SANDAG Grant Programs ADA and Title VI Guide

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About SANDAG

Vision Statement

Pursuing a brighter future for all

Mission Statement

We are the regional agency that connects people, places, and innovative ideas by implementing solutions with our unique and diverse communities.

Table of Contents

SANDAG Grant Programs ADA and Title VI Guide **1**
About SANDAG **2**
Vision Statement 2
Mission Statement 2
Introduction **5**
Purpose 5
Overview and Applicability 5
ADA and Related Authorities 5
Title VI of the Civil Rights Act of 1964 and Related Authorities 6
ADA and Title VI Notices and Complaint Procedures **7**
Notices 7
Title VI Notice Elements 7
ADA Notice Elements 7
ADA/Title VI Notice Dissemination 7
ADA/Title VI Notice Translation and Accessible Format Requirements 8
ADA and Title VI Complaint Procedures 8
ADA Complaint Procedure Elements 8
Title VI Complaint Procedures 8
Dissemination, Translation, and Accessible Formats 8
Discrimination Complaint Form 9
Dissemination, Translation, and Accessible Formats 9
Log of ADA and Title VI-Related Investigations, Complaints, and Lawsuits 9
ADA Log Requirements 9
Title VI Log Requirements 9
ADA-Specific Requirements **10**
Maintenance of Accessibility Features/Equipment 10
Lifts/Ramps 10
Accessible Vans and Buses 10
Accommodating Riders Using Wheelchairs and Other Mobility Devices 10
Use of Securement Devices and Seatbelts/Shoulder Harnesses 11
Service Refusal 11
Service Animals 11
Respirator or Portable Oxygen Supplies 12
Equivalent Level of Service 12
Service Characteristics for Equivalency 12
Equivalent Service Considerations for Subrecipients with Multiple Providers 13
Suggested Approaches to Determine and Monitor for Service Equivalency 13
Service Equivalency in the Most Integrated Setting 13
Considering the Next Potential Customer 14
Reasonable Modification Procedures 14
Title VI Program Requirements **16**
Language Assistance Plan and Meaningful Access for Persons with Limited English Proficiency 16
Four Factor Analysis 16
Vital Documents 18

LAP Implementation 18
Public Participation Plan 18
Representation on Planning and Advisory Bodies 19
Title VI Resolution 19
Title VI Program Submission 20
SANDAG ADA and Title VI Compliance Monitoring 22
ADA Monitoring 22
Title VI Program Monitoring 22
Appendices 23
Appendix A: Notice of Non-Discrimination Template 23
Appendix B: Complaint Procedures Template 24
Appendix C: Discrimination Complaint Form Template 27
Appendix D: Template for Transit Related ADA and Title VI Investigations, Complaints, and Lawsuits 29
Appendix E: Instructions for Accessing and Reporting Census Data 30
Accessing Census Data 30
Reporting Census Data in Title VI Program 34
Appendix F: Public Participation Plan Questionnaire 36
Appendix G: Representation on Planning and Advisory Bodies 38
Appendix H: Title VI Program Resolution Template 39
Appendix I: Title VI Program Compliance Checklist Template 40
Appendix J: Glossary of Terms 45
Appendix K: Online Resources Referenced 50

Introduction

Purpose

The purpose of this Guide is to provide technical assistance to SANDAG subrecipients, which includes, but is not limited to, a grant, subgrant, or cooperative agreement, (hereinafter referred to as "subrecipients") necessary to carry out provisions of the SANDAG grant agreement related to the Americans with Disabilities Act of 1990 (ADA) and Title VI of the Civil Rights Act of 1964, as amended (Title VI). This Guide includes templates, tools, and instructions to assist subrecipients in meeting their ADA and Title VI requirements.

SANDAG notes that subrecipients have other civil rights obligations as a consequence of other federal and state legislation that creates additional protected classes. SANDAG does not have a role in overseeing subrecipient agencies' other civil rights obligations however, it is expected that the grant agreement will be administered in a non-discriminatory manner.

Overview and Applicability

ADA and Related Authorities

The ADA prohibits discrimination against and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation (42 U.S.C. § 12101 et seq.). It is built on Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), which also prohibits discrimination on the basis of disability for recipients of federal grants.

Subrecipients are also subject to applicable U.S. Department of Transportation (DOT) ADA regulations, including 49 Code of Federal Regulations (CFR) Part 37. Part 37 contains service-related requirements that apply to covered public and private entities, such as those described below. It is important to note that 49 CFR Part 37 applies regardless of whether they receive federal financial assistance from the DOT, its Operating Administrations, or any other federal agency:

- Any public entity that provides designated public transportation or intercity commuter rail transportation;
- Any private entity that provides specified public transportation; and
- Any private entity that is not primarily engaged in the business of transporting people but operates a demand responsive or fixed route system (49 CFR § 37.21(a)).

In 2015, the FTA released FTA Circular 4710.1, which provides additional guidance to FTA recipients and subrecipients in implementing the ADA, Section 504, and the DOT implementing regulations at 49 CFR Parts 27, 37, 38, and 39.
FHWA recipient and subrecipient guidance may be found in Chapter 9 of Caltrans Local Assistance Procedures Manual (LAPM) entitled ADA / Section 504 Program Roles and Responsibilities.

While most subrecipients are either private entities that provide demand responsive service or are public entities that provide designated public transportation, some are public entities not primarily engaged in the business of transporting people but operate a demand response service. For consistency in monitoring and oversight, SANDAG has extended the 49 CFR Part 37 requirements to these public

entities. In general, the ADA and DOT ADA regulations apply broadly to both public and private entities and almost all types of transportation services.

Title VI of the Civil Rights Act of 1964 and Related Authorities

Title VI of the Civil Rights Act of 1964 (Title VI) states:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (42 U.S.C. §2000d).

If an entity accepts federal financial assistance, then it must comply with the requirements of Title VI. Congress further expanded these requirements with the Civil Rights Restoration Act of 1987, which clarified the definition of "programs and activities" such that Title VI applies to all of a recipient agency's programs or activities—whether a specific program and/or activity makes use of federal funding.

Title VI also prohibits discrimination against persons who have a limited ability to speak and/or write and understand English, referred to as Limited English Proficiency (LEP) persons. The failure of a recipient of federal financial assistance to provide meaningful access to LEP persons can constitute national origin discrimination under Title VI. Meaningful access typically means that recipients must collect data and information on the LEP communities they serve, balance the practicality and costs of providing language assistance, and then carry out policies to address those needs. Typically, these policies involve the provision of oral interpretation services and the written translation of vital documents. In 2012, the FTA released FTA Circular 4702.1B, which provides guidance to FTA recipients and subrecipients concerning their responsibilities to comply with Title VI, including language assistance responsibilities.

Caltrans also implements FHWA's subrecipient Title VI requirements through its LAPM, which incorporates the FHWA Title VI regulations found in 23 CFR § 200.9.

SANDAG is required to comply with Title VI requirements and ensure compliance for all of its subrecipients. All subrecipients that meet the Title VI requirements outlined in applicable law are required to sign Title VI assurances, have a Title VI Notice, complaint procedures, and complaint form; and are also required to track and report Title VI complaints, investigations, and lawsuits. In addition, subrecipients must develop and maintain a Title VI Program applicable to either FHWA or FTA, as discussed in Chapter 9 of the LAPM and the FTA Circular section entitled Title VI Program Requirements.

ADA and Title VI Notices and Complaint Procedures

Notices

Subrecipients are required to provide the public with information about their obligations under Title VI and apprise members of the public of the protections against discrimination based on Title VI. Subrecipients are also expected to provide information to the public regarding their ADA rights and protections against discrimination as assured by 28 CFR 35.106.

ADA regulations require subrecipients to designate at least one individual to coordinate ADA compliance. This individual may be designated as the "ADA Coordinator." A subrecipient may alternatively designate a "Discrimination Compliance Officer" if the subrecipient decides to consolidate its Title VI and ADA complaint processes and confer ADA and Title VI compliance responsibilities to one individual. If a subrecipient elects to use the terminology "Discrimination Compliance Officer," the subrecipient must make clear to the public that the officer's discrimination compliance responsibilities include ADA and Title VI. It is best practice for subrecipients to include the designated individual in one notice covering both ADA and Title VI.

For convenience, please see Appendix A for a Notice of Non-Discrimination template, which covers ADA and Title VI requirements which can be requested in Spanish, Tagalog, Vietnamese, Chinese (Simplified), and Arabic from the appropriate SANDAG Grant Program Manager, if needed.

Title VI Notice Elements

To meet Title VI requirements, a Title VI Notice must contain the following elements:

- A statement that the agency operates its SANDAG grant-funded program without regard to race, color, and national origin.
- A description of the procedures that members of the public should follow in order to request additional information on the subrecipient's Title VI obligations
- A description of the procedures that members of the public shall follow in order to file a Title VI discrimination complaint against the subrecipient.

ADA Notice Elements

- The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated as the Discrimination Compliance Officer.

ADA/Title VI Notice Dissemination

The ADA and Title VI Notice must be disseminated to sufficiently inform the public of their rights under ADA and Title VI. The Notice must be easy to find on the subrecipient's website unless the subrecipient does not have a website. The Notice must also be posted in any public areas of the subrecipient's office, including reception areas and meeting rooms. Moreover, the Title VI Notice must be displayed in vehicles that provide service funded by SANDAG. The Title VI Notice must be included in any Title VI Program a subrecipient submits to SANDAG.

ADA/Title VI Notice Translation and Accessible Format Requirements

Subrecipients are required to translate the Notice into language(s) spoken by populations with LEP as identified in their VI Program. The ADA Notice and procedures must also be accessible to and usable by individuals with disabilities. Subrecipients are encouraged to use the templates in Appendix A for their notices. Subrecipients should ensure all of their agency's translations are performed and/or checked by professional translators. Moreover, the Title VI Notice must contain instructions on how individuals with disabilities can request it in an alternative format from the subrecipient.

While SANDAG does not currently require SMG funded recipients to complete a Title VI Program, it is best practice that they translate the Title VI Notice into any language(s) based on the LEP needs in their service area.

