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The Boston Region MPO is
composed of:

Massachusetts Department of
Transportation
Metropolitan Area Planning Council
Massachusetts Bay Transportation
Authority Advisory Board
Massachusetts Bay Transportation
Authority
Massachusetts Port Authority
Regional Transportation Advisory
Council
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City of Beverly
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Town of Arlington
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Town of Braintree
Town of Framingham
Town of Lexington
Town of Medway
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Federal Highway Administration
(nonvoting)
Federal Transit Administration
(nonvoting)

MEMORANDUM

DATE February 2, 2012
TO Boston Region Metropolitan Planning Organization
FROM Karl Quackenbush
CTPS Executive Director
RE Work Program Amendment for: MassDOT Title VI Program

ACTION REQUIRED

Review and approval

PROPOSED MOTION

That the Boston Region Metropolitan Planning Organization, upon the recommendation of the Massachusetts Department of Transportation, vote to approve the work program amendment for MassDOT Title VI Program in the form of the draft dated February 2, 2012.

PROJECT IDENTIFICATION

Unified Planning Work Program Classification
Technical Support/Operations Analysis Project

CTPS Project Number
13151

Client
Massachusetts Department of Transportation
Project Supervisor: John Lozada

CTPS Project Supervisors
Principal: Elizabeth M. Moore
Manager: Annette Demchur

Funding
MassDOT Administrative Services Contract #68581

IMPACT ON MPO WORK

The MPO staff has sufficient resources to complete this work in a capable and timely manner. By undertaking this work, the MPO staff will neither delay the completion of nor reduce the quality of other work in the UPWP.

BACKGROUND

All recipients of federal funds are required to comply with Title VI of the Civil Rights Act of 1964, which requires that they demonstrate that they do not discriminate on the basis of race, color, or national origin in their programs, activities, or services. The Federal Highway Administration (FHWA) Title VI requirements have been extended through enactment of several additional laws and executive orders to provide the same protections on the basis of Limited English Proficiency (LEP), gender, age, income, and disability. Pursuant to this mandate, the Massachusetts Department of Transportation (MassDOT) must take the following proactive steps to prevent discrimination and correct deficiencies across all transportation modes under its purview:

- Adopt policies and procedures supportive of Title VI
- Ensure adequate public participation
- Develop procedures for monitoring and reviewing Title VI compliance
- Develop procedures for Title VI reviews of cities and towns, contractors, higher education institutions, planning agencies, and other recipients of Federal-Aid Highway funds

In addition, the Federal Transit Administration's Region I Civil Rights Specialist found deficiencies in the Title VI program that was submitted by the Executive Office of Transportation (now MassDOT) in September 2008.

CTPS has been working with MassDOT's Office of Civil Rights (OCR) under a work program entitled "MassDOT Title VI Program" that was approved by the Transportation Planning and Programming Committee (TPPC) of the Boston Region MPO on March 24, 2011, and funded through a contract with MassDOT Administrative Services. The original work program comprised seven tasks: 1) providing technical assistance to MassDOT's FTA Title VI Working Group; 2) researching laws, regulations, and guidance; 3) reviewing Title VI Plans from other states; 4) gaining an understanding of MassDOT structure and the programs, services, and activities of each functional area; 5) preparing information and resources concerning Title VI principles and requirements; 6) establishing an interdisciplinary working group to address MassDOT FHWA Title VI requirements; and 7) preparing MassDOT's Title VI Program.

Of these tasks, CTPS has completed Tasks 2 through 5. Task 1, which is ongoing, required much more time and effort than was initially anticipated, including participation in an on-site Title VI audit by FTA of the MassDOT Title VI submittal. As indicated above, all other tasks are related to the MassDOT FHWA Title VI Program, which was also the subject of an

unanticipated on-site audit. Tasks 6¹ and 7 of the original scope are ongoing to refine and expand this program under this work program amendment.

