is described here:

<https://gis.massdot.state.ma.us/cipcommenttool/>

Since then, MassDOT has incorporated ever more sophisticated tools, such as the Public Involvement Management Application (PIMA), which allows MassDOT project managers to use a tailored software platform for soliciting, analyzing, and responding to public comments.

Title VI Related Document Dissemination

There are several key documents related directly to MassDOT's Title VI/Nondiscrimination implementation and compliance that are disseminated directly to the public. This includes:

- ***The Notice to Beneficiaries***

MassDOT's federally approved Notice to Beneficiaries, which reaches federal and state nondiscrimination obligations, and is available in full in the top ten languages in the Commonwealth, is distributed to the public through a variety of means. This includes (1) posting the [Notice on the agency's website](#), (2) physical posting of the Notice in the public facing offices of MassDOT, including the Office of Diversity and Civil Rights, Human Resources, and the Secretary's Office (see photographs below), (3) displaying the Notice during public meetings/hearings (virtual and in-person), and (4) including the Notice in key publications (such as the 2024-2028 CIP <https://www.mass.gov/doc/2024-2028-capital-investment-plan-final/download>). MassDOT has customized and provided the Notice text to all the state's MPOs/RPAs and continue to make the notice available as a template to all subrecipients. All agency email blasts to the public, facilitated through the "GovDelivery" software platform, automatically populate messages with a Title VI Notice footer, including /translated statements regarding the availability of language access support (and reasonable accommodations) in the top ten languages in the state.

Following this notice, there are several figures that demonstrate the physical placement of the Notice to Beneficiaries throughout MassDOT's public facing offices (see Figures 1-4) as well as screenshots demonstrating the way the notice has been incorporated into virtual public meetings (Figure 5).

Figure 1 – Notice to Beneficiaries posted the Office of the Secretary of Transportation

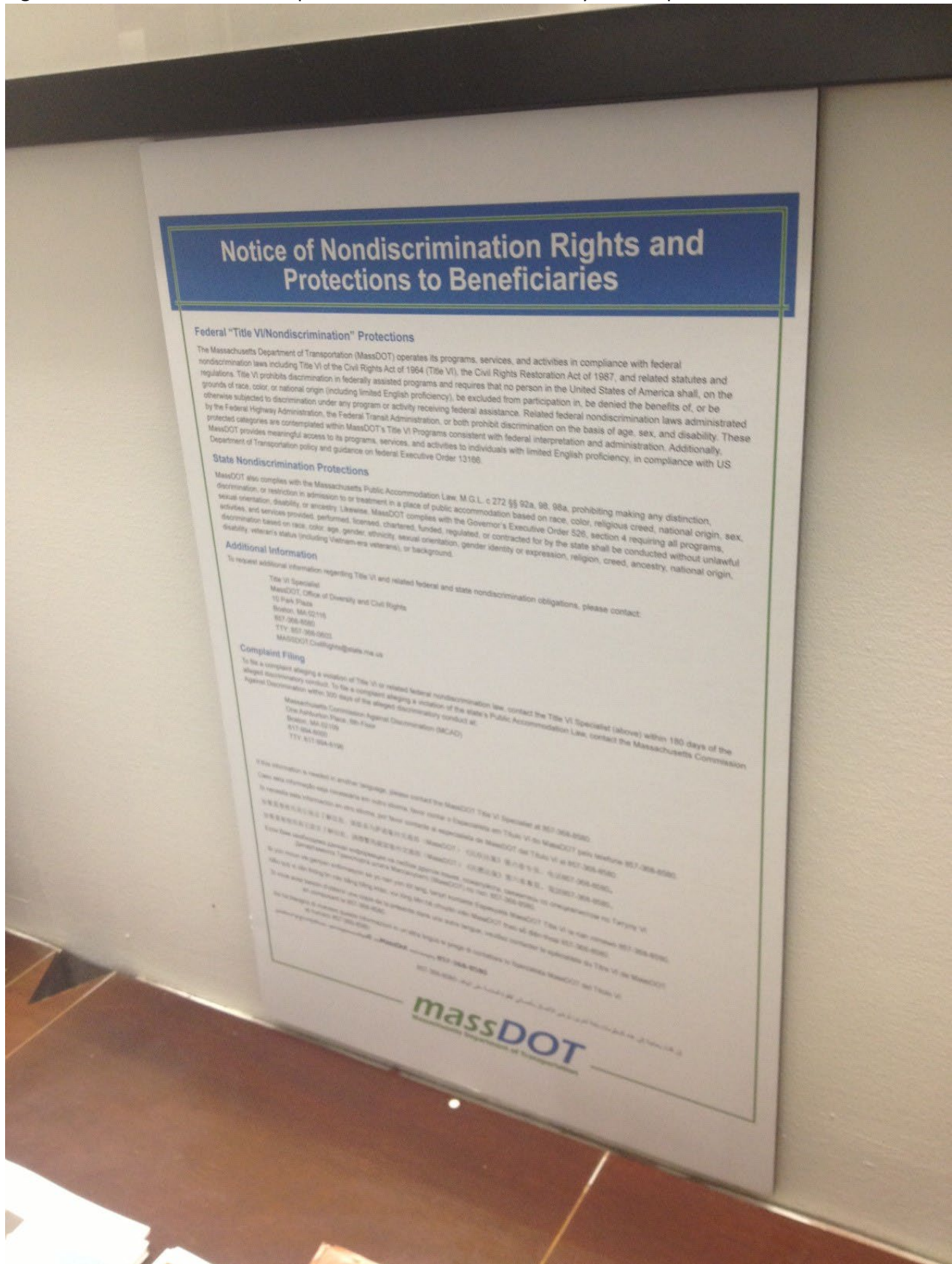


Figure 2 – Notice to Beneficiaries posted the Office of the Secretary of Transportation



Figure 3 – Notice to Beneficiaries posted the Office of Diversity and Civil Rights

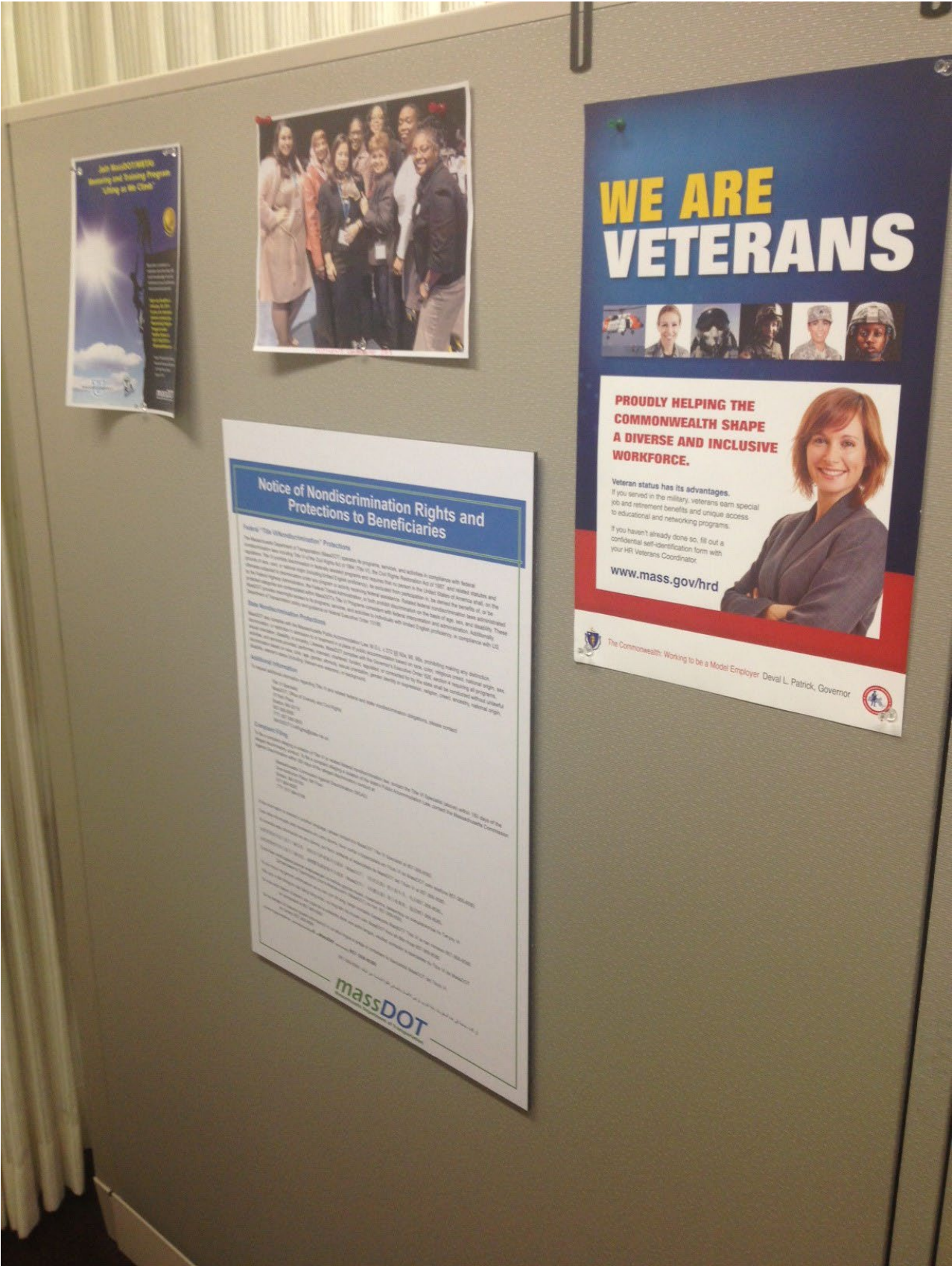


Figure 4 – Notice to Beneficiaries posted the Office of Diversity and Civil Rights



Figure 5 – Notice to Beneficiaries displayed at the beginning of agency virtual public meetings (two examples – one MassDOT and one MBTA).


MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

4

Notice of MassDOT’s policy on diversity and civil rights:

- All MassDOT activities, including public meetings, are free of discrimination.
- MassDOT complies with all federal and state civil rights requirements preventing discrimination based on sex, race, color, ancestry, national origin (limited English proficiency), religion, creed, gender, sexual orientation, gender identity or expression, or veteran’s status.
- We welcome the diversity from across our entire service area. If you have any questions or concerns, please visit <https://www.mass.gov/nondiscrimination-in-transportation-program> to reach the Office of Diversity and Civil Rights.

Thank you for joining our meeting. We appreciate your participation!



Bus Network Redesign - Public Hearing | July 28, 2022



Diversity and Civil Rights

English

All MBTA activities, including public meetings, are free of discrimination. The MBTA complies with all federal and state civil rights requirements preventing discrimination on the basis of race, color, national origin, limited English proficiency, and additional protected characteristics. We welcome the diversity from across our entire service area. If you have any questions or concerns, please visit www.mbta.com/titlevi to reach the Office of Diversity and Civil Rights.

Spanish

Todas las actividades de MBTA, incluidas las reuniones públicas, están libres de discriminación. La MBTA cumple con todos los requisitos de derechos civiles federales y estatales que impiden la discriminación por motivos de raza, color, origen nacional, dominio limitado del inglés y características protegidas adicionales. Damos la bienvenida a la diversidad de toda nuestra área de servicio. Si tiene alguna pregunta o preocupación, visite www.mbta.com/titlevi para comunicarse con la Oficina de Diversidad y Derechos Civiles.

Chinese

MBTA 的所有活动 · 包括公开会议 · 都没有歧视。MBTA 遵守所有联邦和州公民权利要求 · 防止基于种族、肤色、国籍、有限的英语能力和其他受保护特征的歧视。我们欢迎来自我们整个服务领域的多样性。如果您有任何问题或疑虑 · 请访问 www.mbta.com/titlevi 联系多元化和民权办公室。



1:23 / 1:45:42 · Intro >

Scroll for details



- *The Title VI Complaint Form and Procedure*

Similarly to the Notice to Beneficiaries, [the materials related to MassDOT's Title VI complaint procedure](#)³ are posted on the agency's public-facing website, including translated versions of the procedure and complaint forms in the top ten LEP languages statewide. Agency staff, including civil rights investigators, front-line staff, and project managers are trained on the availability of these procedures/forms and instructed how to engage members of the public interested in filing such complaints.

For additional information on the complaint process and forms, please see Chapter 7, above.

- *The Public Participation Plan (PPP) and the Language Access Plan (LAP)*

MassDOT routinely updates the Public Participation Plan and the Language Access Plan as new demographic data on the public becomes available and as new strategies and protocols are identified and developed to meet Title VI/Nondiscrimination obligations in public engagement. Both the PPP and the LAP are maintained on the public facing MassDOT website and staff undergoes recurring trainings to meet the obligations therein (see Chapter 6 for more details on MassDOT's Title VI training initiatives). As is required by federal regulation, substantive changes to the PPP are put through a public comment period of at least 45 days. To facilitate this process, MassDOT posts the draft document and the proposed changes to the MassDOT website with a comment form for public feedback. The commencement of the public comment period is announced to the public through GovDelivery email blasts (with multilingual support), announcements on the MassDOT homepage, instructions to subrecipients to notify their stakeholders of the opportunity to provide comment on the draft document, and other such invitations to comment.

Note: MassDOT is in the process of updating its Public Participation Plan. The draft will be distributed for public comment and at its close, comments will be reviewed and considered. Once all necessary updates are made, a final version of the PPP will be circulated to internal and external stakeholders and posted to the MassDOT website.

³ <https://www.mass.gov/how-to/how-to-file-a-transportation-related-discrimination-complaint>

CHAPTER 9

Review of STA Directives

The program review, compliance monitoring, data analysis, technical assistance, training, and complaint handling activities of MassDOT's Title VI staff in the implementation of the agency's Title VI Plan are all used as opportunities for ongoing review of policies, standard operating procedures, and methods of administration across MassDOT's federal program areas and public facing programs, services, and activities. These ongoing activities permit the Title VI staff to screen agency operations for Title VI implications and risks and identify opportunities for innovation and improvement. Details on these activities can be found in chapters 3, 4, 5, 6, 7, and 8 above.

By way of a brief non-exhaustive overview, the following activities are relied upon by MassDOT's Title VI staff in order to ensure that agency directives are reviewed for potential Title VI implications:

- Analyzing individual and aggregate discrimination complaints to identify potential risk factors in programs, services, or activities and their methods of administration;
- Bi-weekly coordination meetings with the Planning office and Highway Division to review and analyze project development matters (such as subrecipient coordination, fiscal constraint, and project design elements);
- Convening an ad-hoc multidisciplinary working group of staff from across the agency to address specific issues, as needed (such as the public process for regulated program development, accessibility challenges in electronic information and software systems, and performing quality control checks on written and verbal multilingual vital information);
- Participation by Title VI staff on standing committees to offer guidance and feedback on decisions and plans that may have equity impacts;
- Conducting equity analyses on agency activities, such as capital planning as well as project scoring and prioritization;
- Organizing technical assistance and capacity building workshops with staff and subrecipients;
- Performing internal and external assessments of agency program areas in order to identify risk factors and strategize methods to minimize them;
- Receiving feedback from the public, stakeholders, and diverse community leaders to identify any possible areas of concern for Title VI staff to explore more fully;
- Providing guidance on the development of modal transportation plans (such as the Bicycle Plan, Pedestrian Plan, Freight Plan, etc.) that ensures Title VI and equity issues are incorporated into the plans directly, where appropriate, and that the public vetting of these plans is inclusive and in keeping with Title VI public engagement principles.