ADA and Title VI Complaint Procedures

Subrecipients are required to develop and maintain procedures for investigating and tracking ADA and Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public. For convenience, please see Appendix B for a template of ADA and Title VI complaint procedures and can be requested in Spanish, Tagalog, Vietnamese, Chinese (Simplified), and Arabic from the applicable grant Program Manager if needed.

ADA Complaint Procedure Elements

FTA Circular 4710.1 states that subrecipients shall "adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging [discrimination on the basis of a disability]" (Section 12.7.2). ADA complaint procedures must meet the following requirement:

- The process for filing a complaint, including the name, address, telephone number, and email address of the designated ADA compliance employee, must be sufficiently advertised to the public, such as on the subrecipient's website
- The procedures must be accessible to and usable by individuals with disabilities
- The subrecipient must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant and must ensure that it has documented its response.

In their complaint procedures, subrecipients must also describe the process by which a complainant may file an ADA or Title VI complaint directly with the Federal Transit Administration.

Title VI Complaint Procedures

For subrecipients of FTA funds, FTA Circular 4710.2B authorizes subrecipients to adopt the complaint procedures and tracking form adopted by SANDAG.

For subrecipients of FHWA funds, The FHWA Office of Civil Rights is solely responsible for all decisions regarding whether a complaint should be accepted, as well as investigations and final dispositions. Subrecipients must refer to Chapter 9 of the LAPM for more information. It is strongly encouraged that subrecipients utilize the ADA and Title VI complaint procedures in Appendix B to comply with these requirements.

Dissemination, Translation, and Accessible Formats

Subrecipients must disseminate and translate its complaint procedures and provide them in accessible formats as described above for Notices.

Discrimination Complaint Form

Subrecipients must also provide a complaint form for complainants to complete and file a complaint alleging discrimination on the basis of both ADA and Title VI and other forms of discrimination. For convenience, please see Appendix C for a template of a discrimination complaint form covering ADA, Title VI, and other discrimination. The form can be requested in Spanish, Tagalog, Vietnamese, Chinese (Simplified), and Arabic from the applicable grant Program Manager if needed.

Dissemination, Translation, and Accessible Formats

Subrecipients must disseminate and translate its discrimination complaint form(s) and provide the form(s) in accessible formats as described above for Notices.

Log of ADA and Title VI-Related Investigations, Complaints, and Lawsuits

All subrecipients must keep a log of investigations, complaints, and lawsuits alleging discrimination on the basis of ADA or Title VI for services provided by the subrecipient and funded through SANDAG. It is a best practice to maintain one database or log of all complaints and responses with key dates, and label ADA or Title VI-related complaints accordingly. The complaint log must be made available for inspection upon request by SANDAG at any time during the term of the grant agreement. As per SANDAG grant agreements, ADA and Title VI complaints must be reported to SANDAG within 72 hours. Additionally, complaints must be reported on progress reports and submitted on at least a quarterly basis. Please see Appendix D for a template that meets the ADA and Title VI log requirements.

ADA Log Requirements

ADA regulations require each subrecipient to keep on file all ADA complaints for one year and a summary of ADA complaints for five years.

Title VI Log Requirements

Per Title VI requirements, the log of Title VI-related investigations, complaints, and lawsuits shall include the following elements:

- The date the investigation, lawsuit, or complaint was filed
- A summary of the allegation(s)
- The status of the investigation, lawsuit, or complaint
- Actions taken by the subrecipient in response, or final findings related to, the investigation, lawsuit, or complaint.

A copy of this log must be included in a subrecipient's Title VI Program.

ADA-Specific Requirements

The overarching requirement of the ADA is that entities cannot discriminate against individuals with disabilities and that persons with disabilities are fully integrated into society and not segregated in separate services or facilities. Regarding the provision of transportation services, having a disability does not diminish an individual's right to have equitable access to transportation services in an integrated setting. This general nondiscrimination requirement is the foundation upon which the rest of the regulatory requirements rest and applies regardless of the type of service provided by the subrecipient and the funding source.

Below are some of the ADA-specific requirements relevant to SANDAG grant programs. Please see FTA Circular 4710.1 for more guidance on ADA-specific requirements imposed by the FTA. For FHWA specific requirements, please see Caltrans LAPM Chapter 9.

Maintenance of Accessibility Features/Equipment

Per 49 CFR Part 37.161(a), subrecipients must maintain accessibility features in facilities and on vehicles in working condition. When accessibility features are damaged or out of order, subrecipients must repair them promptly. Examples of accessibility features for vehicles include lifts and ramps, lighting, and mobility aid securement areas and systems. Subrecipients are required to inspect all accessibility features often enough to ensure they are operational and undertake repairs or other necessary actions when they are not.

Lifts/Ramps

When drivers providing service through an SANDAG-funded project discover that lifts or ramps are not working, 49 CFR Part 37.163(c) requires that they report the outages to appropriate staff as soon as possible. In demand responsive services, drivers using vehicles with inoperable lifts may be able to continue to use such vehicles for the remainder of the day as long as any trips for riders needing lift-equipped vehicles can be reassigned to another lift-equipped vehicle. When a subrecipient discovers that a lift or ramp is inoperative, SANDAG requires that the subrecipient take the vehicle out of service before the beginning of its next service day and repair the lift before the vehicle is put back into service. A vehicle equipped with a lift or ramp may operate for up to three days with the lift or ramp out of service as long as a back-up vehicle is available and persons with disabilities are not disadvantaged (49 CFR § 137.163(e)).

Passengers must be permitted to board their wheelchair in either forward or reverse (49 CFR § 38.23 (b)). They can also board separately from their wheelchair; however, the driver is not required to "drive" the wheelchair into the vehicle. The passenger may need a personal care attendant to assist (Appendix D, 49 CFR § 37.165).

Accessible Vans and Buses

Accommodating Riders Using Wheelchairs and Other Mobility Devices

Per 49 CFR Part 38, vehicles equipped with lifts or ramps must, at a minimum, be able to accommodate an occupied wheelchair weighing up to 600 pounds and measuring 30 inches in width and 48 inches in length. If the subrecipient's vehicles are equipped with lifts or ramps that can carry occupied wheelchairs weighing more than 600 pounds or measuring more than 30 inches by 48 inches, the passenger and

wheelchair must be accommodated as long as the dimensions and weight are within the manufacturer's recommendation (49 CFR § 37.165). Please see the definition of wheelchair in the Glossary of Terms. Subrecipients are encouraged, but are not required, to provide public information on the occupied wheelchair's maximum size and weight the subrecipient's vehicle(s) can safely accommodate. If a vehicle has a designated securement location, the subrecipient must ensure that a wheelchair user rides in the designated securement area. Additionally, subrecipients must accommodate mobility devices other than wheelchairs, such as canes, crutches, and walkers.

Use of Securement Devices and Seatbelts/Shoulder Harnesses

If a subrecipient is transporting an individual who uses a wheelchair, the subrecipient must use a securement system to ensure the wheelchair remains within the securement area of the vehicle. Further, subrecipients may not deny transportation to a wheelchair user on the grounds that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

Vehicle securement areas must also be equipped with a passenger seat belt and shoulder harness. California State law requires all passengers over 8 years old or 4'9" tall, including those in wheelchairs to use passenger seat belts and shoulder harnesses unless medically exempt (California Vehicle Code Section 27363).

The subrecipient cannot require a passenger in a wheelchair to transfer to a regular seat in the vehicle (49 CFR § 37.165 (e)). Persons using walkers with built-in seats must transfer to a vehicle seat (Appendix D, 49 CFR § 37.3).

Service Refusal

A subrecipient may refuse service if an individual with a disability engages in violent, seriously disruptive, or illegal conduct, or if they pose a direct threat to the health and safety of others. However, a subrecipient may not refuse service to an individual with a disability solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience the subrecipient's personnel or other riders. (49 CFR §37.5(h)). Subrecipients also cannot presume that certain disabilities will create threats or disruptive behavior. Moreover, a subrecipient cannot refuse to transport a person with a disability due to issues with the vehicle or subrecipient's insurance. (49 CFR §37.5(g)).

Service Animals

Subrecipients must permit service animals to accompany individuals with disabilities in vehicles and facilities. Subrecipients may not have a policy requiring riders to provide documentation for their service animal before boarding a vehicle, but personnel may ask riders two questions:

1. Is the animal a service animal required because of a disability?
2. What work or task has the animal been trained to perform?

Subrecipients are not required to transport animals that do not qualify as service animal, such as emotional support, comfort animals, or pets. Subrecipients may not deny service to a person accompanied by a service animal on the grounds that other riders or subrecipient personnel have allergies to dogs or other animals, since encountering a service animal is an expected part of being in public. A passenger may be accompanied by more than one service animal (49 CFR § 37.167(d)). Caring for the animal is the responsibility of the passenger. Service animals that are deemed to pose a direct

threat to others or are not under the full control of the owner may be refused transportation (FTA Circular 4701.1 at p. 2-17).

Respirator or Portable Oxygen Supplies

Subrecipients must not prohibit a rider with a disability from traveling with a respirator or portable oxygen supply that complies with Department of Transportation rules on hazardous materials. (49 CFR § 37.167(h)). Those rules (49 CFR §177.870) currently permit a single cylinder of up to 99 pounds and a total of up to 496 pounds for all cylinders on a single vehicle.

Equivalent Level of Service

Providers of demand responsive service must use accessible vehicles, as defined in 49 CFR 37.7, or meet the applicable equivalent service standard. For subrecipients that operate accessible and non-accessible vehicles for their SANDAG-funded service, that service must be equivalent in regard to schedules, response times, geographic areas of service, hours and days of service, availability of information, reservations capability, constraints on capacity or service availability, and restrictions based on trip purpose.

Service Characteristics for Equivalency

Below are details on the seven characteristics for determining equivalency of service provided to those with disabilities, including those who use wheelchairs.

Response Time

The elapsed time between a request for service and the provision of service is the same for riders with and without disabilities, and the days and hours to request service are the same.

Fares

For a given demand-responsive service trip, the fare is the same for all riders.

Geographic Area of Service

Riders with disabilities can request trips in the same area or areas as other riders.