OBJECTIVES

The objective of this work program amendment is to respond to deficiencies identified during the FTA audit of MassDOT and the consequent FTA Title VI compliance report; to continue already-identified work on the FHWA Title VI Program and to enhance this program based on feedback from the FHWA site visit; and to provide additional ongoing technical support to MassDOT Civil Rights, as needed, to meet its FTA and FHWA Title VI requirements.

WORK DESCRIPTION

This work program amendment addresses the requirements for both the FTA and the FHWA Title VI programs. Separate MassDOT Title VI Program documents are being developed for the two programs, although the two sets of requirements overlap in some places. The work required to accomplish the objectives of this work program amendment will be carried out in the seven tasks described in the seven subsections below. In broad outline:

- Tasks 1 and 2 are directed at responding to two deficiencies identified in the FTA Title VI Compliance Report regarding the submittal that was supported under the first task of the original (March 24, 2011) CTPS work program: the need to develop a draft Public Participation Plan and the need to complete the Language Access Plan.
- Tasks 3 through 6 outline the work needed in the continuing development of the first year of the MassDOT FHWA Title VI program (a draft of which was created in the completed Tasks 2 through 5 of the original work program). In these tasks, CTPS will continue already-identified work on the FHWA Title VI Program and will enhance this program based on feedback from the FHWA site visit; specifically, CTPS will: complete the LEP analyses required by FHWA; assist in finalizing MassDOT's Public Participation Plan to meet the requirements of FHWA; respond to the FHWA Compliance Review; and complete all other FHWA year one Title VI Program development tasks.
- Task 7 of this amendment is for ongoing CTPS Title VI support to MassDOT.

Task 1 Develop Draft Public Participation Plan (FTA Program)

As a part of this work program amendment, CTPS will develop a Draft Public Participation Plan utilizing existing documentation of public participation processes used at MassDOT (MassDOT Design Guide, Chapter 2; MassDOT's Draft Civic Engagement and Public Process Plan; McGrath Highway Study Public Involvement Plan) and staff

¹ Although Task 6 of the original work program included establishment by CTPS of a MassDOT Title VI Working Group, OCR hired a Title VI Specialist who convened the group with technical support from CTPS.

interviews to develop a draft MassDOT Public Participation Plan that includes outreach to Title VI populations. This draft plan will form the basis for the final Public Participation Plan that will also meet the MassDOT's FHWA Title VI requirements (as discussed below).

Product of Task 1

Draft Public Participation Plan

Task 2 Complete Language Access Plan (FTA Program)

Federal guidance informs recipients to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons by conducting an assessment that balances the following four factors: (1) The number or proportion of LEP persons eligible to be served by or likely to encounter a program, activity, or service of the recipient or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the recipient to people's lives; and (4) the resources available to the recipient and the costs of ensuring access. This assessment is called the four-factor analysis.

As a part of the previous work program, CTPS produced the framework for a MassDOT Language Access Plan, which included an analysis of Factor 1. CTPS has developed a survey to be distributed to the RTAs for which MassDOT has oversight responsibility. These surveys will need to be completed by the bus operators of each of the RTAs to assess Factor 2 of the four-factor analysis. Using the survey results and information provided by MassDOT regarding Factors 3 and 4, CTPS will complete and update the Language Access Plan required by FTA.

Product of Task 2

Language Access Plan

Task 3 Complete LEP Analyses (FHWA Program)

CTPS will complete Factor 2 (frequency of contact) of the four-factor analysis for MassDOT based on the results of the surveys that have already been developed by CTPS and will be distributed by MassDOT.

These surveys will also provide baseline information on the "vital documents" used in each of MassDOT's functional areas. Whether a document is considered "vital" depends on the importance of the program, information, encounter, or service involved and the consequences for the LEP person if the information is not accurately communicated or is not timely. CTPS will work with MassDOT to refine the list of such documents and to apply the four-factor analysis to determine which should be translated.