MassDOT's Title VI staff maintains relationships with staff and management across the agency's departments. This includes recurring check-in meetings as well as participating in special initiatives as they are undertaken. This coordination allows the Title VI staff to become apprised of initiatives at their

earliest inception and affords an opportunity to review these activities for potential Title VI implications/risks. Where any such risks are identified, the Title VI staff communicates such concerns to the project team and options are identified to avoid, minimize, or mitigate the risks. Initiatives that have been recently reviewed include:

- Public outreach strategies and how effectively partnerships have been formed and maintained with community members and advocacy organizations representing diverse populations;
- Effective incorporation of newly developed federal datasets into agency processes related to identifying community demographics and understanding potential project and plan impacts on protected populations;
- The agency's strategy for incorporating virtual public involvement techniques and technologies into public outreach and engagement;
- Data accuracy/granularity issues related to the 2020 Decennial Census and how this could impact updates to MassDOT's demographic profiles, language access strategies, equity analyses, and public outreach activities;
- The incorporation of Title VI and EJ components into project scores and prioritization decisions;
- Reviewing project-level public engagement plans to determine if Title VI and related obligations were adequately addressed, prior to implementation;
- Equity analysis of the agency's Capital Investment Plan (CIP);

By being actively connected to the operations of the agency, the Title VI staff is able to directly participate in and/or closely review STA directives as they are unfolding. This strategy, combined with the recurring review of STA directives listed at the beginning of this chapter, ensure close coordination across MassDOT program areas and the Title VI team.

CHAPTER 10

Compliance and Enforcement Procedures

MassDOT's compliance procedures have been detailed throughout this Plan document. This includes wide-ranging efforts across the agency, such as the program review process, training and technical assistance initiatives, complaint handling, and analyzing data of the impacts of MassDOT activities on Title VI populations. The totality of procedures described above facilitates the coordination, oversight, monitoring, and corrective action initiatives of MassDOT's Director of Title VI and Accessibility and the Title VI Specialist.

By way of a brief non-exhaustive overview, the following activities are relied upon by MassDOT's Title VI staff as mechanisms for compliance and enforcement:

- Requiring annual reports, responsive to custom tailored work plans, of each subrecipient in order to ensure they are utilizing best practices and maximizing their compliance profiles, where needed;
- Program area reviews and the issuance of departmental work plans to monitor and ensure the use of best practices for Title VI compliance;
- Mandatory trainings for staff and subrecipients to understand their Title VI obligations as partners in the programs, services, and activities of MassDOT as a transportation federal funding recipient;
- Investigations of allegations of noncompliance with Title VI and related nondiscrimination requirements;
- Information sharing with subrecipients and project partners to detail those instances where adherence to Title VI requirements served as "value added" to the development of a transportation project, such as developing and maintaining meaningful relationships with diverse stakeholders to maximize awareness and support among those impacted by projects;
- Internal and external assessments of programs, services, and activities to identify Title VI risk factors and possible mechanisms to minimize them, including the issuance of work plans, negotiated with senior leadership, to ensure progress and accountability;
- Regular coordination meetings with agency senior leadership to highlight any areas of concern and recommended strategies to address them;

Enforcement strategies available through this monitoring program are those available to a state agency as articulated by the US Department of Justice and the US DOT modal administrations – this includes working with staff, management, and subrecipients to achieve voluntary compliance on all Title VI obligations and to exercise delegated authority to recommend and require corrective actions.

CHAPTER 11

Limited English Proficiency

Introduction

On December 14, 2005, the United States Department of Transportation (U.S. DOT) published revised guidance for its funding recipients on the implementation of Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.” U.S. DOT guidance defines limited English proficient (LEP) persons as “individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.”

The Massachusetts Department of Transportation (MassDOT) serves a broad and diverse community. Providing practical access to information for all to access MassDOT’s programs and services is a high priority for the agency. MassDOT supports the goals of the U.S. DOT LEP guidance and is committed to taking reasonable steps to provide meaningful access for LEP individuals who use MassDOT’s services, facilities, and programs and for those who attend MassDOT’s meetings and events.

To ensure that MassDOT complies with the requirements of Title VI, Executive Order 13166, and the U.S. DOT LEP implementation guidance, this Language Access Plan incorporates the five elements that the federal guidance identifies as necessary for providing language assistance to LEP persons. These elements include: Needs Assessment, Written Language Assistance Plan, Staff Training, Provision of Special Language Assistance, and Monitoring.

Legal Basis for Language Assistance Requirements

1. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and its implementing regulations provide 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 otherwise subjected to discrimination under any program or activity that receives federal financial assistance. The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted Title VI regulations promulgated by the former Department of Health, Education, and Welfare to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes discrimination on the basis of national origin.
2. Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” reprinted at 65 FR 50121 (August 16, 2000), directs each federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services. Federal agencies are instructed to publish guidance for their respective funding recipients in order to assist them with their obligations to LEP persons under Title VI. The Executive Order states that recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.
3. Massachusetts Public Accommodation Law, M.G.L. c 272 §§ 92a, 98, 98a, prohibiting making any distinction, discrimination, or restriction in admission to or treatment in a place of public accommodation based on race, color, religious creed, national origin, sex, sexual orientation, disability, or ancestry.

4. State Executive Order 592, section 4 and Administrative Bulletin 16 requiring all programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background.

U.S. DOT published revised LEP guidance for its recipients on December 15, 2005, that reflects Executive Order 13166, stating that Title VI and its implementing regulations require that its recipients take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. The Federal Transit Administration (FTA) published its LEP guidance in its Circular 4702.1A, "Title VI and Title VI Dependent Guidelines for FTA Recipients," on April 13, 2007, which requires recipients to provide meaningful access to LEP persons and recommends development of a language assistance plan consistent with the provisions of Section VII of the U.S. DOT LEP guidance. FTA's current Title VI Circular, 4702.1B (October 2012) maintains the language access requirement for federally funded programs, services, and activities.

Language Access Plan and Four-Factor Analysis

A foundational component of MassDOT's Language Access Plan is the requisite Four-Factor Analysis. This analysis was updated in September 2022, with data refinement in September 2023. The analysis update includes the elements of a Language Access Plan and describes the steps MassDOT takes to fulfill language access obligations as well as an implementation timeline for specific deliverables and/or tasks. See below for several maps depicting the concentration of language groups statewide.

Identifying Individuals Who Need Language Assistance

As a recipient of federal funding from U.S. DOT, MassDOT must assess the language access needs of LEP populations in relation to all MassDOT programs, activities, and services. This needs assessment, as defined by U.S. DOT and incorporated into this MassDOT Language Access Plan, is based on an analysis of four factors. The first two of the four factors are used to identify individuals who need language assistance. The third and fourth factors are used to determine appropriate language assistance measures. Following U.S. DOT guidelines, MassDOT explores multiple data sources and conducts targeted outreach to develop its Four-Factor Analysis. Traditional data sources, such as US Census Bureau data, are incorporated into the Four-Factor Analysis. In addition, "non-traditional data sources" are explored and factored into the analysis, where appropriate. Such data sources include:

- surveys of MassDOT staff responsible for providing language assistance and/or interacting directly with the public
- outreach to Community Based Organizations (CBO) serving LEP populations in the Commonwealth
- a public, online survey of language assistance needs which was publicized through an email blast to several thousand contacts from MassDOT's outreach distribution database
- analysis of past interactions with LEP individuals including website data and requests for both interpretation and translation by LEP persons
- data from Massachusetts Department of Elementary and Secondary Education

Based on the results of the four-factor analysis, MassDOT continues to implement a phased schedule for translating vital information and providing ongoing language access support through interpretation and translation. MassDOT has translated and disseminated the vital documents related to Title VI into the top 10 LEP languages of the Commonwealth: Spanish, Portuguese, Chinese, Vietnamese, French (Haitian) Creole, Russian, Mon Khmer, Arabic, French, and Italian. These 10 languages are consistently identified as meeting the safe-harbor threshold in the Factor 1 analyses, and several of them were identified by MassDOT staff as having prior contact. MassDOT continues to translate non-Title VI-related vital documents. MassDOT offers free translation of vital and non-vital information in the other languages and makes the decision whether to translate into each of these languages based on whether any translations are requested and whether the translation is an effective means of communicating the information to the requestor. Processing such requests typically includes an interactive process with the requestor where MassDOT staff will seek to identify the most effective means of ensuring the requestor has meaningful access to the program, service, activity, information, and/or document at issue. The remainder of this document provides an update to MassDOT's Four-Factor Analysis.

Factor 1: The Number and Proportion of Persons in the Service Population Who Are LEP

One factor in determining what language services MassDOT should provide is the number or proportion of LEP persons eligible to be served or encountered by MassDOT in carrying out its operations. The greater the number or proportion of people who are limited in their English proficiency from a particular language group served by or encountered by MassDOT, the more likely it is that language services are needed for those people. Because MassDOT is a statewide agency, the service area population includes the entire population of Massachusetts.

MassDOT used a combination of the following quantitative and qualitative analyses to estimate the number and proportion of people in the Commonwealth who may have limited proficiency in English (by language spoken):

- 2016-2020 ACS 5% Public Use Microdata Sample (PUMS) data from the U.S. Census Bureau
- Data from the MA Department of Education
- Qualitative data obtained from outreach to CBOs that work with LEP populations

The remaining text in the first factor analysis describes the quantitative and qualitative analysis techniques that MassDOT has engaged in.

Analysis of 2016-2020 ACS 5% Public Use Microdata Sample

The 2016-2020 American Community Survey (ACS) 5% Public Use Microdata Sample (PUMS) dataset allows the language spoken at home (for all languages) to be cross-tabulated with LEP status. The US Census tables "Language Spoken at Home" and "Ability to Speak English for the Population 5 Years and Over" were used to estimate the number of LEP people for Public Use Microdata Areas (PUMAs) within Massachusetts. To calculate the number of people with limited English proficiency, the counts of people who self-reported to speak English less than "very well" were summed. The total, including all languages, is 610,126 people, or approximately 8.9 percent of the total population above the age of five. The largest single group of LEP persons is composed of Spanish speakers, who represent 41.1 percent of

the LEP population in the state. Approximately 250,959 people in Massachusetts are limited-English Spanish speakers. The LEP populations meeting the U.S. DOT definition of LEP “safe harbor” thresholds statewide (5% or 1,000 individuals, whichever is less), from this dataset, are shown in Table 1.

TABLE 1
LEP Populations by Language

Language	2020 LEP Speakers	Percentage of Total Population	Percentage of LEP Population
Spanish	250,959	3.60%	41.100%
Portuguese	79,127	1.10%	13.000%
Chinese	68,464	1.00%	11.200%
Haitian Creole	39,116	0.60%	6.400%
Vietnamese	25,698	0.40%	4.200%
Russian	16,286	0.24%	2.670%
Arabic	12,705	0.18%	2.080%
Khmer	10,995	0.16%	1.800%
French	9,113	0.13%	1.490%
Italian	7,213	0.10%	1.180%
Kabuverdianu	7,122	0.10%	1.170%
Korean	5,805	0.08%	0.950%

Greek	5,558	0.08%	0.910%
Hindi	5,281	0.08%	0.870%
Polish	5,149	0.07%	0.840%
Albanian	4,839	0.07%	0.790%
Gujarati	4,318	0.06%	0.710%
Japanese	3,374	0.05%	0.550%
Nepali	3,223	0.05%	0.530%
Bengali	2,196	0.03%	0.360%
Farsi	2,196	0.03%	0.360%
Akan (including Twi)	1,981	0.03%	0.320%
Turkish	1,970	0.03%	0.320%
Urdu	1,758	0.03%	0.290%
Punjabi	1,672	0.02%	0.270%
Thai	1,570	0.02%	0.260%
Tagalog	1,556	0.02%	0.260%

Armenian	1,552	0.02%	0.250%
Somali	1,522	0.02%	0.250%
Telugu	1,502	0.02%	0.250%
Tamil	1,417	0.02%	0.230%
German	1,341	0.02%	0.220%
Swahili	1,284	0.02%	0.210%
Amharic	1,205	0.02%	0.200%
Lao	1,186	0.02%	0.190%
Ukrainian	1,133	0.02%	0.190%

Identification of Concentrations of people with Limited English Proficiency

MassDOT mapped the language data to provide a geographic representation of where concentrations of people with limited English proficiency live and to show the languages spoken at home in those areas. To identify locations containing large concentrations of people with limited English proficiency, PUMAs were selected that had an overall LEP population larger than five percent of the total population and where any of the top five language groups comprised more than 25 percent of the PUMA's LEP population, or more than 1,000 persons.

Figure 1 shows the concentration of people with limited English proficiency by PUMA, regardless of the language spoken at home.

Figures 2 through 6 show the concentrations of people with limited English proficiency whose primary language is one of the top five language groups, and Tables 2 through 6 show the PUMAs with the largest concentrations.

Figure 7 shows the concentration of populations speaking languages other than the five most common languages. Table 7 shows the PUMAs with at least 1,000 people with limited English proficiency who speak languages other than the five most common languages.

Table 8 shows LEP populations speaking languages other than the five most common LEP languages that have at least 1,000 speakers.