Hours and Days of Service

Riders with disabilities can request trips on the same days and during the same hours as other riders.

Restrictions or Priorities Based on Trip Purpose

For demand responsive service with restrictions or priorities based on trip purpose, the same restrictions or priorities apply to all riders. Establishing policies that restrict or prioritize service based on trip purpose (e.g., medical transportation only) is acceptable as long as subrecipients apply these policies in the same way for all riders.

Availability of Information and Reservations Capability

Riders with disabilities have access to the same information and reservation systems as other riders, including information in alternative formats (e.g., large print, braille, audio, or accessible electronic files for riders with vision disabilities).

Any Constraints on Capacity or Service Availability

If a demand responsive service has service availability or capacity constraints, this means the service must have the same constraints for all riders. The regulations do not prohibit demand responsive services from having trip denials or providing trips on a first-come, first-served basis. However, to be considered equivalent, riders with disabilities would encounter trip denials with the same frequency as riders without disabilities. Similarly, the regulations do not prohibit the use of waiting lists or trip caps, as long as riders with disabilities are not waitlisted more often or do not have more restrictive trip cap limitations. Finally, the regulations do not prohibit demand responsive services from having poor rates of on-time performance or having long ride times due to limited-service capacity, as long as riders with disabilities do not experience lower on-time performance rates or longer ride times than other riders.

Equivalent Service Considerations for Subrecipients with Multiple Providers

Subrecipients must consider their demand responsive service in its entirety when determining equivalency of service. As explained in Appendix D to 49 CFR §37.77, “when viewed in its entirety” means that “when all aspects of a transportation system are analyzed, equal opportunities for each individual with a disability to use the transportation system must exist.” This is particularly important for subrecipients that use multiple service providers to operate the subrecipient’s demand responsive service, especially when there is a mix of accessible and inaccessible vehicles among multiple service providers. For example, a subrecipient through its partnerships with volunteers, taxicabs, or Transportation Network Companies may primarily use sedans to provide demand-responsive service. The subrecipient may also operate or contract with a vendor to operate a fleet of accessible vehicles. To meet the equivalent service requirements, a subrecipient should ensure that all its service providers with inaccessible vehicles operate with the same policies and practices as its service providers with accessible vehicles. For example, one taxi provider might accommodate same-day service requests with sedans while another provider using accessible vans might require advance reservations. Providing equivalent service in this instance means riders who need to travel in an accessible van are not required to place reservations earlier than riders who use the taxi service do.

Suggested Approaches to Determine and Monitor for Service Equivalency

Subrecipients must sufficiently monitor their demand responsive service, provided in house or by contractors or volunteers, to confirm the service is being delivered consistent with ADA requirements, including the equivalent level of service requirement. Table 7-2 of FTA Circular 4710.1 offers suggested approaches for how to determine equivalency for each of the seven service characteristics when some of the subrecipient’s vehicles are not accessible to individuals with disabilities, including individuals who use wheelchairs. Subrecipients are strongly encouraged to review this table as a guide to ensure compliance with service equivalency requirements. During SANDAG desk reviews or monitoring visits, SANDAG may use one or more suggested approaches in Table 7-2 to monitor subrecipient compliance with the service equivalency requirements.

Some of the service equivalency factors, such as response time, capacity constraints and service availability, may require subrecipients to collect and tabulate data so they can determine that service equivalency is being provided. Other factors such as fares, geographic areas served, and service hours may be assessed through a document review (FTA Circular 4710.1).

Service Equivalency in the Most Integrated Setting

Subrecipients must provide transportation service to persons with disabilities on the same vehicles and together with other non-disabled riders as permitted by the relevant program requirements.

To meet this requirement, vehicles should accommodate a mix of riders to promote integrated service and avoid segregated service. For example, transporting older adults to a meal program and putting persons in wheelchairs in one vehicle and ambulatory riders in another would be unacceptable. Subrecipients are permitted to use inaccessible vehicles, but service equivalency must be maintained.

Considering the Next Potential Customer

All of a subrecipient's passengers may be ambulatory and able to travel in an inaccessible vehicle. However, an existing passenger could suddenly become incapacitated, or a new passenger could require an accessible vehicle. The service equivalency requirement means subrecipients must be able to provide an accessible ride in the same time frame as someone who does not need an accessible vehicle. To meet this requirement, subrecipients should have an accessible vehicle in reserve, plans to obtain an accessible vehicle in short notice, or an accessible vehicle available for temporary use.

Reasonable Modification Procedures

A subrecipient, in meeting the reasonable modification requirements of 49 CFR §37.5(i)(3) with respect to its fixed route, demand responsive, and complementary paratransit services, shall respond to requests for reasonable modifications to its policies and practices consistent with the requirements of 49 CFR 37.169. Subrecipients must publicize information on how individuals can make requests for reasonable modifications through the same means used to inform the public about other policies and practices, such as a public website and flyers.

This process must provide information on how individuals with disabilities can request a modification in the subrecipient's policies and practices applicable to its transportation services. In addition, the policy must be accessible to individuals with disabilities and have the following features:

1. Individuals requesting modifications shall describe what they need in order to use the service.
2. Individuals requesting modifications are not required to use the term "reasonable modification" when making a request.
3. Whenever feasible, requests for modifications shall be made and determined in advance, before the transportation provider is expected to provide the modified service, for example, during the paratransit eligibility process, through customer service inquiries, or through the entity's complaint process.
4. Where a request for modification cannot practicably be made and determined in advance (e.g., because of a condition or barrier at the destination of a paratransit or fixed route trip of which the individual with a disability was unaware until arriving), operating personnel of the entity shall make a determination of whether the modification should be provided at the time of the request. Operating personnel may consult with the entity's management before making a determination to grant or deny the request.

Requests for modification of a subrecipients' policies and practices may be denied only on one or more of the following grounds:

- Granting the request would fundamentally alter the nature of the entity's services, programs, or activities;
- Granting the request would create a direct threat to the health or safety of others;

- Without the requested modification, the individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose.

In determining whether to grant a requested modification, subrecipients shall be guided by the provisions of Appendix E to 49 CFR Part 37. In any case in which a subrecipient denies a request for a reasonable modification, it shall take, to the maximum extent possible, any other actions (that would not result in a direct threat or fundamental alteration) to ensure that the individual with a disability receives the services or benefit provided by the subrecipient.

Title VI Program Requirements

All subrecipients are required to have a Title VI Notice, Title VI complaint procedures, and a Title VI form, and maintain a log of Title VI-related investigations, complaints, and lawsuits. Subrecipients are also required to develop and maintain a Title VI Program, which includes additional elements described in this section. Subrecipients are encouraged to contact SANDAG if they need assistance in developing their Title VI Programs.

Language Assistance Plan and Meaningful Access for Persons with Limited English Proficiency

Subrecipients are responsible for providing language assistance measures to individuals with Limited English Proficiency (LEP). To comply with Title VI requirements, subrecipients must assess and address the needs of people with LEP in their service area. As identified in the U.S. Census American Communities Survey, people with LEP are individuals whose primary language is not English and who speak English less than very well. Subrecipients must take reasonable steps to ensure people with LEP receive meaningful access to the benefits, services, information, programs, and activities subrecipients offer. Each subrecipient is required to prepare a Four Factor Analysis to determine the specific language services that are appropriate for the subrecipient to provide. Each subrecipient must then use the results of its Four Factor Analysis as a foundation to develop its Language Assistance Plan (LAP).

At a minimum, a LAP must:

- Include the data and results of the subrecipient's Four Factor Analysis
- Determine the languages for which written translations of vital documents are necessary based on the subrecipient's Four Factor Analysis and the federal Safe Harbor Provision discussed below.
- Identify how the subrecipient provides language assistance services by language
- Describe how the subrecipient provides notice to people with LEP about the availability of language assistance
- Discuss how the subrecipient trains employees to provide timely and reasonable language assistance to populations with LEP
- Detail how the subrecipient monitors, evaluates, and updates its LAP.

Four Factor Analysis

The Four Factor Analysis must address the following four topics:

Factor 1: The number or proportion of persons with LEP eligible to be served or likely to be served by the subrecipient's transportation program

Factor 2: The frequency with which individuals with LEP come into contact with the subrecipient's program

Factor 3: The nature and importance of the subrecipient's program to people's lives

Factor 4: The resources available to the subrecipient for LEP engagement and the costs of that engagement.

Factor 1

For the Factor 1 Analysis, subrecipients must first analyze Census data to identify the number and percentage of people with LEP within their program service area by language. Subrecipients whose

service area is San Diego County may use the Factor 1 Analysis in SANDAG's Language Assistance Plan, which is available on the SANDAG Language Assistance web page. If subrecipients have multiple SANDAG-funded projects with varying project service areas, subrecipients should use an aggregation of these project service areas for the Factor 1 Analysis. Step-by-step instructions for accessing and reporting Census data for the Factor 1 Analysis are provided in Appendix F. Subrecipients may also contact SANDAG for further technical assistance. Subrecipients may complement Census data with other data sources, such as Department of Education English Learner data and other local data.

As part of the Factor 1 Analysis, subrecipients must determine which languages meet the Safe Harbor Provision of the federal guidance, and what documents they consider to be vital to access essential services (as described below). Safe Harbor languages are those spoken by 5% or 1,000 people with LEP, whichever is less, of the total population of persons eligible to be served or likely to be encountered. It will be considered strong evidence of compliance with the obligation to provide written translation if vital documents are provided in all Safe Harbor languages.

The SANDAG Factor 1 Analysis identified five primary languages present in San Diego County and 14 less frequently encountered languages that still meet the Safe Harbor Provision threshold established by the FTA. SANDAG developed a tiered and priority approach based on the size of the limited English proficient populations that could be emulated by subrecipients.