CTPS will also update the LEP maps using the most recent census data from the American Community Survey (ACS), which combines data collected annually for the

years 2006–2010. The new ACS data will also be used to update the list of languages that meet the safe harbor levels of 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.

Products of Task 3

- Technical memorandum summarizing survey results
- Updated LEP maps

Task 4 Assist MassDOT in Finalizing Its Public Participation Plan to Meet FHWA Requirements

This task will continue the work discussed in Task 1 of this work program amendment. OCR has the lead in developing the department-wide Public Participation Plan (PPP), which will establish processes that will ultimately be used throughout all of MassDOT. CTPS will provide technical support to MassDOT in the development of this plan, which will meet or exceed all FHWA public process guidelines, in addition to those of FTA. The plan will articulate the MassDOT goals and objectives for public engagement; provide a framework for public processes, in general; provide guidelines and strategies for achieving success in different types of public engagement efforts; and develop a toolbox for planning that includes communication templates and checklists for meeting notice and preparation to ensure accessibility for all individuals, including those with disabilities or who do not speak English well.² The tasks required for supporting MassDOT in developing the PPP include:

- **Support the PPP Subcommittee of the Internal Title VI Working Group**
CTPS will review existing federal, state, and privately developed guidance, plans, and toolkits to inform and guide the working group in the development of the PPP. In addition, CTPS will assist MassDOT in identifying all of the points in the planning and project development process where public input is desirable and/or required.
- **Involve the Public in Development of the PPP**
It is anticipated that MassDOT will hire a communications consultant to conduct the required public outreach component for development of the final PPP. CTPS will provide technical support to MassDOT and its consultant in conducting the outreach to ensure that it includes EJ communities, LEP populations, people with disabilities, and others who have been traditionally underserved. Additionally, CTPS will assist in the outreach efforts.
- **Develop the General Framework for the PPP**
Using the goals, objectives, and other elements identified by the PPP Working Group, CTPS will assist MassDOT in developing the framework for the PPP. This framework will provide the general parameters for when and how public outreach

² This toolkit will dovetail with an online mapping tool that will be developed by MassDOT to identify minority and low-income areas and limited English proficiency populations.

should be conducted for any applicable MassDOT process. This framework will take into consideration the specific MassDOT structure and culture and will be usable across all transportation sectors and modes within MassDOT.

- **Develop Guidelines and Resource Materials**

Using the information gathered, CTPS will assist OCR in compiling a resource manual that will incorporate the best-practice public outreach strategies and techniques that are most appropriate for the PPP framework and that are best suited to the needs and expressed desires of the residents of Massachusetts. The resource materials will provide a wide variety of approaches and materials that can be drawn upon for various types of public outreach, agency processes, and public needs.

- **Develop Public Meeting Toolkit**

CTPS will assist MassDOT in the development of a toolkit that will facilitate the implementation of any specific public outreach effort. The toolkit will include, but will not be limited to:

- A. Schedules for planning different types of public outreach efforts
- B. Templates for flyers for different types of meetings/hearings that comply with ADA and other meeting/hearing notice requirements
- C. Guidelines for selecting meeting locations that can be accessed via different modes of transportation
- D. Checklists for ensuring that meeting locations are accessible for individuals of all abilities
- E. Checklists for ensuring that meetings will meet the language needs of LEP individuals

Products of Task 4

Finalized Public Participation Plan, Guidelines, and Meeting Toolkit

Task 5 Respond to FHWA Compliance Review and Revise Document

MassDOT has received comments from FHWA on the Title VI/Nondiscrimination Program submitted in September 2011. CTPS will assist MassDOT in integrating the responses to these comments into the draft Title VI/Nondiscrimination Program and producing a professionally designed and formatted final document.

Product of Task 5

Final MassDOT 2011 Title VI/Nondiscrimination Report for FHWA

Task 6 Complete Year One FHWA Title VI Program Development Tasks

The following tasks were part of Tasks 6 and 7 of the original CTPS work program for the MassDOT Title VI Program. These activities will continue under Task 6 of this work program amendment.