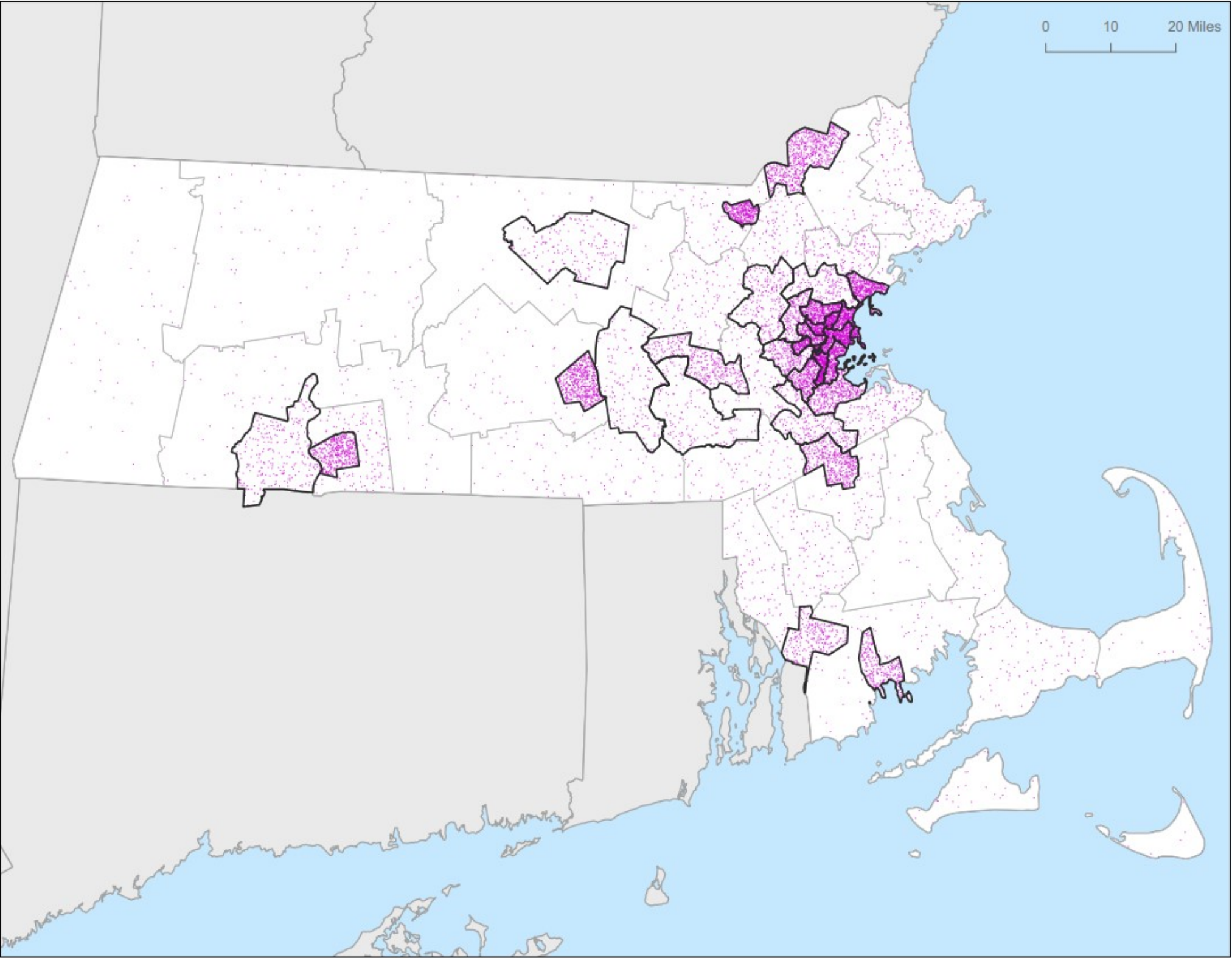




FIGURE 1
Statewide Language Assistance Plan

**Limited English Proficiency:
All LEP Individuals**

-  All speakers who speak English "less than very well" (1 dot = 50 speakers)
-  Significant LEP populations

Residents with limited English proficiency are defined for Title VI purposes as persons aged five and older whose ability to speak English was self-identified as less than "very well" in the 2020 American Community Survey five-year Public Use Microdata Samples.

Significant LEP populations are identified in this map where the LEP population in a PUMA is over 5% of the PUMA's population.

Public Use Microdata Areas (PUMAs) are non-overlapping geographic areas defined by the US Census Bureau that contain no fewer than 100,000 people.

Dots are placed randomly within PUMAs to indicate the number of LEP speakers.

The percentage of LEP persons in Massachusetts is 8.9 percent.

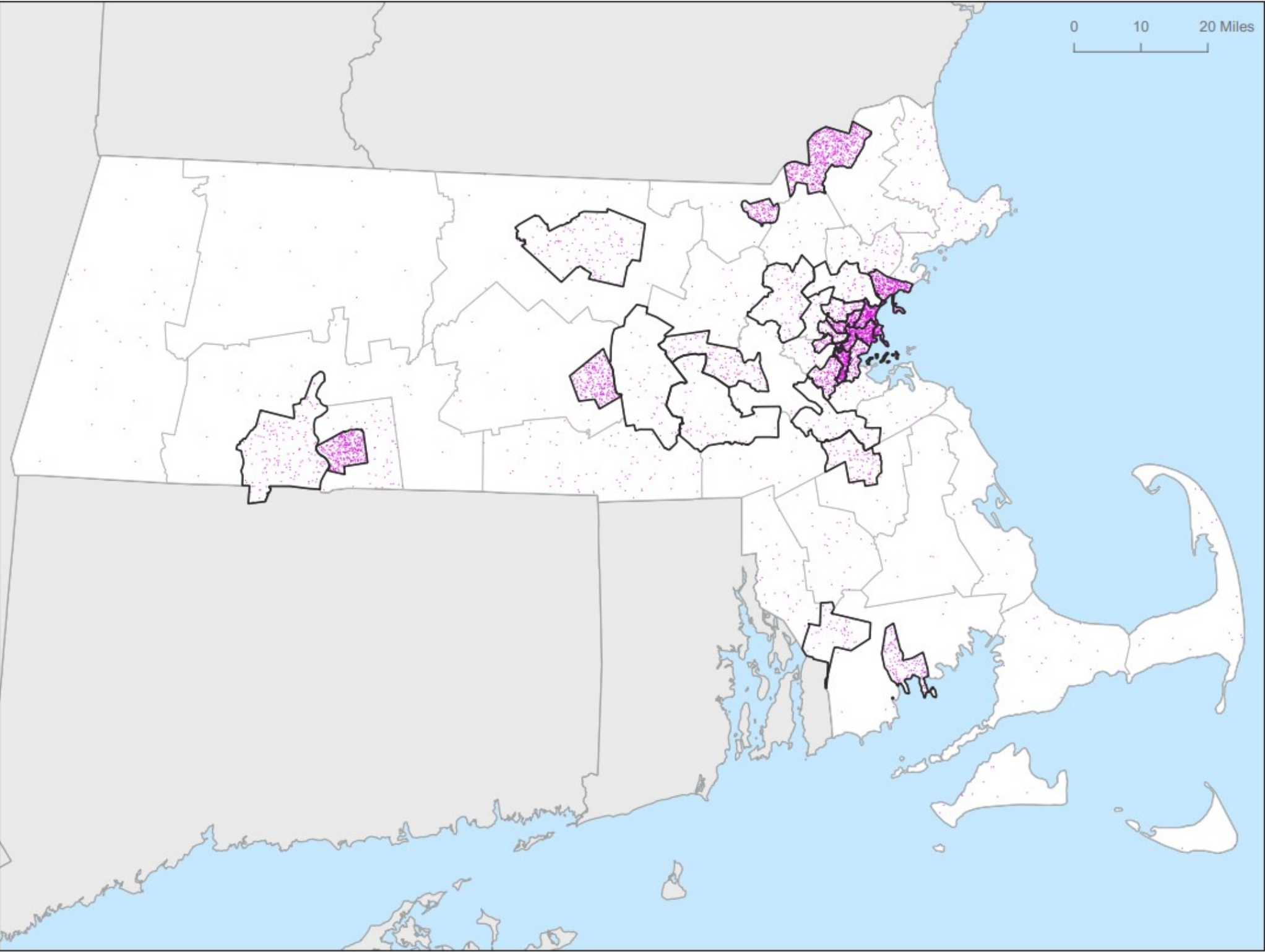




FIGURE 2
Statewide Language Assistance Plan

Limited English Proficiency: Spanish Speakers

-  Spanish speakers who speak English "less than very well" (1 dot = 50 speakers)
-  Significant Spanish-speaking populations

Residents with limited English proficiency are defined for Title VI purposes as persons aged five and older whose ability to speak English was self-identified as less than "very well" in the 2020 American Community Survey five-year Public Use Microdata Samples.

Significant populations are identified in this map where the general LEP population in a PUMA is over 5% and the Spanish-speaking population is either over 1,000 individuals or over 25% of the PUMA's LEP population.

Public Use Microdata Areas (PUMAs) are non-overlapping geographic areas defined by the US Census Bureau that contain no fewer than 100,000 people.

Dots are placed randomly within PUMAs to indicate the number of LEP speakers.

The percentage of LEP persons in Massachusetts is 8.9 percent.

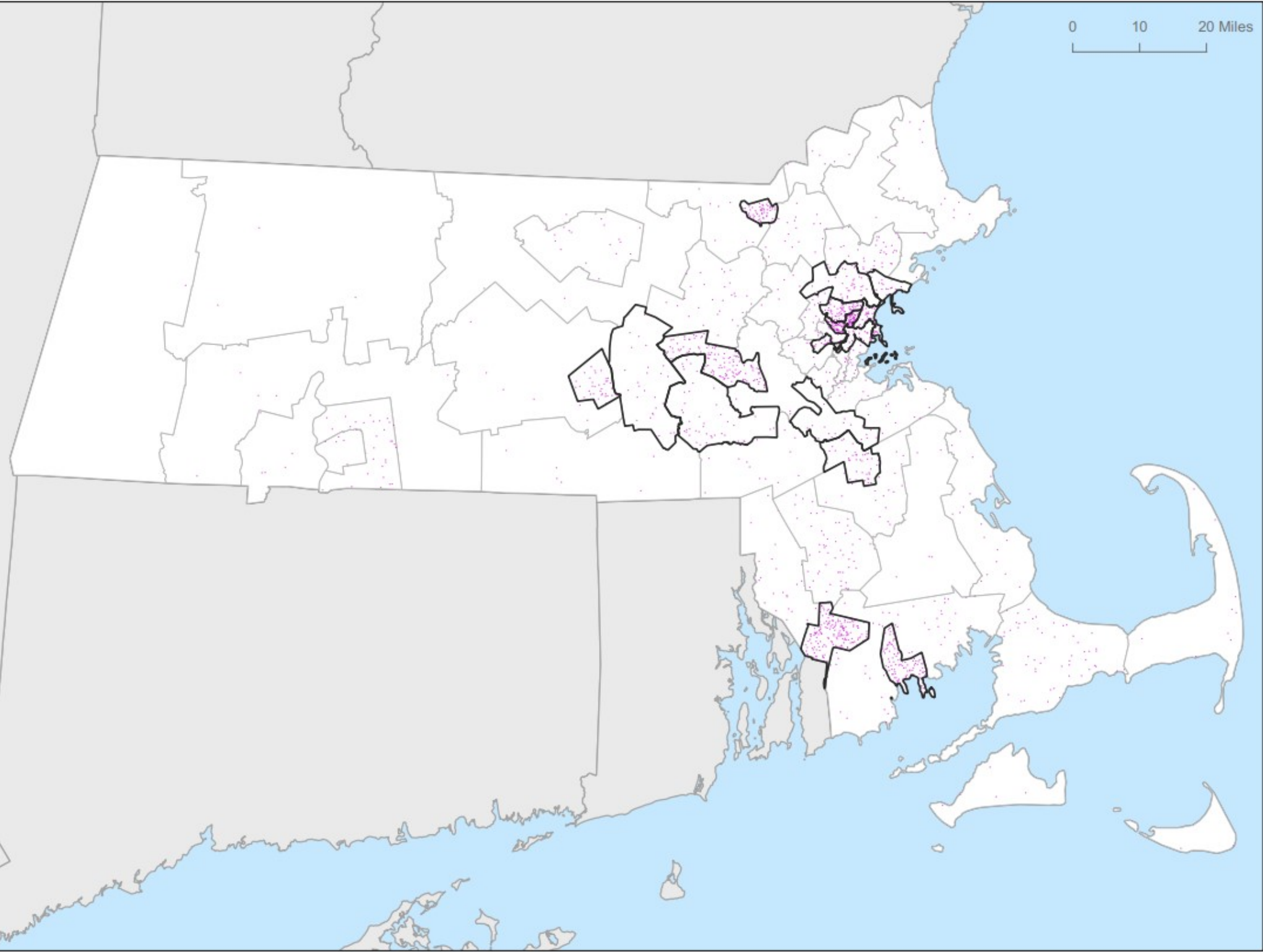




FIGURE 3
Statewide Language Assistance Plan

Limited English Proficiency: Portuguese Speakers

-  Portuguese speakers who speak English "less than very well" (1 dot = 50 speakers)
-  Significant Portuguese-speaking populations

Residents with limited English proficiency are defined for Title VI purposes as persons aged five and older whose ability to speak English was self-identified as less than "very well" in the 2020 American Community Survey five-year Public Use Microdata Samples.

Significant populations are identified in this map where the general LEP population in a PUMA is over 5% and the Portuguese-speaking population is either over 1,000 individuals or over 25% of the PUMA's LEP population.

Public Use Microdata Areas (PUMAs) are non-overlapping geographic areas defined by the US Census Bureau that contain no fewer than 100,000 people.

Dots are placed randomly within PUMAs to indicate the number of LEP speakers.

The percentage of LEP persons in Massachusetts is 8.9 percent.