Factor 2

For the Factor 2 Analysis, subrecipients must assess, as accurately as possible, the frequency with which they have contact with individuals with LEP. The more frequent the contact, the more likely that language assistance measures are needed. To assess the frequency of contact, subrecipients should identify the number of people with LEP that contacted them and the percentage of total contacts that are LEP persons. Subrecipients should also determine the primary language spoken by each person with LEP they have encountered. Methods to determine the frequency of contact may include customer service interactions with people with LEP ridership surveys, and participation of LEP persons in public meetings. Subrecipients may also use a Client Voluntary Demographic Data Survey Form developed by SANDAG and available by contacting the appropriate SANDAG grant Program Manager. For the Factor 2 Analysis, subrecipients must not only determine the frequency of contact, but also describe the method(s) by which they determined this frequency.

Factor 3

For the Factor 3 Analysis, subrecipients must describe the nature and importance of the programs, activities, and services they provide to those they serve. The description should also determine the transportation needs of people with LEP and the role transportation plays in their day-to-day lives. Methods for the Factor 3 Analysis may include monitoring customer service interactions, engaging community organizations that serve people with LEP, conducting one-on-one interviews or focus groups, or administering ridership surveys.

Factor 4

For the Factor 4 Analysis, subrecipients must describe the resources they have or can access for outreach to individuals with LEP, and the costs associated with the outreach. Federal LEP Guidance recognizes that the level of language assistance provided by recipients and subrecipients will differ based on organization size and the resources or budget available. In other words, smaller subrecipients with more limited budgets are not expected to provide the same level of language services as larger subrecipients with larger budgets. Federal guidance directs recipients and subrecipients to take reasonable steps to provide language access, but if the costs substantially exceed the benefits, additional actions may not be necessary.

Subrecipients should first inventory the language assistance measures they currently provide and document the costs associated with those measures and the frequency with which those measures are provided. Subrecipients should then evaluate what, if any, additional language assistance measures are needed, and analyze the budgetary impact of implementing these additional measures in the short and long term. Next, subrecipients should describe cost-effective practices they have considered and may undertake to provide language assistance measures for individuals with LEP.

Vital Documents

Subrecipients should review the written documents provided to program beneficiaries and assess whether they contain information that is critical for program beneficiaries to obtain services. Subrecipients should determine if these critical written documents are vital documents, which include those that, without translation, would prevent people with LEP from obtaining access to a subrecipient's programs or services or would deprive people with LEP of an awareness of their legal rights. In their LAP, subrecipients should identify the vital documents pertaining to their SANDAG-funded service and state the languages these documents have been translated into, consistent with the Factor 1 Analysis and Safe Harbor Provision.

LAP Implementation

In their LAP, subrecipients must also describe how they will implement their LAP, including the following elements.

Notifying Individuals with LEP of the Availability of Subrecipient's Language Assistance Measures

A LAP must include a description of how the subrecipient provides notice to people with LEP about the availability of language assistance services offered by the subrecipient.

Training

The importance of training cannot be overstated; it is essential that a subrecipient's personnel are sufficiently trained on Title VI and LEP compliance to provide timely and reasonable language assistance to populations with LEP. A subrecipient's LAP must describe how the subrecipient's training ensures its personnel are trained about Title VI requirements and its LEP assistance policies and procedures.

Evaluating, Monitoring, and Updating the LAP

In its LAP, a subrecipient must also describe how it will monitor, evaluate, and update its LAP. Subrecipients should monitor the frequency of contact with individuals with LEP and track demographic changes in their service area that could affect their Factor 1 Analysis. Subrecipients should also describe a plan to evaluate whether the language assistance measures they provide are effective in meeting the needs of individuals with LEP they contact. In their LAPs, subrecipients must also state the frequency with which they review their LAPs to determine whether the Four Factor analysis should be updated. If a LAP is not updated in a Title VI Program submittal to SANDAG, subrecipients must provide an adequate justification with data as to why an LAP update is unnecessary.

Public Participation Plan

For subrecipients of FTA funds, subrecipients must have a Public Participation Plan (PPP). A PPP is a document that explicitly describes proactive strategies, procedures, and desired outcomes that underpin the subrecipient's public participation activities. Subrecipients have wide latitude to determine how, when, and how specific public participation activities should take place, and which specific measures are most

appropriate. Subrecipients should make these determinations based on a demographic analysis of those they serve and/or are eligible to receive their services, the nature of their transportation service(s), and the resources available for public outreach. Subrecipients are encouraged to review Appendix F for information on how to conduct a demographic analysis using Census data. Subrecipients may also contact SANDAG for further technical assistance.

A PPP also must include an outreach plan for how the subrecipient engages all persons and populations with LEP. Such a plan may be part of efforts that extend more broadly to include other populations that are traditionally underserved, such as persons with disabilities and low-income populations. Subrecipients that are required to submit a Title VI Program update must additionally provide a summary of outreach efforts made since their last Title VI Program submission. Efforts to involve all persons and populations with LEP can include both comprehensive measures as well as targeted measures to address linguistic, institutional, cultural, economic, historical, or other barriers that may prevent all persons and people with LEP from effectively participating in a subrecipient's decision-making process. Some effective practices for inclusive and meaningful participation may include:

- Scheduling meetings at times and locations that are convenient and accessible for communities of color and communities with LEP
- Employing different meeting sizes and formats
- Coordinating with community and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach out to members all persons and/or communities with LEP
- Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments
- Providing childcare at meetings.

SANDAG has provided a Public Participation Plan Questionnaire to help subrecipients consider inclusive public participation processes and practices when developing their PPP. The Public Participation Plan Questionnaire can be found in Appendix G. SANDAG's Public Participation Plan can be found on the SANDAG Language Assistance web page. SANDAG encourages subrecipients to review these resources when developing their PPP.

Representation on Planning and Advisory Bodies

Federal Title VI guidance requires subrecipients that have transit-related, non-elected planning boards, advisory councils, or committees, or similar committees, the membership of which is selected by the subrecipient, to provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage all persons on such committees. Subrecipients are strongly encouraged to use the template provided in Appendix H and include it in their Title VI Program.

Title VI Resolution

Per federal and state Title VI guidance, a subrecipient's Title VI Program must be approved by their governing body. A signed and dated resolution indicating approval from that body must be included in a subrecipient's final Title VI Program. Subrecipients are strongly encouraged to use the template in Appendix I for their Title VI Program Resolution.

Title VI Program Submission

Subrecipients must submit their approved Title VI Program to SANDAG prior to the execution of a grant agreement. Current subrecipients must update their Title VI Programs every three years for FTA subrecipients and every year for FHWA subrecipients, on a schedule determined by SANDAG. SANDAG recommends that organizations submit a draft of their Title VI Program to SANDAG at least 60 days before the submission deadline to ensure opportunity for a full review. The table below provides a sample schedule for Title VI Program review and approvals by all involved parties. More time may be needed depending on the number of drafts and revisions required or the ability to secure a resolution from the organization's governing body approving the organization's Title VI Program.

Sample Title VI Program Approval Schedule

Step	Responsible Party	Activity	Estimated Timeframe
	Subrecipient	Submit draft Title VI Program or update to SANDAG for review	60 days before final program due date or prior to the execution of a grant agreement
2	SANDAG	Review draft for compliance with federal requirements, providing suggested edits as needed	Within 30 days before final program due date
3	Subrecipient	Resubmit subsequent draft(s) as needed	Within 30 days before final program due date
4	SANDAG	Review subsequent draft(s) as needed	Within 30 days before final program due date
5	SANDAG	Notify subrecipient that SANDAG has conditionally accepted its Title VI Program, pending inclusion of resolution from subrecipient's governing body	Within 30 days before final program due date
6	Subrecipient	Secure resolution from subrecipient's governing body approving Title VI Program accepted by SANDAG	At least two weeks before final program due date
7	Subrecipient	Submit to SANDAG final Title VI Program with resolution and post Title VI Notice to the Public and Complaint Procedures on subrecipient's website and appropriate locations as identified in subrecipient's Title VI Program	On final program due date
8	SANDAG	Verify the necessary documents have been posted in the appropriate locations including the subrecipient's website; inform subrecipient that SANDAG has accepted its Title VI Program; and provide the deadline for the triennial update	Within one week of submission

SANDAG uses a standardized Title VI checklist to help determine if a draft Title VI Program meets all the requirements. Organizations are strongly encouraged to review SANDAG's Title VI Program compliance

checklist before they submit a draft Title VI Program to SANDAG. A template of SANDAG's Title VI Program compliance checklist is provided in Appendix J.

SANDAG ADA and Title VI Compliance Monitoring

SANDAG performs monitoring to check subrecipient compliance with the terms of the grant agreement, including adherence to applicable ADA and Title VI requirements. To assist in its monitoring efforts, SANDAG utilizes a monitoring checklist during desk reviews and/or site visits that includes sections on ADA and Title VI compliance. A template of the monitoring checklist is available on the grant program webpage.

For all subrecipients, SANDAG verifies that they have posted their Title VI Notice to locations such as their website and any SANDAG-funded vehicles so that project beneficiaries are aware of their Title VI rights. SANDAG also checks that the Title VI Notice is made available in an accessible format. For subrecipients, SANDAG monitors that this notice is translated into other languages consistent with their LAP.

Further, SANDAG confirms that all subrecipients have ADA and Title VI complaint procedures. SANDAG also confirms that subrecipients have a complaint form readily accessible to project beneficiaries so those beneficiaries can submit a complaint on the grounds of ADA and/or Title VI. During desk reviews and/or site visits, SANDAG verifies that subrecipients have maintained a log of ADA or Title VI-related complaints, investigations, and lawsuits.

ADA Monitoring

SANDAG conducts physical inspections of grant-funded vehicles to validate that they are being maintained and used for their intended purpose(s). During these physical inspections, SANDAG also checks that ADA equipment such as lifts and ramps function properly.

Additionally, SANDAG reviews subrecipient policies and procedures to verify ADA compliance pertaining to service animals, respirator or portable oxygen supplies, and accessible information. SANDAG may request response time or other data or information on subrecipient policies or procedures to confirm that an equivalent level of service is being provided.

Title VI Program Monitoring

Once a Title VI Program has been accepted by SANDAG and approved by a subrecipient's governing body, SANDAG verifies that the approved Title VI Notice, Complaint Procedures, and Complaint Form have been posted to the subrecipient's website in English and other languages per the subrecipient's Language Assistance Plan. Once verified, SANDAG notifies the subrecipient that its next Title VI Program is due in three years.

Appendices

Appendix A: Notice of Non-Discrimination Template

If information is needed in another language, contact [insert name], [insert phone number] or [insert email].

[Insert organization name] operates its programs without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act of 1964. [Insert organization name] also prohibits discrimination against individuals with disabilities in accordance with the Americans with Disabilities Act of 1990. Persons who believe they have been subjected to discrimination or have been denied access to services or accommodations required by law have the right to file a complaint. For more information on the [insert organization name]'s civil rights program, and the obligations and procedures to file a complaint, contact [insert phone number]; email [insert email address]; or visit its administrative office at [insert address]. For more information, visit [insert organization website address].

Appendix B: Complaint Procedures Template

If information is needed in another language, contact [insert name], [insert phone number], or [insert email].

1. Applicability. The following complaint procedures apply to all persons who believe that they have been subject to discrimination by [insert organization name] related to its [insert name of SANDAG-funded transportation service or program], which is funded in whole or in part by SANDAG.

2. Preliminary Screening. Once a complaint is received, [insert organization name] will determine which federal administering agency has jurisdiction to investigate/process the complaint.

   Title VI Complaints processed under the FHWA shall be processed in accordance with Section 6.

   All ADA Complaints and Title VI Complaints processed under the FTA shall be processed in accordance with sections 3 through 5 below.

3. Preliminary Review Process. The following process must be completed prior to filing a Formal Complaint with SANDAG.

   Informal Resolution - Prior to submitting a formal complaint, the complaining party must contact [insert title of position at Organization responsible for ADA, Title VI, or other discrimination complaints] for assistance in resolving the matter informally as soon as is practical, generally within 15 calendar days of the time from when the subject of the complaint occurred or the complaining party became aware of [insert organization name]'s alleged non-compliance with state or federal non-discrimination laws. Complaints must be filed within 180 days of an alleged incident.

   The [insert title of position at Organization responsible for ADA, Title VI, or other discrimination complaints] can be reached at [insert address]; [insert phone number].

   [insert organization name] will notify SANDAG of the complaint within 72 hours of receiving the complaint, and record the complaint and steps taken toward resolution. [insert organization name] is responsible for informing the complaining party about [insert organization name]'s complaint procedure, including the opportunity to file a formal complaint with SANDAG and/or applicable agency under the U.S. Department of Transportation, as described below.

   Report of Results to SANDAG and Complaining Party – [insert organization name] will email or mail SANDAG and the complaining party the results of the informal resolution process within 30 calendar days of receiving the complaint. If the complaining party is not satisfied with [insert organization name]'s disposition of the matter, the complaining party may file a formal complaint with SANDAG following the procedure described below.

4. Formal Complaint. If the procedure for Preliminary Review and informal resolution by [insert organization name] does not yield a successful resolution, then the complaining party may file a formal, written complaint with SANDAG in the manner described below. SANDAG materials can be made

available in alternative languages. To make a request, call (619) 699-1900. Los materiales de SANDAG están disponibles en otros idiomas. Para hacer una solicitud, llame al (619) 699-1900.

Formal complaints must be filed within 10 calendar days from the date the complaining party receives notice of the end of the preliminary review process.

Complaints must be in writing and must include an attached copy of any correspondence concerning the complaint with [Insert organization name].

Complaints must be filed with the Compliance Officer at 1011 Union Street, Suite 400, San Diego, CA 92101; Fax number (619) 699-1995; TTY (619) 699-1904.

Investigation – The Compliance Officer or their designee will initiate an investigation, which may include interviewing, consulting with, and/or requesting a written response to the issues raised in the complaint from any individual the Compliance Officer believes to have relevant information, [insert organization name] staff, and members of the public. The Compliance Officer may also hold an informal hearing at their discretion.

Representation - The complaining party and any party against whom the complaint is directed have the right to have a representative.

Findings and Notification - The Compliance Officer will prepare and provide the complaining party and all other parties involved a final report containing a summary of the investigation, written findings, and a proposed disposition. This report will be provided to the complaining party and [insert organization name] within 45 calendar days of the filing of the formal complaint.

Final Disposition - The disposition proposed by the Compliance Officer will be put into effect promptly. The complaining party or any party against whom the complaint or the proposed disposition is directed may appeal. The appeal to the Chief Executive Officer or their designee (as set forth below) will not suspend the implementation of the disposition proposed by the Compliance Officer, except in those circumstances where the SANDAG Chief Executive Officer or their designee decides that good cause exists, making the suspension of implementation appropriate.

5. Appeal. Within 10 calendar days of the issuance of the final report, the complaining party may appeal to the SANDAG Chief Executive Officer.

A complaining party may appeal by filing a written request for review by the SANDAG Chief Executive Officer or their designee.

The written request for review must specify the particular substantive and/or procedural basis for the appeal, and must be made on grounds other than general dissatisfaction with the proposed disposition. Furthermore, the appeal must be directed only to issues raised in the formal complaint as filed or to procedural errors in the conduct of the complaint procedure itself, and not to new issues.

The review by the Chief Executive Officer or their designee may focus on the following considerations: Were the proper facts and criteria brought to bear on the decision? Were

improper or extraneous facts or criteria brought to bear on the decision that substantially affected the decision to the detriment of the complaining party? Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the complaining party? Given proper facts, criteria, and procedure, was the decision one that a person in the position of the decision-maker might reasonably have made?

A copy of the written decision by Chief Executive Officer or their designee will be expected within 30 calendar days of the filing of the appeal and shall be sent to all parties involved and, if appropriate, to persons whose authority will be needed to carry out the disposition. The deadline may be extended by the Chief Executive Officer or their designee for good cause. The decision of the Chief Executive Officer or their designee on the appeal will be SANDAG's final decision.

6. FHWA Title VI Complaints. Title VI Complaints filed with [insert organization name] must be forward to SANDAG. Per the FHWA guidance, all potential Title VI complaints must be forwarded first through primary recipients (if the entity is a subrecipient) and then to FHWA. FHWA Title VI Complaints should be sent within one business day of receipt via email to businessandworkforcecompliance@sandag.org.

7. File with the US Department of Transportation (DOT) - Any person who believes themselves or any specific class of persons to be subjected to discrimination prohibited by the ADA or Title VI may also file a written complaint with the applicable agency under the US DOT, typically FTA and FHWA. A complaint should be filed no later than 180 days after the date of the alleged discrimination unless the time for filing is extended by federal funding partner.

Appendix C: Discrimination Complaint Form Template

If information is needed in another language, contact [insert name], [insert phone number] or [insert email].

Instructions: If you believe [insert organization name] has engaged in discrimination against one or more persons relating to its [insert name of SANDAG-funded transportation service or program], please fill out this form completely, in black ink or typewritten form. Sign and return to the "Return To" address below. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request to SANDAG.

Complainant: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Telephone: Home: _____ Business: _____

Person Discriminated Against:
(if other than the complainant) _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Telephone: Home: _____ Business: _____

When did the discrimination occur? Date: _____

I believe the discrimination I experienced or was made aware of was based on (check all that apply):
[ ] Race [ ] Color [ ] National Origin [ ] Disability [ ] Other

Describe the alleged acts of discrimination, providing the name(s), where possible, of the responsible individuals (use space on the next page or attach additional pages if necessary). If you marked "Other" above, include the category upon which you believe the discrimination was based (medical condition, sex, veteran status, etc.):

_____

_____

_____

_____

_____

_____

Has a complaint been filed with the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes: _____ No: _____

If Yes:

Agency or Court: _____

Contact Person: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Telephone: _____

Date Filed: _____

Additional space for answers:

_____

_____

_____

_____

Signature: _____

Date: _____

Return to:
Compliance Officer – Office of Business and Workforce Compliance
SANDAG
1011 Union Street, Suite 400
San Diego, CA 92101
Phone: (619) 699-1900; Fax: (619) 699-1995; TTY: (619) 699-1904
compliance@sandag.org

Appendix D: Template for Transit Related ADA and Title VI Investigations, Complaints, and Lawsuits

Record and Report of Discrimination Investigations, Complaints and Lawsuits Related to [insert name of organization's SANDAG-funded program(s)]

Date Filed	Summary of Allegations	Status	Actions Taken/Final Findings

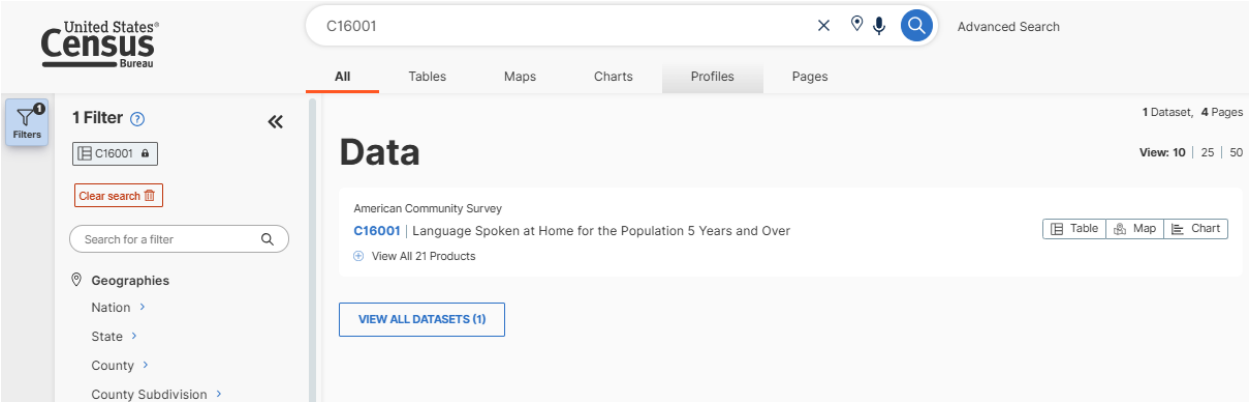
Appendix E: Instructions for Accessing and Reporting Census Data