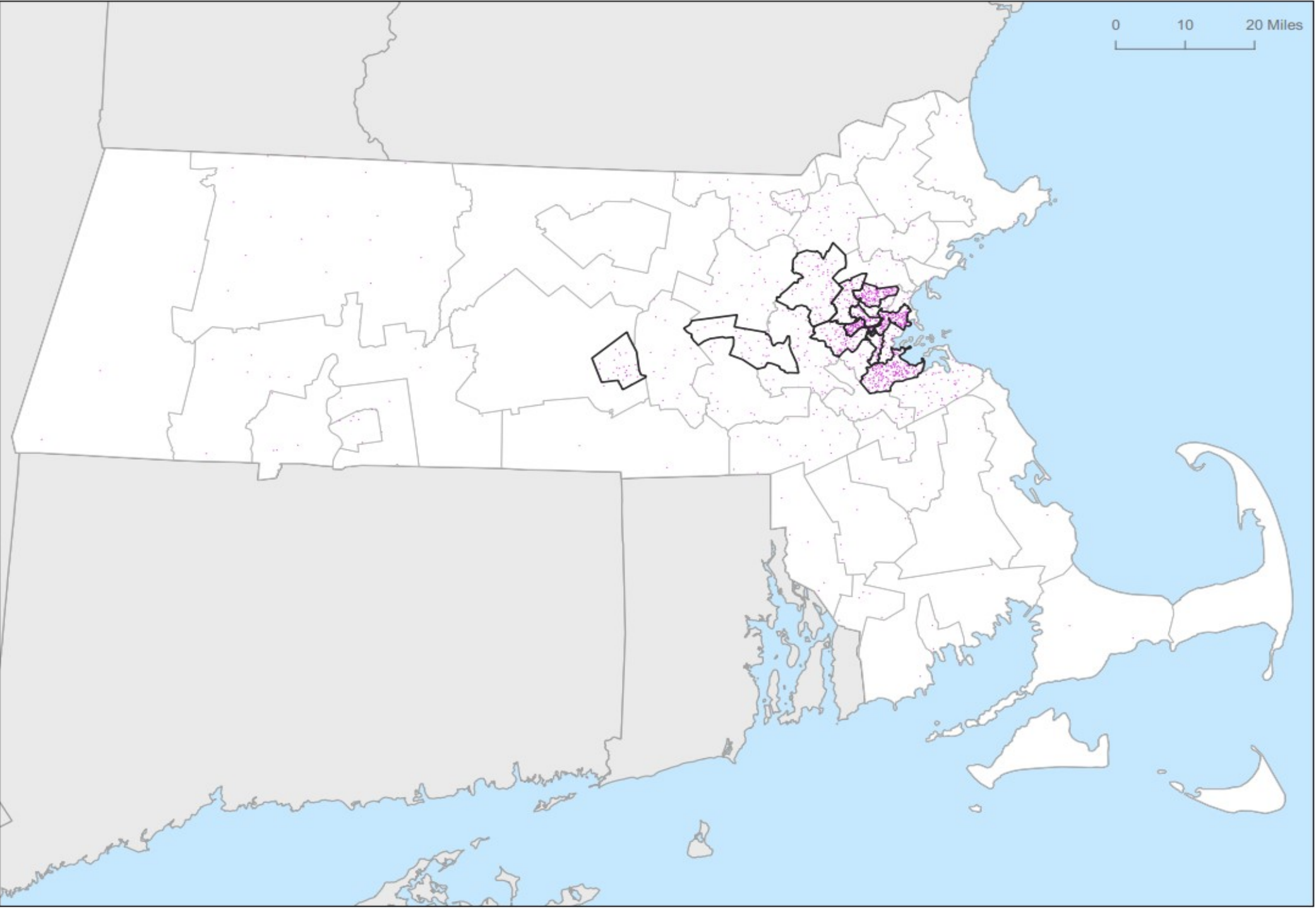




FIGURE 4
Statewide Language Assistance Plan

**Limited English Proficiency:
Chinese Speakers**

-  Chinese speakers who speak English "less than very well" (1 dot = 50 speakers)
-  Significant Chinese-speaking populations

Residents with limited English proficiency are defined for Title VI purposes as persons aged five and older whose ability to speak English was self-identified as less than "very well" in the 2020 American Community Survey five-year Public Use Microdata Samples.

Significant populations are identified in this map where the general LEP population in a PUMA is over 5% and the Chinese-speaking population is either over 1,000 individuals or over 25% of the PUMA's LEP population.

Public Use Microdata Areas (PUMAs) are non-overlapping geographic areas defined by the US Census Bureau that contain no fewer than 100,000 people.

Dots are placed randomly within PUMAs to indicate the number of LEP speakers.

The percentage of LEP persons in Massachusetts is 8.9 percent.

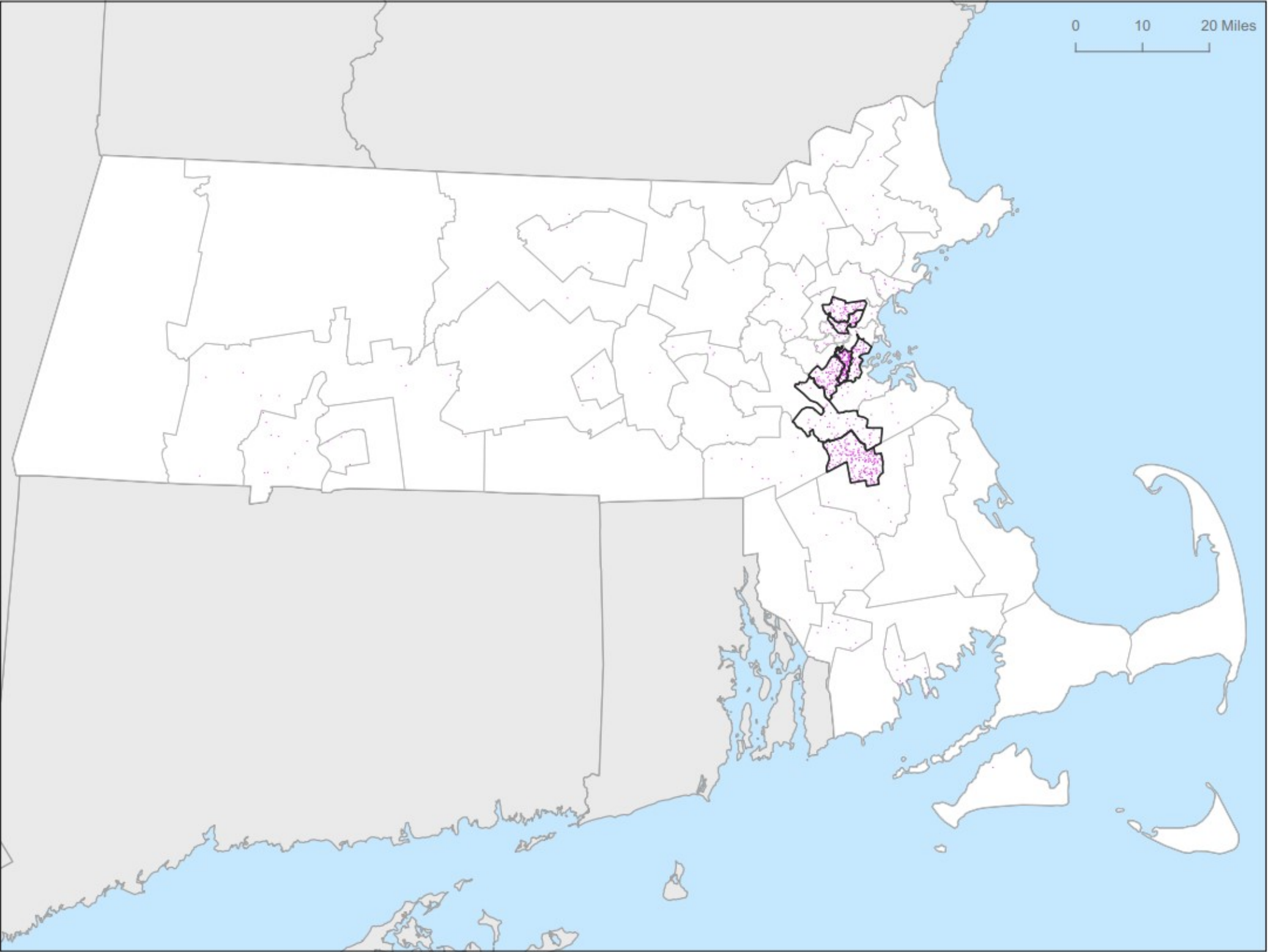




FIGURE 5
Statewide Language Assistance Plan

**Limited English Proficiency:
Haitian Speakers**

-  Haitian speakers who speak English "less than very well" (1 dot = 50 speakers)
-  Significant Haitian-speaking populations

Residents with limited English proficiency are defined for Title VI purposes as persons aged five and older whose ability to speak English was self-identified as less than "very well" in the 2020 American Community Survey five-year Public Use Microdata Samples.

Significant populations are identified in this map where the general LEP population in a PUMA is over 5% and the Haitian-speaking population is either over 1,000 individuals or over 25% of the PUMA's LEP population.

Public Use Microdata Areas (PUMAs) are non-overlapping geographic areas defined by the US Census Bureau that contain no fewer than 100,000 people.

Dots are placed randomly within PUMAs to indicate the number of LEP speakers.

The percentage of LEP persons in Massachusetts is 8.9 percent.

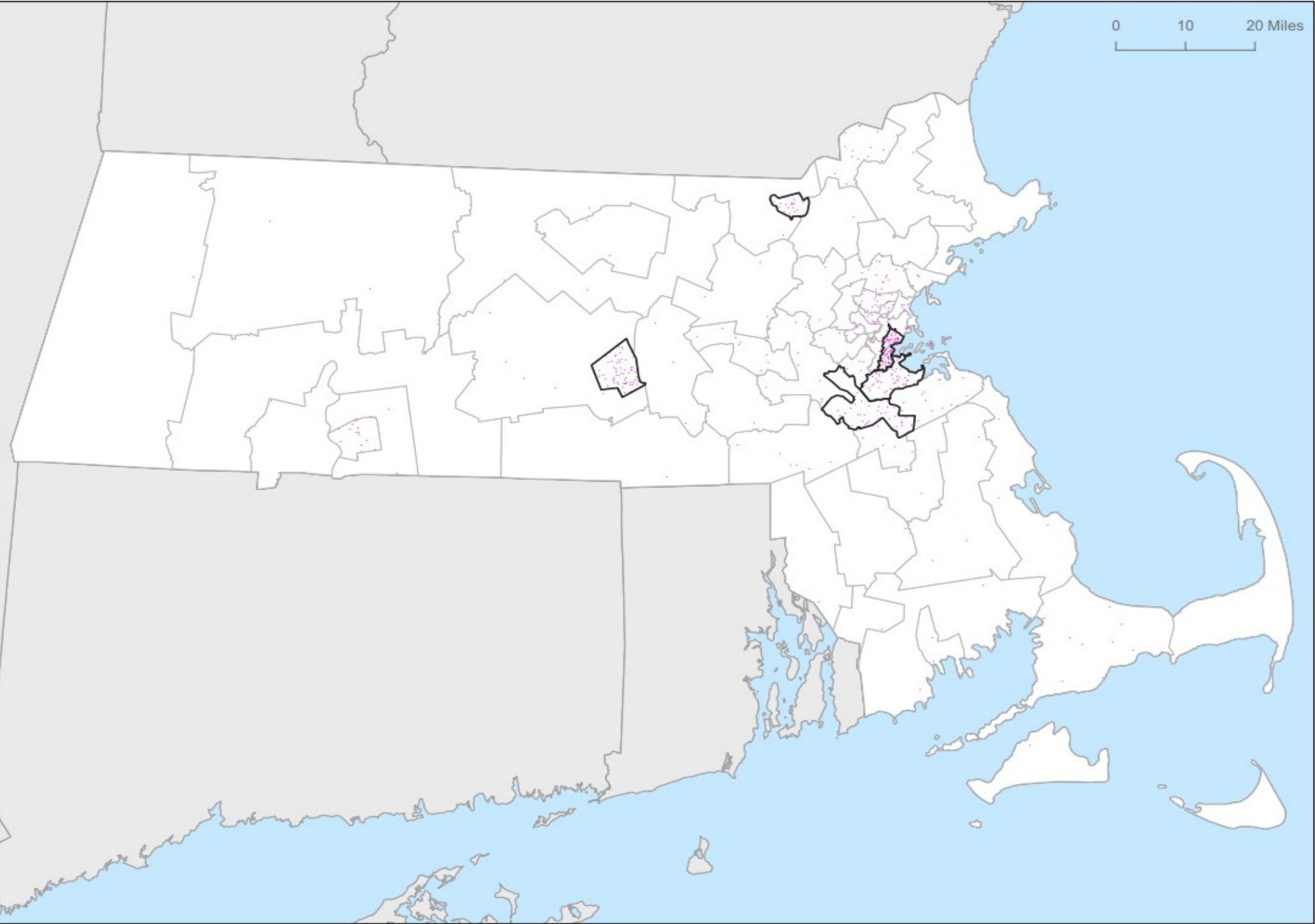




FIGURE 6
Statewide Language Assistance Plan

Limited English Proficiency: Vietnamese Speakers

-  Vietnamese speakers who speak English "less than very well" (1 dot = 50 speakers)
-  Significant Vietnamese-speaking populations

Residents with limited English proficiency are defined for Title VI purposes as persons aged five and older whose ability to speak English was self-identified as less than "very well" in the 2020 American Community Survey five-year Public Use Microdata Samples.

Significant populations are identified in this map where the general LEP population in a PUMA is over 5% and the Vietnamese-speaking population is either over 1,000 individuals or over 25% of the PUMA's LEP population.

Public Use Microdata Areas (PUMAs) are non-overlapping geographic areas defined by the US Census Bureau that contain no fewer than 100,000 people.

Dots are placed randomly within PUMAs to indicate the number of LEP speakers.

The percentage of LEP persons in Massachusetts is 8.9 percent.

Table 2
Spanish-speaking LEP Populations

PUMA	PUMA Name	2020 Spanish-speaking LEP Population	Spanish-speaking LEP Population — Percentage of Total Population	Spanish-speaking LEP Population — Percentage of LEP Population
00701	Lawrence, Haverhill, and Methuen	34,399	17.70%	91.3%
03306	Revere, Chelsea, and Winthrop	21,609	19.20%	74.2%
03302	Downtown Boston, Back Bay, Beacon Hill, Charlestown, East Boston, and the South End	19,729	12.10%	61.5%
01900	Springfield	18,825	12.20%	83.3%
00704	Lynn, Swampscott, and Nahant	17,798	15.80%	70.9%
00300	Worcester	13,852	7.50%	47.9%
03304	Mattapan and Roxbury	13,314	9.40%	52.0%
03305	Hyde Park, Jamaica Plain, Roslindale, and West Roxbury	8,551	6.00%	45.8%
00507	Somerville and Everett	8,393	6.60%	37.2%
01901	Westfield, Southwick, Agawam, West Springfield, and Holyoke	8,271	5.60%	61.0%
04500	New Bedford and Fairhaven	6,881	6.20%	47.6%
00502	Lowell	5,969	5.40%	30.5%
00301	Gardner, Westminster, Leominster, Fitchburg, and Lunenburg	5,759	4.70%	67.6%
00504	Framingham, Marlborough, and Natick	5,728	3.90%	32.0%
03303	Dorchester and South Boston	5,655	4.60%	29.7%
04000	Brockton, Stoughton, and Avon	4,054	3.10%	17.9%
00503	Waltham, Lexington, Burlington, Bedford, and Lincoln	3,452	2.40%	28.8%
00508	Malden and Medford	3,270	2.70%	14.7%
03301	Allston, Brighton, and the Fenway	2,808	2.40%	18.7%
04302	Fall River and Somerset	2,439	2.30%	18.3%

02400	Southborough, Ashland, Hopkinton, Milford, Holliston, Medway, Millis, and Medfield	2,093	1.70%	28.2%
00506	Cambridge	1,920	1.60%	20.7%
00303	Eastern suburbs of Worcester	1,819	1.50%	22.9%
02800	Woburn, Melrose, Saugus, Wakefield, and Stoneham	1,742	1.20%	21.0%
03602	Randolph, Norwood, Dedham, Canton, and Holbrook	1,729	1.40%	15.1%