Accessing Census Data

1. Go to **data.census.gov**

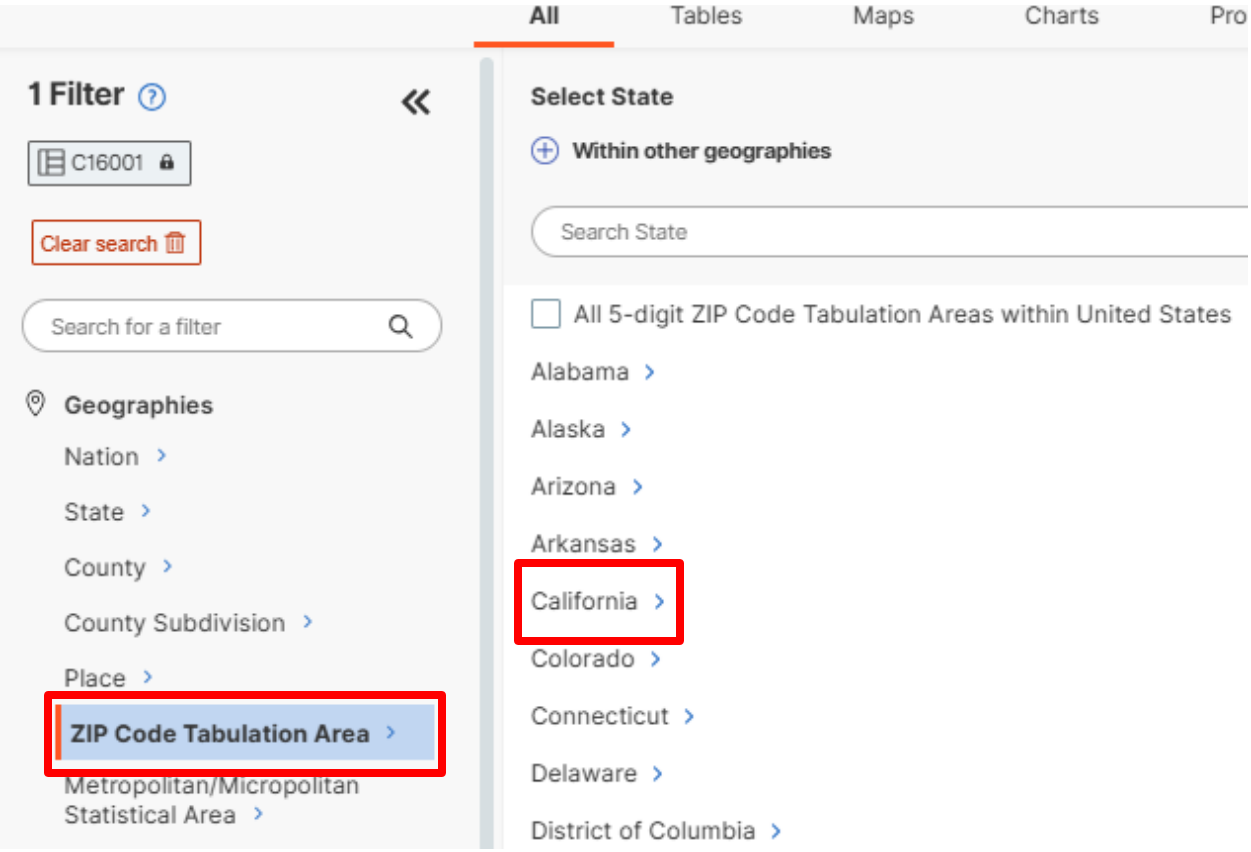
2. In the search bar, to find the **Table** you need, enter **C16001** and then **click the search icon (the magnifying glass)**.

It should return a result similar to this:

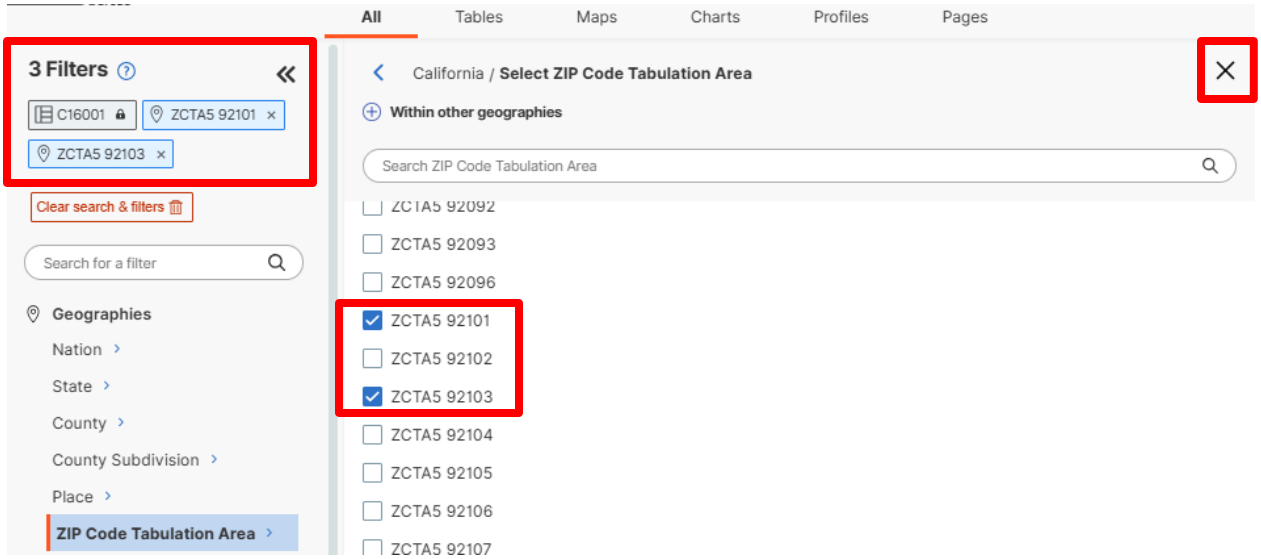


3. You now need to filter the data to a certain **geography** – the zip codes served by your agency, city jurisdiction, or – if you think it would be more appropriate – Census Block Groups or Tracts, etc. To view the selected information by your agency's service area by **zip code:**

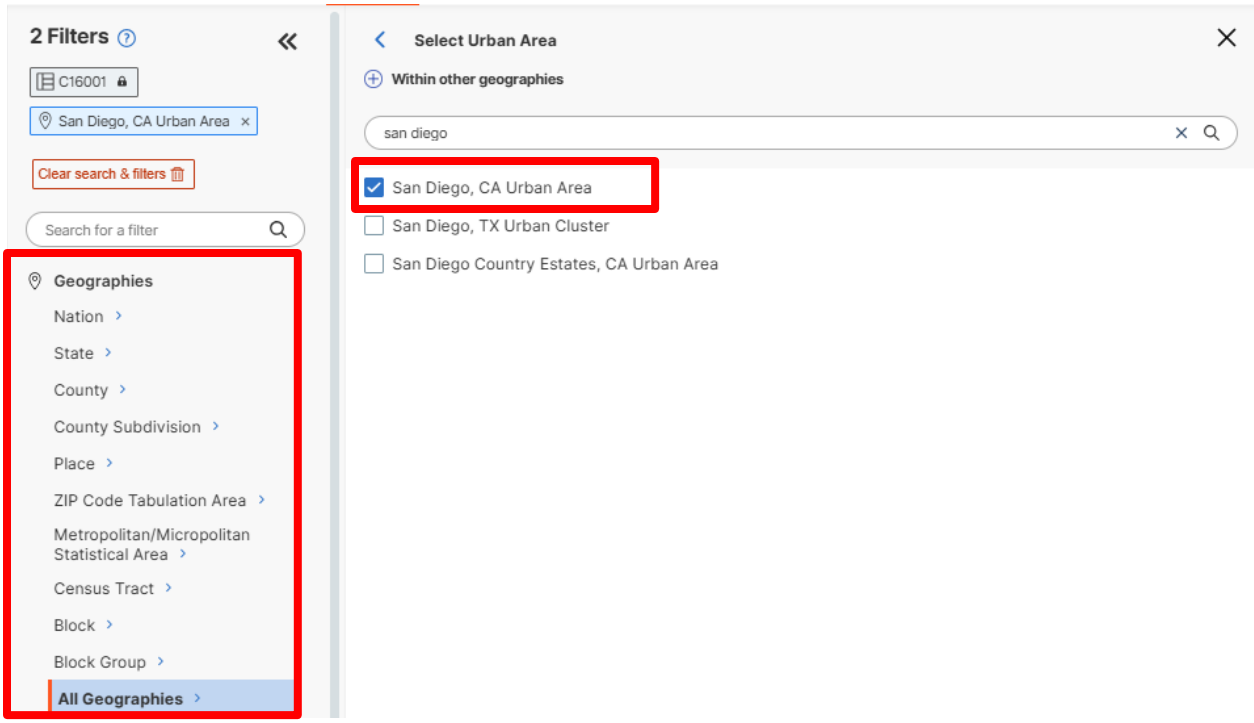
   First, click on **Zip Code Tabulation Area** in the **Geographies** section, then click on **California**:



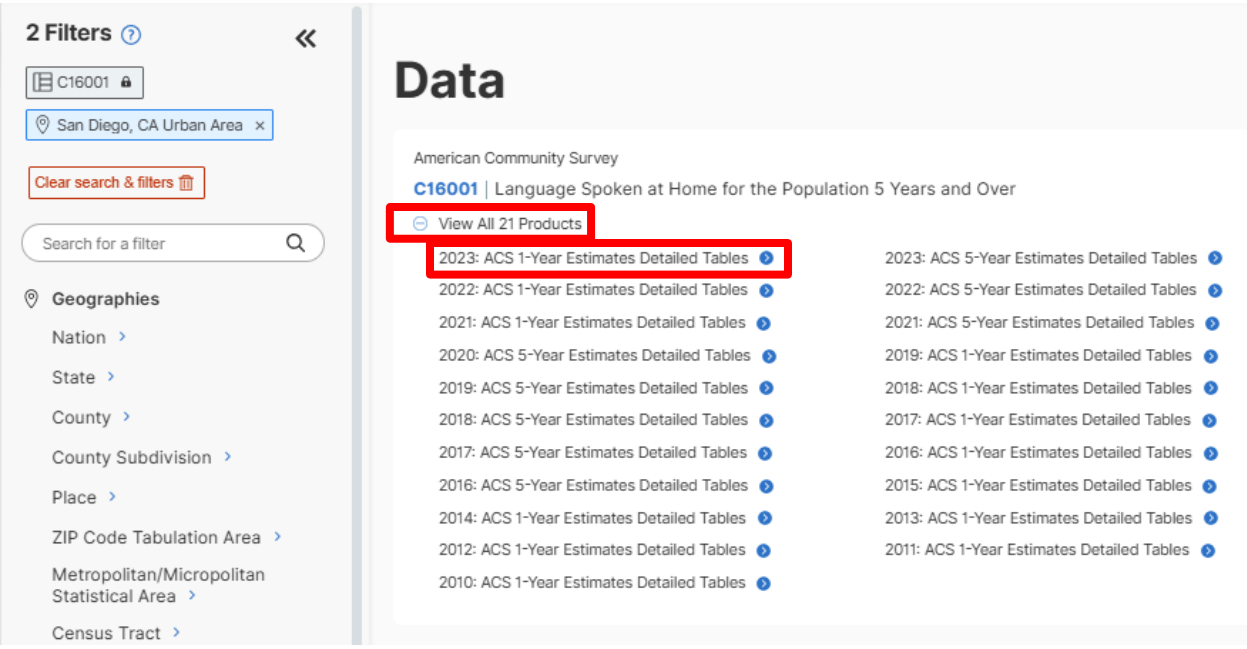
Check the box[es] next to the **5-digit zip code[s]** you need. Checking these boxes will add them to the filters on the left. Then click the **X** at the top right to close this window.



If, instead of ZIP codes, you want to get the data by another geography, go back to **Geographies** (under Filters). You can explore the possibilities on this page to get data by County (click on California, then scroll to find San Diego County), Place (San Diego city, California), Metropolitan Statistical Area (San Diego-Chula Vista-Carlsbad, CA Metro Area). **Urban Area (San Diego, CA Urban Area)** might be most useful – it can be found under **All Geographies**. Scroll down to check the box next to San Diego, CA Urban Area. It will add that geography to the Filters. Again, click the **X** at the top right to close this window.

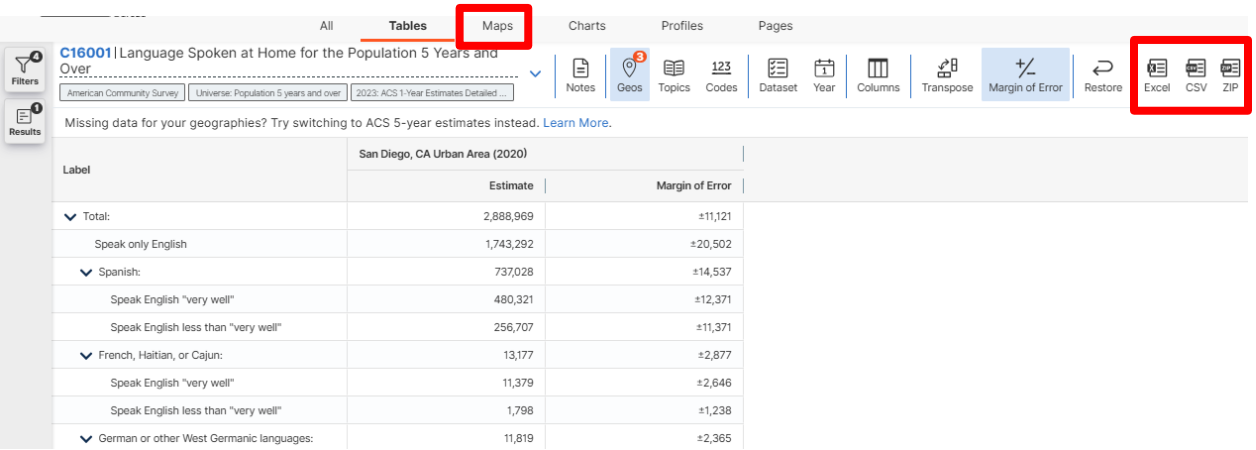


4. Now, choose the product for the Table you want – you should **use the most current 5-year data available**. Click **View All 21 Products** (there may be more or fewer depending on the table or other filters you've added), then click on the table you want.



5. The desired table, filtered to your chosen geography, should display. In the example below, the Table (C16001) and three geographies (two ZIP codes and San Diego, CA Urban Area) are the filters. You can sort the data – Hide columns, Transpose the data, remove the Margin of Error, etc., using the toolbar at the top. You can also click on the **Maps tab** underneath the Census search bar to see if the geographies you've chosen are correct.

   Once you've verified the data is what you need, use the buttons above the data to **download** it – as an Excel, CSV, or ZIP file; the ZIP file will contain the most information, and after downloading it you can extract the CSV files and save them in Excel.



Reporting Census Data in Title VI Program

You can now analyze the data you have accessed in Table C16001 for your organization's service area by creating a table like the example provided below. In the table, please order the primary languages of those who speak English less than "very well" from largest to smallest by number of people with LEP who speak that language.

For each primary language in the service area, provide the number of persons with LEP, the percentage of LEP persons, and the percentage of people with each primary language of the total population in your organization's service area. Use this data analysis to help determine the types and level of language assistance measures your organization may need to provide, consistent with the Safe Harbor Provision.

Census Data Reporting Template

Please use this template when reporting Census data for the Factor 1 Analysis of your LAP. Add or remove rows based on the popularity of languages in your organization's service area.

Primary Languages and People with LEP in [insert organization name] Service Area (Ranked by Highest to Lowest # of People with LEP)			
Primary Language	# of People with LEP in Service Area	% of People with LEP in Service Area	% of Total Population in Service Area
[insert language 1]			
[insert language 2]			
[insert language 3]			
[insert language 4]			
[insert language 5]			
[insert other language(s)]			
Total			
*Source: Table C16001, ASC 5-Year Estimates Detailed Tables, [insert data year(s)]			

Census Data Reporting Example

Primary Languages and People with LEP in Example Organization Service Area (Ranked by Highest to Lowest # of People with LEP)			
Primary Language	# of People with LEP in Service Area	% of People with LEP in Service Area	% of Total Population in Service Area
Spanish	120,000	74.07%	8.20%
Tagalog	20,000	12.35%	1.37%
Vietnamese	10,000	6.17%	0.68%
Chinese (Simplified)	5,000	3.09%	0.34%
Arabic	4,000	2.47%	0.27%
Other	3,000	1.85%	0.21%

Total	162,000	100.00%	11.07%
*Source: Table C16001, ASC 5-Year Estimates Detailed Tables, 2017			

Appendix F: Public Participation Plan Questionnaire

Use this questionnaire to help develop your organization's Public Participation Plan (PPP) or update your current PPP to ensure further inclusiveness within your organizations' public participation activities.

Meetings and Events to Which the Public Is Invited

	YES	NO	N/A
1. Does your organization schedule public meetings and events at different times to accommodate varying work schedules?	☐	☐	☐
2. Does your organization schedule public meetings/events at different locations so that they are accessible to clients who may live in different areas of the program service area?	☐	☐	☐
3. Does your organization hold meetings to get public input using different sizes or formats?	☐	☐	☐
4. Does your organization provide materials in languages other than English?	☐	☐	☐
5. Does your organization provide interpretation services or employ bilingual staff at public meetings/events, and include notice of the availability of such in meeting/event announcements?	☐	☐	☐
6. Does your organization hold meetings at locations that are accessible by public transportation?	☐	☐	☐
7. Does your organization hold meetings at locations that are accessible for people with disabilities (ADA-compliant)?	☐	☐	☐

Describe how meetings/events to which the public is invited are advertised, as well as efforts to ensure that different members of the public, including limited English proficient (LEP) populations, and individuals with disabilities, have access to the meeting and are encouraged to attend.

Program Marketing and Outreach [Subrecipients of FTA Funds Only]

	YES	NO	N/A
1. Does your organization perform outreach activities on a regular basis (at least quarterly)?	☐	☐	☐
2. Does your organization perform outreach activities in a number of different areas or communities within your service area?	☐	☐	☐
3. Does your organization market its programs/services through a variety of media in order to reach a greater population?	☐	☐	☐
4. Does your organization provide translated outreach materials in appropriate languages given the communities served?	☐	☐	☐
5. Does your organization coordinate with community and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach out to all persons and/or LEP communities?	☐	☐	☐
6. Does your organization employ bilingual staff?	☐	☐	☐

Describe your organization's outreach program, including activity locations and frequencies, program marketing publications, and coordination efforts with partnering agencies.

Program Monitoring

	YES	NO	N/A
1. Does your organization administer customer satisfaction surveys or feedback forms to solicit input from project beneficiaries?	☐	☐	☐
2. Does your organization administer any other type(s) of surveys?	☐	☐	☐

Describe how your organization monitors the programs and services it provides, including surveys, customer interviews, rating systems, or other methods that may apply.

Appendix G: Representation on Planning and Advisory Bodies

☐ My organization does not have a transit-related, non-elected board, advisory council or committee, or similar committee for which my organization selects the membership

OR

☐ My organization has a transit-related, non-elected board, advisory council or committee, or similar committee for which my organization selects the membership.

[Insert Board, Advisory Council, or Committee Name] Demographic Breakdown

Race/Ethnicity	**Count**	**Percentage**
American Indian/Alaska Native		
Asian/Pacific Islander		
Black/African American		
Hispanic/Latino		
White		
Some Other Race		
Two or More Races		
Declined to State		
Total		100%

Additional details of members who are “Some Other Race” or “Two or More Races” if applicable:

Description of efforts made to encourage participation of all persons on my organization’s planning and advisory committees:

Appendix H: Title VI Program Resolution Template

Resolution No. XX

RESOLUTION OF THE [Organization Governing Body] APPROVING THE [Name of Organization]'S TITLE VI PROGRAM AND POLICIES

WHEREAS, pursuant to Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d et seq. (the Act) and 49 CFR Part 21, the U.S. Department of Transportation (DOT) prohibits discrimination on the basis of race, color or national origin; and

WHEREAS, as a subrecipient of federal funds, [Name of Organization] is required to comply with the requirements of the Act and applicable implementing regulations; and

WHEREAS, pursuant to U.S. DOT guidance (FTA Circular 4702.1B), [Name of Organization] is required to submit its Title VI Program to its governing entity for approval; and

WHEREAS, the [Organization Governing Body] has considered and determined to approve the organization's Title VI Program," including a Language Assistance Plan and Public Participation Plan;

NOW, THEREFORE, BE IT RESOLVED:

That the [Organization Governing Body] hereby approves the organization's Title VI Program and policies as set forth in the entitled "Title VI Program."