Table 3
Portuguese-speaking LEP Populations

PUMA	PUMA Name	2020 Portuguese-speaking LEP Population	Portuguese-speaking LEP Population — Percentage of Total Population	Portuguese-speaking LEP Population — Percentage of LEP Population
04302	Fall River and Somerset	8,924	8.3%	66.90%
00504	Framingham, Marlborough, and Natick	7,168	4.8%	40.00%
00507	Somerville and Everett	6,741	5.3%	29.90%
04500	New Bedford and Fairhaven	5,613	5.0%	38.80%
00508	Malden and Medford	3,461	2.9%	15.50%
00502	Lowell	2,756	2.5%	14.10%
02400	Southborough, Ashland, Hopkinton, Milford, Holliston, Medway, Millis, and Medfield	2,420	1.9%	32.60%
03306	Revere, Chelsea, and Winthrop	2,412	2.1%	8.30%
04000	Brockton, Stoughton, and Avon	2,128	1.6%	9.40%
02800	Woburn, Melrose, Saugus, Wakefield, and Stoneham	1,981	1.3%	23.90%
00300	Worcester	1,802	1.0%	6.20%
00303	Eastern suburbs of Worcester	1,402	1.2%	17.60%
03301	Allston, Brighton, and the Fenway	1,113	0.9%	7.40%
03302	Downtown Boston, Back Bay, Beacon Hill, Charlestown, East Boston, and the South End	1,065	0.7%	3.30%

03602	Randolph, Norwood, Dedham, Canton, and Holbrook	1,065	0.9%	9.30%
00704	Lynn, Swampscott, and Nahant	1,027	0.9%	4.10%

Table 4
Chinese-speaking LEP Populations

PUMA	PUMA Name	2020 Chinese-speaking LEP Population	Chinese-speaking LEP Population — Percentage of Total Population	Chinese-speaking LEP Population — Percentage of LEP Population
03603	Quincy and Milton	11,241	9.2%	54.8%
03302	Downtown Boston, Back Bay, Beacon Hill, Charlestown, East Boston, and the South End	7,674	4.7%	23.9%
00508	Malden and Medford	7,387	6.2%	33.1%
03301	Allston, Brighton, and the Fenway	5,547	4.7%	36.9%
03400	Newton and Brookline	3,484	2.4%	32.8%
00503	Waltham, Lexington, Burlington, Bedford, and Lincoln	3,159	2.2%	26.4%
00506	Cambridge	2,368	2.0%	25.5%
00505	Watertown, Arlington, Belmont, and Winchester	2,162	1.7%	25.4%
03304	Mattapan and Roxbury	1,342	1.0%	5.2%
00504	Framingham, Marlborough, and Natick	1,334	0.9%	7.5%
00300	Worcester	1,250	0.7%	4.3%

Table 5
Haitian-speaking LEP Populations

PUMA	PUMA Name	2020 Haitian-speaking LEP Population	Haitian-speaking LEP Population — Percentage of Total Population	Haitian-speaking LEP Population — Percentage of LEP Population
04000	Brockton, Stoughton, and Avon	11,141	8.6%	49.1%
03304	Mattapan and Roxbury	6,273	4.4%	24.5%
03305	Hyde Park, Jamaica Plain, Roslindale, and West Roxbury	4,893	3.4%	26.2%

00508	Malden and Medford	2,825	2.4%	12.7%
03602	Randolph, Norwood, Dedham, Canton, and Holbrook	2,526	2.0%	22.1%
03303	Dorchester and South Boston	2,481	2.0%	13.0%
00507	Somerville and Everett	1,999	1.6%	8.9%

Table 6
Vietnamese-speaking LEP Populations

PUMA	PUMA Name	2020 Vietnamese-speaking LEP Population	Vietnamese-speaking LEP Population — Percentage of Total Population	Vietnamese-speaking LEP Population — Percentage of LEP Population
03303	Dorchester and South Boston	5,800	4.7%	30.5%
00300	Worcester	3,167	1.7%	10.9%
03603	Quincy and Milton	2,650	2.2%	12.9%
03602	Randolph, Norwood, Dedham, Canton, and Holbrook	2,029	1.6%	17.7%
00502	Lowell	1,024	0.9%	5.2%

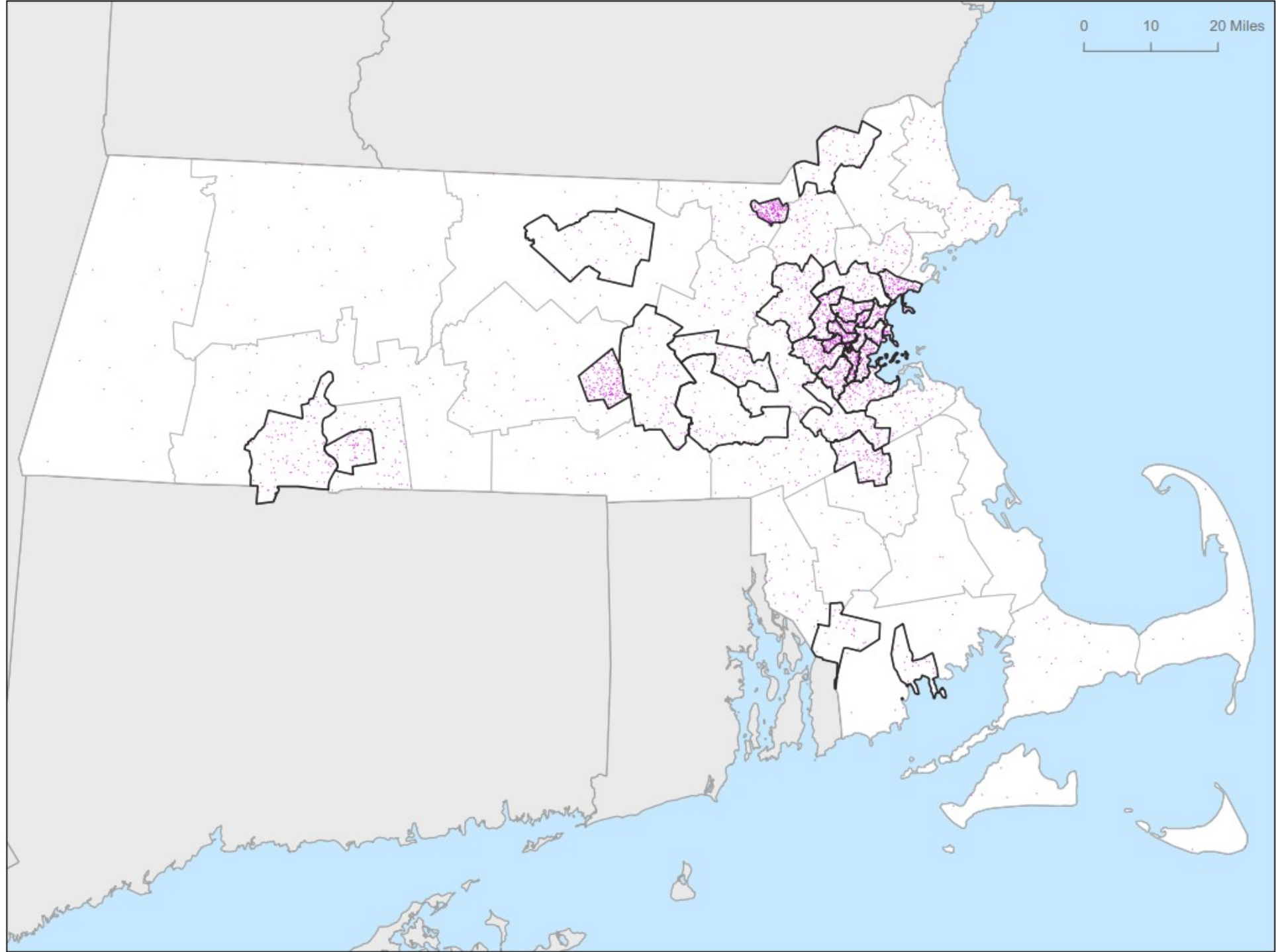




FIGURE 7
Statewide Language Assistance Plan

Limited English Proficiency: Speakers of Languages not included in the top five LEP languages

-  Speakers who speak a language not included in the top five LEP languages and who speak English "less than very well" (1 dot = 50 speakers)
-  Significant population of LEP residents speaking a language other than top five LEP languages

Residents with limited English proficiency are defined for Title VI purposes as persons aged five and older whose ability to speak English was self-identified as less than "very well" in the 2020 American Community Survey five-year Public Use Microdata Samples.

Significant populations are identified in this map where the general LEP population in a PUMA is over 5% and the population who speaks a language other than the five most common languages is either over 1,000 individuals or over 25% of the PUMA's LEP population.

The five most common LEP languages in Massachusetts are Spanish, Portuguese, Chinese, Haitian, and Vietnamese.

Public Use Microdata Areas (PUMAs) are non-overlapping geographic areas defined by the US Census Bureau that contain no fewer than 100,000 people.

Dots are placed randomly within PUMAs to indicate the number of LEP speakers.

The percentage of LEP persons in Massachusetts is 8.9 percent.

Table 7
LEP Populations Speaking Other Languages

PUMA	PUMA Name	2020 LEP Population Speaking Other Languages	LEP Population Speaking Other Languages — Percentage of Total Population	LEP Population Speaking Other Languages — Percentage of LEP Population
00502	Lowell	9,019	8.10%	46.1%
00300	Worcester	8,684	4.70%	30.0%
03400	Newton and Brookline	5,669	3.80%	53.4%
00704	Lynn, Swampscott, and Nahant	5,406	4.80%	21.5%
03301	Allston, Brighton, and the Fenway	4,944	4.20%	32.9%
00505	Watertown, Arlington, Belmont, and Winchester	4,839	3.70%	56.9%
01901	Westfield, Southwick, Agawam, West Springfield, and Holyoke	4,759	3.20%	35.1%
00508	Malden and Medford	4,605	3.90%	20.7%
04000	Brockton, Stoughton, and Avon	4,540	3.50%	20.0%
00503	Waltham, Lexington, Burlington, Bedford, and Lincoln	4,502	3.10%	37.6%
03603	Quincy and Milton	4,453	3.70%	21.7%
03304	Mattapan and Roxbury	4,072	2.90%	15.9%
03306	Revere, Chelsea, and Winthrop	3,957	3.50%	13.6%
03305	Hyde Park, Jamaica Plain, Roslindale, and West Roxbury	3,866	2.70%	20.7%
00507	Somerville and Everett	3,856	3.00%	17.1%
00506	Cambridge	3,716	3.20%	40.1%
00303	Eastern suburbs of Worcester	3,589	3.00%	45.1%
03303	Dorchester and South Boston	3,545	2.90%	18.6%
03602	Randolph, Norwood, Dedham, Canton, and Holbrook	3,193	2.60%	27.9%
03302	Downtown Boston, Back Bay, Beacon Hill, Charlestown, East Boston, and the South End	3,008	1.80%	9.4%

PUMA	PUMA Name	2020 LEP Population Speaking Other Languages	LEP Population Speaking Other Languages — Percentage of Total Population	LEP Population Speaking Other Languages — Percentage of LEP Population
00504	Framingham, Marlborough, and Natick	2,959	2.00%	16.5%
02800	Woburn, Melrose, Saugus, Wakefield, and Stoneham	2,736	1.90%	33.0%
01900	Springfield	2,274	1.50%	10.1%
02400	Southborough, Ashland, Hopkinton, Milford, Holliston, Medway, Millis, and Medfield	2,122	1.70%	28.6%
00701	Lawrence, Haverhill, and Methuen	1,837	0.90%	4.9%
00301	Gardner, Westminster, Leominster, Fitchburg, and Lunenburg	1,544	1.30%	18.1%
04302	Fall River and Somerset	1,217	1.10%	9.1%
04500	New Bedford and Fairhaven	1,097	1.00%	7.6%

Table 8
Other Languages Spoken by LEP Populations

Language	2020 LEP Speakers	Percentage of Total Population	Percentage of LEP Population
Russian	16,286	0.24%	2.67%
Arabic	12,705	0.18%	2.08%
Khmer	10,995	0.16%	1.80%
French	9,113	0.13%	1.49%
Italian	7,213	0.10%	1.18%
Kabuverdianu	7,122	0.10%	1.17%
Korean	5,805	0.08%	0.95%
Greek	5,558	0.08%	0.91%
Hindi	5,281	0.08%	0.87%
Polish	5,149	0.07%	0.84%
Albanian	4,839	0.07%	0.79%
Gujarati	4,318	0.06%	0.71%

Japanese	3,374	0.05%	0.55%
Nepali	3,223	0.05%	0.53%
Bengali	2,196	0.03%	0.36%
Farsi	2,196	0.03%	0.36%
Akan (including Twi)	1,981	0.03%	0.32%
Turkish	1,970	0.03%	0.32%
Urdu	1,758	0.03%	0.29%
Punjabi	1,672	0.02%	0.27%
Thai	1,570	0.02%	0.26%
Tagalog	1,556	0.02%	0.26%
Armenian	1,552	0.02%	0.25%
Somali	1,522	0.02%	0.25%
Telugu	1,502	0.02%	0.25%
Tamil	1,417	0.02%	0.23%
German	1,341	0.02%	0.22%
Swahili	1,284	0.02%	0.21%
Amharic	1,205	0.02%	0.20%
Lao	1,186	0.02%	0.19%
Ukrainian	1,133	0.02%	0.19%

Analysis of Massachusetts Department of Education Data

MassDOT recurrently analyzes Massachusetts Department of Education data that indicates the number of LEP students enrolled in the public schools, by language, for each municipality in the Commonwealth. Although the school population does not have a one-to-one correlation with the overall population of a municipality, the languages that students speak can give additional insight into language composition and proficiency and the areas where assistance is likely to be needed. Analysis of this data continues to support the census data patterns in terms of the general distribution of LEP populations and languages spoken.

The Massachusetts Department of Education publishes data regarding the top languages, other than English, spoken by students in the state's public school system (covering years 2019 to the present)⁴. As indicated in the tables below, this data closely correlates with the Census data detailed above. While

⁴ <https://www.doe.mass.edu/ele/>

there is a slight variation in the top five languages (census data includes Vietnamese, while education data includes Crioulo) MassDOT can comfortably conclude that the prevalent languages identified in appropriate Census data sets remain the prevalent languages of the LEP student population as recently as 2023.

Table 9

MA Department of Education 2019-2023 EL Enrollment (Counts)

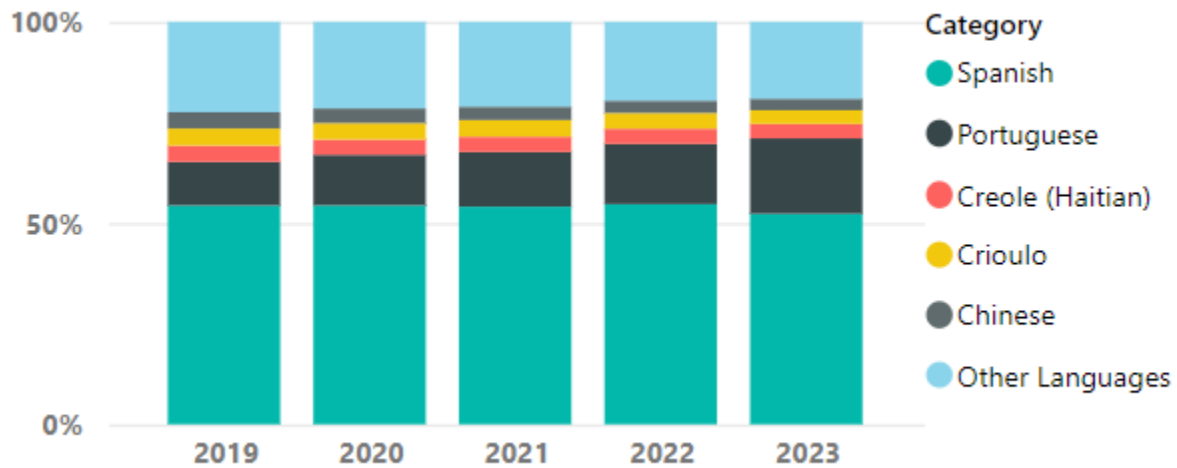
Category	2019	2020	2021	2022	2023
EL Enrollment - All Lang	99,866	102,861	95,286	100,231	110,554
Spanish	54,309	55,955	51,523	54,819	57,831
Portuguese	10,775	12,909	12,928	14,985	20,697
Creole (Haitian)	4,073	3,916	3,634	3,801	3,969
Crioulo	4,230	4,197	3,947	3,917	3,766
Chinese	4,028	3,732	3,154	3,055	3,157
Other Languages	22,451	22,152	20,100	19,654	21,134

Table 10 and Figure 8

MA Department of Education 2019-2023 EL Enrollment (Percentages)

Category	2019	2020	2021	2022	2023
Spanish	54.4%	54.4%	54.1%	54.7%	52.3%
Portuguese	10.8%	12.5%	13.6%	15.0%	18.7%
Creole (Haitian)	4.1%	3.8%	3.8%	3.8%	3.6%
Crioulo	4.2%	4.1%	4.1%	3.9%	3.4%
Chinese	4.0%	3.6%	3.3%	3.0%	2.9%
Other Languages	22.5%	21.5%	21.1%	19.6%	19.1%

Figure 8



Qualitative Analysis Techniques

In addition to the quantitative analyses discussed above, MassDOT continues to refine its understanding of the locations of LEP populations through qualitative analyses. To do so, MassDOT is working with community-based organizations (CBOs), as well public officials and other government entities and interested parties, to identify LEP populations that may need translation services for specific programs or activities. MassDOT continues to conduct outreach to CBOs that work with LEP populations, such as neighborhood community service centers, community development corporations, and ethnic/cultural organizations. These organizations have proven helpful in providing information that is not included in the census or state and local resources, such as the existence of pockets of the LEP populations relative to specific projects or public participation efforts, population trends, and what services are most frequently sought by the LEP population. This outreach has been conducted through surveys and individual interviews. For example, MassDOT has reached out to the community outreach staff of mayor's offices in areas of high LEP concentrations to discuss language needs regularly encountered in those locales. Through such outreach, MassDOT is able to identify and address language needs among LEP populations that aren't captured in the quantitative demographic data, either because of small population size, appearance in the Commonwealth after the Census data gathering process, or other such factors.

Prior Experiences with LEP Individuals

In order to determine the extent to which LEP persons have come into contact with MassDOT programs, services, and activities, MassDOT surveys staff, keeps track of translations of the MassDOT website and requests for interpreters at public meetings, and collected anecdotal reports of attendance by people with limited English proficiency at public meetings from community outreach staff. The results of the survey showed that the majority of respondents (70%) had no contact with people with limited English proficiency, and 13% had contact with LEP individuals most days. The survey and its results are detailed under Factor 2. Most of the respondents who had contact with LEP individuals were from MassDOT's

Operations and Maintenance divisions. Respondents from the Rail and Transit Division and the Office of Transportation Planning reported no contact with people with limited English proficiency.

Conclusions from Factor 1 Analysis

The Factor 1 analysis shows that 36 languages meet the safe-harbor threshold statewide. In addition, MassDOT staff have had limited contact with LEP individuals. MassDOT will use the information provided by Factors 2 and 3 in concert with the various Factor 1 analyses in determining how the agency will address language assistance needs, both proactively and upon request.

Factor 2: The Frequency of Contact

The greater the frequency with which LEP individuals from different language groups come into contact with MassDOT programs, activities, or services, the more likely it is that enhanced language services will be needed. LEP individuals are most likely to encounter statewide Planning programs where public outreach or public involvement is central to the mission, project-level public processes, and activities provided by the Right of Way Bureau, the Office of Diversity and Civil Rights, and the Legislative and Communications Offices.

Analysis Methods Used for Frequency of Contact

MassDOT Agency-Wide Survey

MassDOT conducted an agency-wide survey of its employees, to determine the frequency of their contacts with LEP individuals. Two separate surveys were developed: one for the managers of MassDOT's federal program areas and another for front-line employees.⁵ The survey instruments can be found in Appendix A of this plan.

Through the surveys, MassDOT identified the following:

- The number of employees (by job function) who regularly come into contact with LEP individuals
- The frequency with which contact occurs
- The languages encountered (if identifiable)
- How employees currently communicate with LEP individuals
- Suggested steps that MassDOT could take to facilitate communication with LEP persons
- Suggested steps that MassDOT could take, as an agency, to communicate better with LEP persons
- Vital documents that may need to be translated

Survey results regarding the frequency of contact for MassDOT employees agency-wide are summarized in Table 11, below. The surveys for front-line employees listed Spanish, Portuguese, Chinese,

⁵ Most of the program areas surveyed are within the Highway Division; however, the Rail and Transit Division, the Office of Transportation Planning, the Office of Diversity and Civil Rights, the Legal Department, and the Legislative and Community Affairs Division were also surveyed. The data on the frequency of contact in Table 11 represent all surveys returned to date, including those from employees in the Highway Division.

Vietnamese, Haitian Creole, Russian, French, Italian, Cambodian, and Arabic specifically, and provided spaces for employees to write in other languages. For each language option, employees were asked to check the frequency of contact options listed in Table 11. The survey results only reflect those employees whom responded, so the number of employees in contact with LEP individuals may be higher. The languages identified in the survey results are consistent with the findings for the first factor in the four-factor analysis.

TABLE 11
Frequency of Contact of MassDOT Employees with LEP Individuals

	Most Days	Weekly	Monthly	Yearly	Total	Never
Spanish	2	1	3	18	24	52
Portuguese	0	0	4	11	15	61
Chinese	0	1	1	8	10	66
Vietnamese	0	0	1	6	7	69
Haitian Creole	0	0	0	2	2	73
Russian	0	2	1	8	11	64
French	0	0	0	3	3	72
Italian	0	1	1	4	6	70
Cambodian	0	0	0	1	1	73
Arabic	0	1	0	2	3	71
*All Other Languages	0	0	0	2	2	68
**Write-in Languages	0	0	1	0	1	0
Total	2	6	12	65	85	739

*This includes all responses to an “all other languages” option on the survey.

**The survey provided spaces for other languages to be identified individually. The data in this row of the table represent the one language that was reported.

Appendix A also includes summaries of the responses to the survey questions relating to how MassDOT employees currently communicate with LEP individuals and suggested steps that MassDOT could take to facilitate communication with LEP persons and communicate better, as an agency, with LEP persons.

These summaries provide valuable information that can be used by the Title VI Specialist when evaluating language assistance measures to implement.

Conclusions from Factor 2 Analysis

Based on the frequency of contact analysis, the most commonly encountered languages spoken by LEP individuals who come into contact with MassDOT are Spanish, Portuguese, Chinese, Russian, and Vietnamese, and Spanish is by far the most frequently encountered. In general, the incidence of contact varies by program and by location.

Based on the results of analysis to date, MassDOT applies a phased schedule for translating vital information. Primary focus for proactive translation activities is designed to reach the most frequently encountered languages of Spanish, Portuguese, Chinese, Vietnamese, and French (Haitian) Creole. MassDOT staff is instructed to proactively pursue translations for information dissemination into communities with other frequently encountered languages such as Russian, Mon Khmer, Arabic, French, and Italian. These languages are consistently identified as meeting the safe-harbor threshold in the Factor 1 analyses, and a number of them were identified by MassDOT staff as having prior contact. MassDOT continues to offer free translation of vital information in the other languages.

Factor 3: The Importance to LEP Persons of MassDOT Programs, Activities, and Services

The more important the activity, information, service, or program, or the greater the possible consequences of the contact with the LEP individuals, the more likely it is that language services are needed. Importance is based on whether denial or delay of access to services or information could have serious implications for the LEP individual.

Within MassDOT, there are various programs, activities, and services that are of importance to LEP individuals. Although there are many activities within MassDOT that the public, in general, and LEP individuals in particular, would have a low likelihood of encountering, others are of critical importance. With regard to highway services, the programs with the highest importance at MassDOT for LEP individuals are statewide planning and the programs administered by the Highway Design (including project management) and Construction divisions. However, activities in many other areas of MassDOT are also important for LEP individuals. These include programs, services, and activities provided by the Office of Diversity and Civil Rights and the Legislative and Community Affairs Division, among others.

MassDOT relies on a variety of methods to identify important public programs, services, and offices (and vital documents related to these operations). This includes surveying staff and managers as part of the LEP Four-Factor Analysis, the internal program review process (described in Chapter 4 of this program document), and feedback from the public. Public feedback is facilitated through an online survey on the MassDOT website, available continually and analyzed on a rolling basis. The current results of this online survey effort are summarized in Table 12 and graphically in Figure 9. MassDOT relies on a phased schedule for implementing translations that first focuses on the most vital documents in the most frequently encountered languages.

MassDOT has identified the following documents as vital, and has begun a phased program for having them translated:

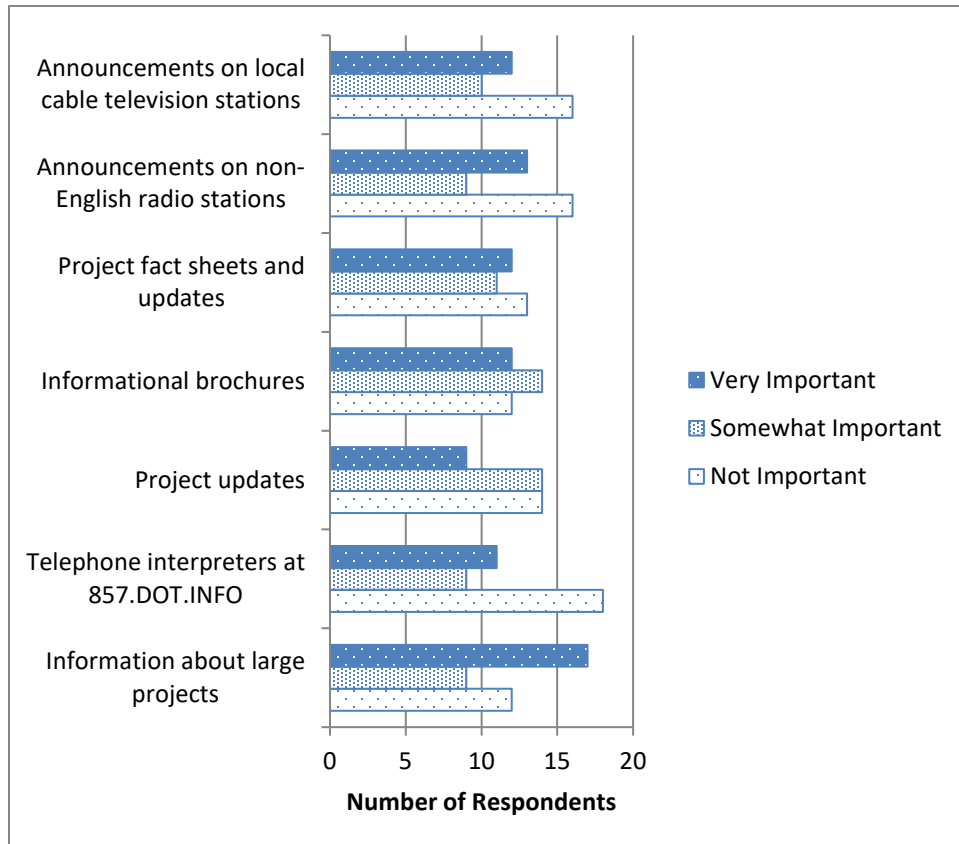
- Notice to Beneficiaries (*currently translated into top 10 languages*)
- Title VI Complaint Form (*currently translated into top 10 languages*)

- Title VI Complaint Procedures (*currently translated into top 10 languages*)
- Notices of public hearings regarding transportation plans, projects, or changes (*regularly provided into top languages in project areas*)
- Notices regarding the availability of free language assistance services for LEP individuals (*currently provided on all meeting notices, including translated versions based on local demographics*)
- Applications or instructions on how to participate in a program or activity or to receive benefits or services, such as:
 - Public Surveys and Invitations to Comment (*regularly provided into top languages in project areas*)

TABLE 12
Importance of MassDOT Programs and Services to LEP Individuals

	Not Important		Somewhat Important		Very Important	
	Number of Responses	Percent of Responses	Number of Responses	Percent of Responses	Number of Responses	Percent of Responses
Information about large projects	12	32%	10	24%	17	44%
Telephone interpreters at 857.DOT.INFO	18	47%	10	24%	11	28%
Project updates	14	38%	14	38%	10	26%
Informational brochures	12	32%	14	37%	13	33%
Project fact sheets and updates	13	36%	11	31%	13	35%
Announcements on non-English radio stations	16	42%	9	24%	14	36%
Announcements on local cable television stations	16	42%	10	26%	13	33%

FIGURE 9
Results of MassDOT Language Assistance Needs Survey



MassDOT will continue to identify documents and evaluate the importance of each MassDOT program, activity, and service in terms of whether or not language assistance is necessary. MassDOT will continue to solicit input from people with limited English proficiency and from organizations which represent people with limited English proficiency concerning the importance of the programs and activities it offers in order to assess the level of language assistance required. MassDOT will evaluate documents for translation according to the guidance provided by the Department of Justice:

“It is important to ensure that written materials routinely provided in English also are provided in regularly encountered languages other than English. It is particularly important to ensure that vital documents are translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the program or activity. A document will be considered vital if it contains information that is critical for obtaining federal services and/or benefits, or is required by law. Vital documents include, for example: applications, consent and complaint forms; notices of

rights and disciplinary action; notices advising LEP persons of the availability of free language assistance; prison rulebooks; written tests that do not assess English language competency, but rather competency for a particular license, job, or skill for which English competency is not required; and letters or notices that require a response from the beneficiary or client. For instance, if a complaint form is necessary in order to file a claim with an agency, that complaint form would be vital. Non-vital information includes documents that are not critical to access such benefits and services. Advertisements of federal agency tours and copies of testimony presented to Congress that are available for information purposes would be considered non-vital information.

Vital documents must be translated when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively. For many larger documents, translation of vital information contained within the document will suffice and the documents need not be translated in their entirety.