Dated: _____ _____
Presiding Officer

Attest:

_____ _____
Recording Secretary

Appendix I: Title VI Program Compliance Checklist Template

Organization Information

Organization Name: _____

Organization Title VI Program Submitter Name: _____

Organization's Title VI Program Submission Information

Draft Submission Due Date: _____

Draft Submission Date: _____

SANDAG Reviewer Information

Reviewer Name: _____

Review Date: _____

☐ **Title VI Notice to the Public (Non-Discrimination Statement) – Required Elements**
A Title VI Notice includes the following elements:

- ☐ (1) statement that indicates the organization complies with Title VI and operates programs without regard to race, color, or national origin
- ☐ (2) description of the procedures that members of the public should follow to request additional information on the organization's Title VI obligations
- ☐ (3) description of the procedures that members of the public should follow to file a Title VI discrimination complaint against the organization.

Reviewer Comments:

☐ **Title VI Notice – Translation Requirements**

The organization's Title VI Notice has been translated into all Safe Harbor Provision languages identified in the organization's Factor 1 Analysis. The Safe Harbor Provision languages are:

Reviewer Comments:

☐ **Title VI Notice – Public Posting and Availability**

The Title VI Notice has been posted or made available in the following public areas:

YES	N/A	
☐	☐	Organization's website. The following is a link to where the Title VI Notice is posted:
☐	☐	Any public area of the organization's office, including the reception desk and meeting rooms
☐	☐	Transit vehicles (applicable to those organizations operating vehicles)
☐	☐	Other:

The Title VI Notice is readily accessible to members of the public:

☐ The Title VI Notice has been posted in an accessible format

☐ The Title VI Notice has been posted in English and other Safe Harbor Languages identified in the organization's Language Assistance Plan

Reviewer Comments:

☐ **Complaint Form and Procedures**

☐ The Complaint Form clearly indicates race, color, or national origin as a basis for filing a discrimination complaint.

☐ The Complaint Procedures contain a process for filing a complaint, including procedures for receiving a complaint, communicating the organization's response to the complainant, and maintaining documentation.

☐ The Complaint Procedures describe the process by which a complainant may file a complaint directly with the Federal Transit Administration, Federal Highway Administration or other federal funding agency.

☐ The Complaint Form and Procedures are translated into other Safe Harbor Languages identified in the organization's Factor 1 Analysis.

☐ The Complaint Form and Procedures are provided in an accessible format.

☐ The Complaint Form and Procedures are posted, at a minimum, on the organization's website.

Link(s) to the organization's website where its Complaint Form and Procedures are located:

SANDAG Reviewer: If the organization does not have a website, indicate how the organization ensures that its Title VI complaint form and procedures are made available to the public, including for non-English speakers:

Reviewer Comments:

☐ **Record and Report Transit-Related Title VI Investigations, Complaints, and Lawsuits Related to Activities Supported by SANDAG**

Reviewer Comments:

☐ **Language Assistance Plan**

The LAP includes the following minimum elements:

☐ Data and results of the Four Factor Analysis

☐ Determination of the languages for which written translations of vital documents is necessary based on the Four Factor Analysis and Safe Harbor Provision

☐ Description of how the organization provides language assistance services by language

- ☐ Description of how the organization provides notice to people with LEP about the availability of language assistance
- ☐ Description of how the organization trains employees to provide timely and reasonable language assistance to people with LEP
- ☐ Description of how the organization monitors, evaluates, and updates its LAP

Reviewer Comments:

☐ **Public Participation Plan (PPP)**

The organization's PPP includes the following minimum elements:

- ☐ Description of the proactive strategies, procedures, and desired outcomes that underpin the organization's public participation activities
- ☐ An outreach plan for how the subrecipient engages communities of color and populations with LEP

Reviewer Comments:

☐ **Representation on Planning and Advisory Bodies**

The template for this element is completed accurately and included in the organization's Title VI Program.

Reviewer Comments:

☐ **Title VI Resolution**
The organization's Title VI Resolution is signed and dated by its governing body.

Reviewer Comments:

Signatures

This Title VI Checklist was reviewed and completed by:

SANDAG Program Manager (Print)

SANDAG Program Manager (Signature) | Date

Subrecipient Project Manager (Print)

Subrecipient Project Manager (Signature) | Date

Appendix J: Glossary of Terms

Please refer to Federal Transit Administration (FTA) Circular 4710.1 for additional terms and information related to the Americans with Disabilities Act of 1990 (ADA) guidance. Please refer to FTA Circular 4702.1B for additional terms and information related to Title VI guidance.

A

Accessible Vehicle
a vehicle that has the capacity to accommodate a passenger who uses a personal mobility device inside the vehicle, and meets the requirements for lifts, ramps, and securement systems specified in 49 CFR part 38, subpart B

Americans with Disabilities Act (ADA)
a law that prohibits discrimination against and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation (42 U.S.C. 49 CFR § 12101 et seq.)

B

Bilingual
ability to speak two languages fluently and without effort; fluency and bilingual skills may be measured and certified

C

D

Demand Responsive Service
any non-fixed route system of transporting individuals that requires advanced scheduling, including services provided by public entities, nonprofits, and private providers

Designated Public Transportation
transportation provided by a public entity (other than public school transportation) by bus, rail, or other conveyance that provides the general public with general or special service on a regular and continuing basis

Discrimination
any action or inaction, whether intentional or unintentional, in any program or activity of a grant recipient, subrecipient, or contractor that results in disparate treatment, or perpetuating the effects of prior discrimination based on race, color, or national origin

Disparate Treatment
actions that result in circumstances where similarly situated persons are intentionally treated differently (i.e., less favorably) than others because of their race, color, or national origin

E

Equivalent Level of Service
means that individuals with disabilities, including those who use wheelchairs, receive the same or similar level of service as those without disabilities for a demand-responsive service

Executive Order
rule or order issued by the president to an executive branch of the government and having the force of law

F

G

Subrecipient
an entity that has been awarded funding through SANDAG to carry out part of a Federal award and has entered into an agreement with SANDAG

H

I

Individual with a Disability
an individual who has a physical or mental impairment that substantially limits one or more of their major life activities

Interpretation
oral, real-time translation from one language to another

J

K

L

Limited English Proficient (LEP) Persons
persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. People with LEP include those who report to the U.S. Census that they speak English less than very well, not well, or not at all.

Low-income Person

an individual whose family income is at or below 200% of the poverty line as defined by the Office of Management and Budget, based on the most recent data available from the U.S. Census Bureau for a household of the size being evaluated

Low-income Population
any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed SANDAG-funded program, policy, or activity

M

Minority
is a term in Title VI and other federal guidance and is used when speaking of data from the U.S. Census. It refers to a person who is:

1. American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
2. Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
3. Black or African American, which refers to people having origins in any of the Black racial groups of Africa.
4. Hispanic or Latino, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
5. Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Minority Population
any readily identifiable group of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient populations (such as migrant workers or Native Americans) who will be similarly affected by a proposed SANDAG-funded program, policy, or activity

N

National Origin
the nation in which a person was born, or where the person's parents or ancestors were born

O

Open-door Service
refers to a service that is open to the general public or a segment of the general public defined by age, disability, or low-income. It includes public transportation service, as well as alternatives to public

transportation that may require a passenger to be an older adult or person with a disability, but is not limited to clients or members of a particular agency.

Out of Service
the time in which a grant-funded vehicle or service is not providing transportation. It includes miles driven for deadheading, vehicle maintenance, vehicle testing, and driver training without transporting members of the public.

P

Project Property
vehicles and other equipment purchased, in part, with grant funds and used in accordance with a SANDAG grant agreement

Public Entity
means (1) any federal, state, or local government or (2) any department, agency, special purpose district, or other instrumentality of one or more federal, state or local governments.

Q

R

S

Safe Harbor Provision Language
LEP language group that constitutes less than 5% or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered

Service Animal
refers to any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Subrecipient
an organization that receives a grant award from a direct recipient or designated recipient to carry out a portion of a federal program. In this Guide, Subrecipient also refers to any recipient of grant funding through a SANDAG grant program

T

Title VI
refers to Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal funding from discriminating on the basis of race, color, or national origin

Translation
written rendering text from one language to another while preserving meaning

U

V

Vital Document
a document that contains information that is critical for obtaining services and/or benefits or is required by law. Vital documents include those that, without translation, would prevent individuals with LEP from obtaining access to a recipient's or subrecipient's programs or services or would deprive persons with LEP of an awareness of their legal rights. Whether or not a document is "vital" may depend on the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is neither accurate nor timely. Examples of vital documents include, but are not limited to, an intake or application form with the potential for important consequences, a notice of a person's rights under ADA and Title VI, a complaint form, and complaint procedures.

W

Wheelchair
is a mobility aid belonging to any class of three-or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered

X

Y

Z

Appendix K: Online Resources Referenced

Census Data
https://data.census.gov/

Federal Transit Administration (FTA) Circular 4702.1B
https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Title_VI_FINAL.pdf

FTA Circular 4710.1
https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final_FTA_ADA_Circular_C_4710.1.pdf

SANDAG Board Policy No. 009
https://www.sandag.org/-/media/SANDAG/Documents/PDF/about/about-SANDAG/bylaws-and-policies/board-policy-no-009.pdf

SANDAG Language Assistance Plan
https://www.sandag.org/about/business-and-workforce-compliance/language-assistance

SANDAG Public Participation Plan
https://www.sandag.org/about/business-and-workforce-compliance/language-assistance