It may sometimes be difficult to draw a distinction between vital and non-vital documents, particularly when considering outreach or other documents designed to raise awareness of rights or services. Though meaningful access to a program requires an awareness of the program's existence, we recognize that it would be impossible, from a practical and cost-based perspective, to translate every piece of outreach material into every language. Title VI does not require this of recipients of federal financial assistance, and EO 13166 does not require it of federal agencies. Nevertheless, because in some circumstances lack of awareness of the existence of a particular program may effectively deny LEP individuals meaningful access, it is important for federal agencies to continually survey/assess the needs of eligible service populations in order to determine whether certain critical outreach materials should be translated into other languages.”

For all public participation efforts, MassDOT will look at the results of Factors 1 and 2 above to help determine the areas where public outreach should be targeted and the languages into which flyers, other announcements, and meeting materials should be translated. Factors 1 and 2 will also be used to determine the meeting locations at which language interpreters may be needed and for what languages.

Conclusions from Factor 3 Analysis

In general, the documents considered vital are those related to the explanation of civil rights and associated complaint procedures and certain legal correspondence. Also considered vital are public process activities, which makes it important to translate related materials such as meeting notices and materials, project descriptions, and informational brochures. Website information is also an important avenue for obtaining general and specific information about transportation decision making.

Factor 4: The Resources Available to MassDOT and the Costs of Providing Language Assistance

The level of resources and the costs imposed by providing language assistance may have an impact on the extent to which meaningful access can be provided for LEP persons. MassDOT makes both strategic and well-funded commitments to language assistance that are commensurate with the size and complexity of the organization and the customers we serve. The approach we have taken in identifying and prioritizing top languages in the service area by population for sustained proactive multi-lingual

outreach and additional adaptive strategies to reach less frequently encountered language groups and/or smaller LEP populations and other methods to be implemented under this Language Assistance Plan, provide certainty that MassDOT has reasonably addressed meaningful access for the LEP populations in the Commonwealth.

This approach to resource allocation has allowed MassDOT to commit to and follow through on a multi-year language access implementation plan that emphasizes professional translation of information vital to accessing MassDOT services into top LEP languages while also expanding the availability of additional important information across additional LEP groups.

Resources Available

The most recent staff survey indicated in-house language capabilities across 41 languages with staff in each unit willing to provide language assistance. Of the 440 respondents, 75 staff members indicated that they would be willing to briefly communicate with someone who does not speak English to assess whether or not an official interpreter is required, covering 38 languages including 8 of the top 10 LEP languages in the Commonwealth. In addition, 62 respondents, covering 31 languages including 6 of the top 10 LEP languages in the Commonwealth, indicated that they would be willing to translate brief informational documents. Finally, 67 respondents, covering 36 languages including 8 of the top 10 LEP languages in the Commonwealth, indicated that they would be willing to interpret for someone who does not speak English well. Staff is trained on the appropriate use of this in-house resource during the Title VI unit's internal trainings on public engagement and language access. All employees have access to this data in an electronic database on the organization's computer network. For formal written translations and in-person interpretation, MassDOT utilizes professional language services.

MassDOT has integrated machine translation in its website which provides translations of the information on webpages into dozens of languages other than English. Documents are posted on the website in a format that can be automatically translated using this application. In recognition that no machine translation system is perfect or intended to replace human translation, MassDOT is professionally translating vital documents and will continue to disseminate this content. MassDOT continues to rely on the services of professional interpreters and translators to provide language assistance, where needed. Such services must be procured by the department responsible for the activity and Title VI staff train departmental leadership on the need to budget for these tasks accordingly. Professional translation and interpretation are most likely to be pursued in relation to the release of major publications by the Agency, such as an updated Capital Investment Plan, or to support key public engagement moments, such as public hearings related to project development. ODCR and OTP regularly track the expenses associated with professional language support among MassDOT's highway funding subrecipients, such as the MPOs, and analyze these activities on a recurring basis to identify opportunities for cost sharing or low/no-cost language access strategies.

Costs

The Title VI Specialist has gathered information about the state's procurement process for engaging the services of translation vendors with which the state currently has contracts. The state's procurement website provides contact information for each vendor and links to the website for each so that employees can determine the types of services offered and the associated costs. In addition, MassDOT has a longstanding relationship with the UMass Amherst Translation Center. Details on the vendors, costs, and coverage of the statewide language services contract can be found online here:

<https://www.mass.gov/doc/prf75/download>.

Conclusions from Factor 4 Analysis

MassDOT relies on phased approach to implementation. Documents with broad applicability across languages and geography, such as the notice to beneficiaries of their civil rights and complaint forms and complaint procedures that should be available to everyone, are maintained in the top ten (10) languages as a matter of course. These documents will be translated into more languages, as required by the four-factor analysis, by request, or as a result of feedback from the LEP community. The Title VI Specialist works with the various departments to prioritize other vital documents and the number and order of languages into which each may be translated.

For specific transportation projects, a line item is included in the project's administrative budget to allocate funds for language services for public outreach efforts. If additional resources are needed for unexpected or unanticipated translations, project managers are encouraged to contact their department managers to make a request through the MassDOT's Budget Office to secure state or federal funds, as needed. For shared services or internal operations, where there may not be a project number, the Chief Administrative Officer of MassDOT should be apprised of the need to budget the funding for language services.

MassDOT's Title VI staff encourages every public facing office to maintain an annual budget line item specifically to support document translations, interpreters, and other related language access services that may be procured during that fiscal year. The Office of Diversity and Civil Rights maintains an annual budget line item of several thousand dollars specifically for this purpose. To date, the translation of Title VI related vital documents into the top ten (10) languages in the state typically requires this entire budget allocation.

During 2022, MassDOT's civil rights and public outreach staff collaborated on a data gathering initiative, to better understand the cost for language access services that key public-facing departments in the Highway Division were incurring, on average, on an annual basis. The departments included in this inquiry were Planning, Project Management, Design, and Construction. This inquiry demonstrated that each of these departments are consistently paying approximately \$5,000.00 per year for language access services associated with public outreach and engagement.

Conclusions from the Entire Four-Factor Analysis

MassDOT analyzed numerous sources of data and information, both quantitative and qualitative, in conducting its Four-Factor Analysis. Because it is impossible to accurately determine the number of people in Massachusetts who may require language assistance from using the census data alone (because the census does not evaluate one's ability to read, write, speak, or understand English; responses to the census question regarding English proficiency are subjective), MassDOT used various other sources of information including data from the Massachusetts Department of Education, MassDOT staff surveys, a public survey of language assistance needs, feedback from community-based organizations, and experience with and knowledge of linguistic communities across the state.

Based on the results of the four-factor analysis, MassDOT is implementing a phased schedule for translating vital information. Vital documents related to public engagement opportunities at MassDOT are not only being translated in larger number but the general public outreach strategy is being better informed by Title VI equal access principles, such as direct outreach to community leaders across diverse constituencies and making use of public meeting locations that are accessible and preferred by community members.

MassDOT is committed to providing access to its programs, services, and activities to people with limited proficiency in English and will continue to assess language assistance needs. MassDOT will update its language assistance plan based on experience with and feedback from representatives of LEP populations as well as any new data reflecting changing needs (e.g., changes in the number of LEP individuals in a particular language group).

Application of the Four-Factor Analysis at the Project Level

The Four-Factor analysis detailed above demonstrates MassDOT's analysis to agency-wide programs, services, and activities from the statewide perspective. MassDOT's Title VI staff trains project management staff, planning staff, and project partners to apply the same analytical framework at the project-level when developing public engagement strategies for particular local initiatives. More details regarding this local application of the four-factor analysis can be found in Chapter 6 (training) and Chapter 8 (dissemination of Title VI information), above. Both of these chapters describe the instructions that staff and project partners receive in understanding and applying the LEP four-factor analysis at the project level.

Language Assistance Measures

MassDOT continues providing translated materials and interpreters on an ongoing basis. Specific vital documents that MassDOT has translated include the following:

- Notice to Beneficiaries (*currently translated into top 10 languages*)
- Title VI Complaint Form (*currently translated into top 10 languages*)
- Title VI Complaint Procedures (*currently translated into top 10 languages*)
- Notices of public hearings regarding transportation plans, projects, or changes (*regularly provided into top languages in project areas*)
- Notices regarding the availability of free language assistance services for LEP individuals (*currently provided on all meeting notices, including translated versions based on local demographics*)
- Applications or instructions on how to participate in a program or activity or to receive benefits or services, such as:
 - Public Surveys and Invitations to Comment (*regularly provided into top languages in project areas*)

Additional documents, such as meeting materials and project information, which may not be considered vital documents for language access purposes, are nonetheless translated when determined necessary as based on the Four-Factor Analysis and/or in response to requests from members of the public. In addition, MassDOT continues to translate other important documents, such as application forms, consent forms, comment sheets, and signs and handouts at customer service locations.

MassDOT provides interpreters at public meetings when indicated by the Four-Factor Analysis, interactions with community-based organizations, and/or by request. MassDOT will continue to provide interpreters at public meetings based on the Four-Factor Analysis and feedback from community-based organizations that serve LEP persons as well as LEP individuals. As discussed previously, MassDOT has

incorporated machine translation in its website, though machine translation is recommended only for translating the most basic web content. Machine translation is **not** the language access approach that MassDOT relies upon to provide vital information to LEP populations.

MassDOT assists its subrecipients with the provision of language assistance and is working on developing “best practices” materials to be included in the subrecipient training. MassDOT’s Title VI staff regularly holds technical assistance workshops regarding Title VI compliance with subrecipients. With the online public engagement tool (“Engage”), described above, these sessions now include training subrecipient staff on its use to ensure Title VI factors are considered as part of the public engagement process. MassDOT’s planning agency subrecipients have incorporated a translation service in their websites and some have fully developed and implemented their language access plans, offering translation and interpretation as determined appropriate based on the Four-Factor Analysis.

MassDOT will share with its subrecipients any materials developed in languages other than English (for example, comment forms, notices of language assistance, and informational brochures). To facilitate this sharing of documents/information, MassDOT has developed a SharePoint webpage to which the MPO Title VI staff members have permission to access and can now obtain these materials. These materials are consistently in use by these key subrecipients statewide. Similarly, other MassDOT subrecipients of FTA funding have access to multi-lingual vital template documents through GrantsPlus+, the state’s online grant administration website.

Training

Title VI/Public Engagement/Language Access Training

MassDOT’s Title VI staff conducts training for all agency leadership, departmental management, and staff on public engagement and language access obligations under Title VI. These trainings focus on operationalizing the agency’s Public Participation Plan and Language Access Plan and are tailored to the mission of each department/office. For example, Right of Way staff receive tailored trainings on overcoming language barriers when conducting field work related to transportation projects where LEP abutters may need language assistance to communicate with staff – a function unique to the mission of that office. These trainings are offered on a recurring and rolling basis across all public facing offices within the agency. That way, as new staff comes on board, they are able to receive Title VI training in a timely manner.

New Hire Orientation

MassDOT’s Human Resources Department provides orientation training for all new employees. Included within the orientation is a presentation by ODCR of the Agencies policies and obligations to promote fairness, diversity, and inclusion for all employees and customers to ensure compliance with federal and state civil rights laws and regulations, including Executive Order #13166.

The Office of Diversity and Civil Rights training module for new MassDOT employees covers the agency’s policies and federal and state civil rights obligations related to diversity, nondiscrimination, inclusive public engagement, and workplace practices. New hires are trained in the importance of being professional, sensitive, and responsive, as well as on the need to treat all customers with equal respect regardless of language spoken. The Title VI element of the presentation includes a focus on staff responsibilities to eliminate language barriers for LEP customers looking to access MassDOT programs, services, and activities. Since 2016, this training has been offered as a modified presentation that better

reflects civil rights standards under Title VI and state law and regulation, including Executive Order #13166.

Departmental Trainings by Title VI Staff

MassDOT's Title VI team offers trainings to all MassDOT divisions and departments. These trainings are tailored to the unique role of each office to draw direct connections to the Title VI implications in the specific activities performed by that group. While no two trainings are identical under this tailored approach, there are consistent themes and topics, including Title VI related public engagement and language access requirements. In this context, strategies for diverse and inclusive public engagement are discussed as are the fundamentals of the LEP four-factor analysis, the concept of vital communications, and the department-level strategies available to address language barriers if and when they are encountered.

Anti-Discrimination and Harassment Prevention (ADHP)

MassDOT's ADHP training focuses on civil rights and MassDOT policies. One goal of the training is to have employees gain an understanding of supervisors' responsibilities, employees' rights and responsibilities, and customers' rights under the laws and MassDOT policies. Another goal is to develop skills and best practices for focusing on legitimate reasons for all employment decisions, and accountability regarding the same; to review best practices for maintaining excellence in customer service; and to learn when to seek assistance and/or partner with ODCR and/or other appropriate representatives at MassDOT.

This mandatory training is offered in separate sessions for supervisors and non-supervisory employees. Managers and supervisors are required to take the training every two years; all frontline employees must complete the one-day training every three years. The training includes a discussion of workplace scenarios, including interactions with customers who are unable to speak English.

Virtual Public Involvement Training

Beginning in March 2020, as a result of the COVID-19 pandemic, MassDOT developed and implemented a training program specifically related to virtual public involvement. These trainings include detailed information and resources regarding language access and eliminating language barriers to participation in virtual public meetings. These trainings are housed on MassDOT's online training platform – the Learning Hub – and are available to all staff, consultants, subrecipients, project partners, and any other individuals or groups who need access. The Learning Hub system allows managers to assign certain trainings as mandatory for staff members, which helps ensure that the necessary staff participate in this training curriculum.

All the training programs mentioned above include:

- A summary of responsibilities under the LEP guidance
- A summary of MassDOT's Language Assistance Plan
- A summary of the Four-Factor Analysis of language assistance needs prepared by MassDOT (Number of LEP persons, frequency of contact, importance of program, and cost factor)
- A description of the language assistance services made available by MassDOT and how staff can access these services

Media resources available to be used in MassDOT training programs include:

- LEP training videos on FHWA and FTA websites
- Resources housed on the national lep.gov website
- Best practices in engaging LEP customers, available at www.fhwa.dot.gov/planning/publications/low_limited/index.cfm

Providing Notice to LEP Persons

MassDOT relies on a variety of methods and media in communicating its Notice and the availability of language assistance to LEP individuals and the general public. These include:

- Public meetings and hearing notices
- Incorporation into key publications
- Postings on the agency website
- Document publication webpages
- Project dedicated webpages
- Distribution through community-based neighborhood organizations including those serving or representing LEP populations as well as minority and low-income groups.

Monitoring and Updating the Language Assistance Plan

MassDOT, on an ongoing basis, reviews the effectiveness of the LEP Plan using strategies that may include, but are not limited to the following:

- Solicit direct feedback from CBOs and other stakeholders by distributing a questionnaire or holding focus group sessions on communicating with LEP individuals;
- Assess the demographic composition of the Commonwealth using the most appropriate census data or data collected from community organizations;
- Measure the actual frequency of contact by LEP persons by collecting information from the agency website and frontline operations staff interviews;
- Partnering with other local agencies and organizations and participation in regional forums and events focused on issues of diversity and social equity; and
- Changes by MassDOT to this Language Assistance Plan, as needed.

Appendix A

LEP Survey of MassDOT Employees

Communication with Limited English Proficient (LEP) Individuals

Survey for MassDOT Program Area Leadership

To meet civil rights requirements, MassDOT must have a strategy to provide written and oral translations for individuals with limited English proficiency (LEP) who do not speak, read or understand English well or at all. Which written or spoken communications are translated into non-English languages will be determined by an analysis that considers the:

Number or proportion of the persons eligible to be served or likely to encounter a program, activity, or service who are LEP

- Frequency with which LEP individuals come into contact with the program, activity, or service
- Nature and importance of the program, activity, or service in people's lives
- Resources available and costs of providing translations

Due to your responsibility for overseeing the public engagement activities of your office/unit, the MassDOT Office of Diversity and Civil Rights (ODCR) is requesting that you answer the following questions to further the language analysis:

- 1. Approximately how many employees who work under you have direct contact with the public in some capacity?**
- 2. What are the job titles and/or functions of those employees?**
- 3. What vital documents¹ does your office/unit have that may need to be translated into other languages? (see the Footnote 1 for more information on vital documents)**

When you have answered the questions, please return your completed survey to [email]. If you have any questions regarding the survey, please contact [phone].

If you would like to know more about MassDOT's language access efforts, please visit our [Title VI/Nondiscrimination webpage](#)².

¹ A document should be considered vital if it contains information that is critical for obtaining MassDOT services and/or participating in MassDOT activities (this includes, but is not limited to: notices of rights; notices advising the availability of language assistance; letters or notices that require a response; and consent and complaint forms).

² <https://www.mass.gov/nondiscrimination-in-transportation-program>

Communication with Limited English Proficient (LEP) Individuals

Survey for Front-Line Employees of MassDOT

To meet civil rights obligations MassDOT must provide written and oral translations for individuals with limited English proficiency (LEP)—that is, people who do not speak, read or understand English well or at all. Which written or spoken communications are translated into non-English languages will be determined by an analysis that considers the:

- Number or proportion of the persons eligible to be served by or likely to encounter a program, activity, or service who are LEP
- Frequency with which LEP individuals come into contact with the program, activity, or service
- Nature and importance of the program, activity, or service in people's lives
- Resources available and costs of providing translations

Because you work directly with the public, your answers to the following questions will help the MassDOT Office of Diversity and Civil Rights (ODCR) complete the required analysis and ensure we are aware of and meet the needs of all who we serve.

1. What is your job title? _____
2. What is your job function? _____
3. Please "x" the appropriate boxes in the table below to indicate how frequently you need to communicate with members of the public who do not speak or understand English well or at all. Please answer individually for each language. Some of the most commonly spoken languages are listed in the table. If you have come into contact with individuals who speak other languages: (a) For languages you can identify—please enter them in the "Other" rows. (b) For languages you cannot identify—please mark your answer for all of them combined in the "All other languages" row.

Frequency of Contact

Language	Most Days	At Least Once/ Week	At Least Once/ Month	At Least Once/ Year	Never
Spanish					
Portuguese					
Chinese					
Vietnamese					
Haitian Creole					
Russian					
French					
Italian					

Cambodian (Khmer)					
Arabic					
Other: _____					
Other: _____					
All other languages					

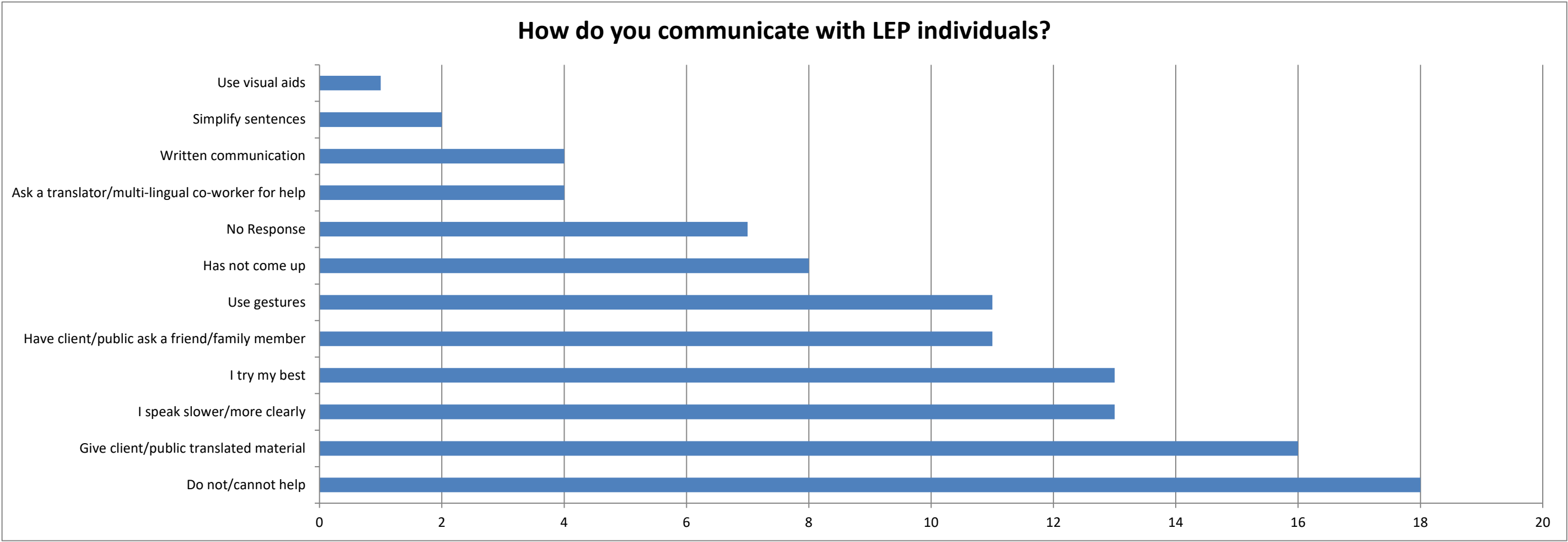
4. How do you communicate when you come into contact with members of the public who do not speak or understand English well or at all? Which techniques have been most effective?
5. How can MassDOT improve your ability to communicate with members of the public who do not speak or understand English well or at all?
6. How can MassDOT, as an agency, communicate better with LEP individuals?

When you have answered the questions, please return your completed survey to [email]. If you have any questions regarding the survey, please contact [phone].

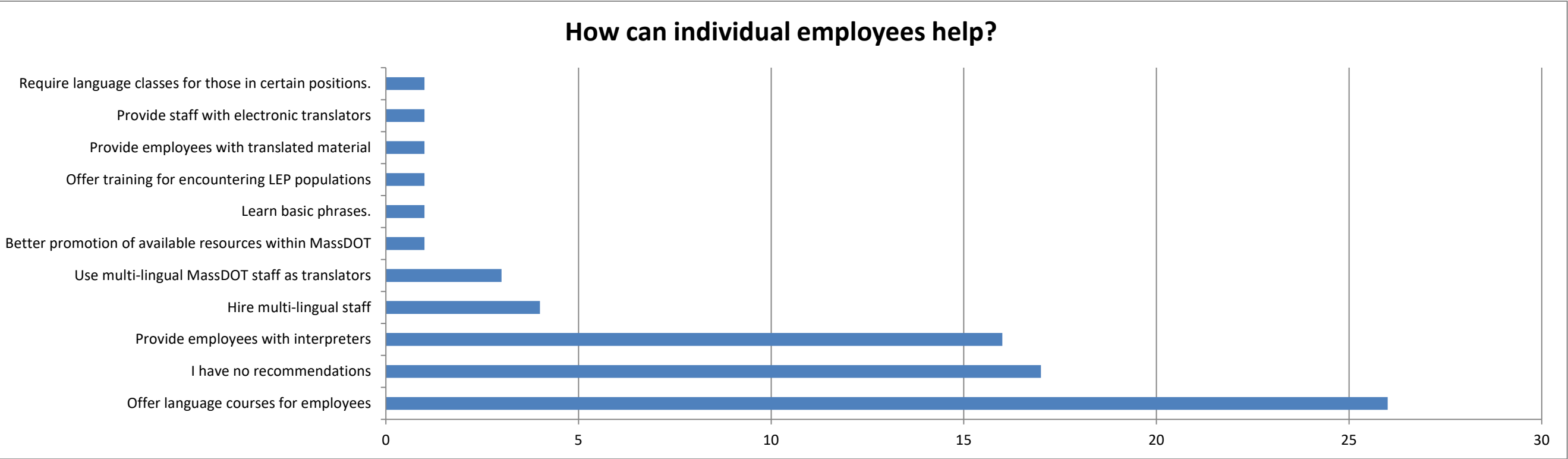
If you would like to know more about MassDOT's language access efforts, please visit our [Title VI/Nondiscrimination webpage](#)¹.

¹ <https://www.mass.gov/nondiscrimination-in-transportation-program>

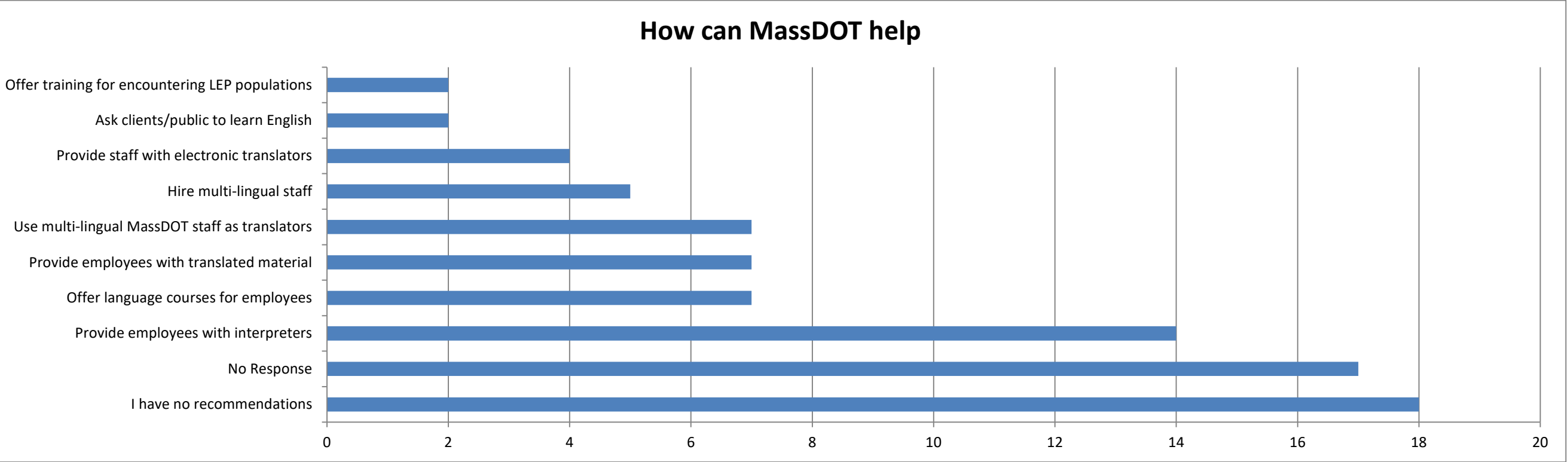
How to communicate with LEP	Administration	Construction	Contracts	Design	Environment	Planning/Research	Right-of-Way	Safety	Unknown	Grand Total	Rank
Give client/public translated material	5	7	0	0	0	0	4	0	0	16	2
Has not come up	0	8	0	0	0	0	0	0	0	8	7
Ask a translator/multi-lingual co-worker for help	0	0	0	2	0	2	0	0	0	4	9
Simplify sentences	0	0	0	0	0	0	0	0	2	2	11
I speak slower/more clearly	0	6	1	2	0	3	1	0	0	13	3
No Response	5	1	0	0	0	0	1	0	0	7	8
Have client/public ask a friend/family member	3	3	0	0	2	0	0	3	0	11	5
I try my best	5	0	0	0	0	0	8	0	0	13	3
Written communication	0	3	0	0	1	0	0	0	0	4	9
Use gestures	0	11	0	0	0	0	0	0	0	11	5
Do not/cannot help	0	12	0	1	3	0	1	0	1	18	1
Use visual aids	0	1	0	0	0	0	0	0	0	1	12



How to Help	Administration	Construction	Contracts	Design	Environment	Planning/Research	Right-of-Way	Safety	Unknown	Grand Total	Rank
Better promotion of available resources within MassDOT	0	0	0	0	1	0	0	0	0	1	8
Hire multi-lingual staff	0	4	0	0	0	0	0	0	0	4	6
I have no recommendations	1	13	0	1	1	0	1	0	0	17	3
Learn basic phrases.	0	1	0	0	0	0	0	0	0	1	8
No Response	0	8	0	3	0	3	1	0	1	16	4
Offer language courses for employees	4	16	0	0	0	1	4	0	1	26	2
Offer training for encountering LEP populations	0	0	0	0	1	0	0	0	0	1	8
Provide employees with interpreters	3	3	1	0	3	0	6	0	0	16	4
Provide employees with translated material	0	0	0	0	0	0	1	0	0	1	8
Provide staff with electronic translators	0	1	0	0	0	0	0	0	0	1	8
Require language classes for those in certain positions.	0	0	0	0	0	0	0	1	0	1	8
Use multi-lingual MassDOT staff as translators	0	1	0	0	0	0	2	0	0	3	7
(blank)	8	47	1	4	6	4	15	1	2	88	1



How to Help	Administration	Construction	Contracts	Design	Environment	Planning/Research	Right-of-Way	Safety	Unknown	Grand Total	Rank
Ask clients/public to learn English	0	2	0	0	0	0	0	0	0	2	9
Hire multi-lingual staff	2	2	0	0	0	0	1	0	0	5	7
I have no recommendations	1	14	0	2	0	1	0	0	0	18	1
No Response	0	8	0	2	0	1	4	1	1	17	2
Offer language courses for employees	0	4	0	0	1	2	0	0	0	7	4
Offer training for encountering LEP populations	1	1	0	0	0	0	0	0	0	2	9
Provide employees with interpreters	4	2	1	0	1	1	5	0	0	14	3
Provide employees with translated material	0	1	0	0	3	0	1	0	2	7	4
Provide staff with electronic translators	0	2	0	0	2	0	0	0	0	4	8
Use multi-lingual MassDOT staff as translators	1	3	0	0	0	0	3	0	0	7	4
(blank)	0	0	0	0	0	0	0	0	0	0	11



[END]