- Participate in Title VI Working Group to help identify potential Title VI issues; formulate and prioritize strategies to address areas of need; and identify readily accessible data that can be relevant to Title VI monitoring, as well as additional data collection needs. CTPS will continue to collaborate with MassDOT and the working group through regularly scheduled meetings (at least monthly) to share ideas and find commonalities regarding workable Title VI compliance and monitoring strategies and programs.
- Establish procedures to collect data in order to monitor program, service, and activity impacts for Planning and Right-of-Way.
- Assist in data collection and analysis efforts to demonstrate Title VI compliance within Planning and Right-of-Way.

Products of Task 6

- Initial monitoring program for Planning and Right-of-Way
- Analytical framework and initial analyses for demonstrating Title VI compliance in Planning and Right-of-Way

Task 7 Ongoing Technical Assistance (FTA and FHWA Programs)

CTPS will support MassDOT in additional, ongoing efforts required to comply with both the FTA and FHWA Title VI requirements on an as-needed basis. This will include tasks such as:

- Participating in ADA Public Outreach Process.
- Creating procedures/forms for documenting processes
- Assisting with LEP analyses
- Defining specific public outreach processes
- Identifying population characteristics of project impact areas
- Establishing procedures and developing databases to collect data in order to monitor program, service, and activity impacts in additional functional areas
- Supporting production of outreach materials

ESTIMATED SCHEDULE

It is estimated that this project will be completed twelve months after the notice to proceed is received. The proposed schedule, by task, is shown in Exhibit 1.

ESTIMATED COST

The total cost of this project is estimated to be \$102,062. This includes the cost of 39.9 person-weeks of staff time, overhead at the rate of 94.57 percent and travel. A detailed breakdown of estimated costs is presented in Exhibit 2.

Exhibit 1

ESTIMATED SCHEDULE

Work Program Amendment for: MassDOT Title VI Program

Task	Month												
	1	2	3	4	5	6	7	8	9	10	11	12	
1. Develop Draft Public Participation Plan	A												
2. Complete Language Access Plan	B												
3. Complete LEP Analyses				C									
4. Assist with FHWA Public Participation Plan												D	
5. Respond to FHWA Compliance Review	E												
6. Complete Year One FHWA Tasks													
7. Provide Ongoing Technical Assistance													

Products/Milestones

A: Draft Public Participation Plan

B: Language Access Plan

C: Technical memorandum

D: Public Participation Plan

E: Title VI/Nondiscrimination Report

Exhibit 2

ESTIMATED COST

Work Program Amendment for: MassDOT Title VI Program

Direct Salary and Overhead	\$101,862
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Task	Person-Weeks				Direct Salary	Overhead (@ 94.57%)	Total Cost
	M-1	P-5	P-4	Total			
1. Develop Draft Public Participation Plan	0.5	0.0	1.2	1.7	\$2,296	\$2,171	\$4,467
2. Complete Language Access Plan	0.6	0.0	0.5	1.1	\$1,603	\$1,516	\$3,119
3. Complete LEP Analyses	0.6	1.0	0.5	2.1	\$3,237	\$3,061	\$6,299
4. Assist with FHWA Public Participation Plan	2.0	0.0	11.0	13.0	\$16,782	\$15,871	\$32,654
5. Respond to FHWA Compliance Review	0.5	0.0	2.0	2.5	\$3,276	\$3,099	\$6,375
6. Complete Year One FHWA Tasks	1.0	0.0	8.5	9.5	\$12,068	\$11,413	\$23,480
7. Provide Ongoing Technical Assistance	1.0	1.0	8.0	10.0	\$13,089	\$12,378	\$25,468
Total	6.2	2.0	31.7	39.9	\$52,352	\$49,510	\$101,862

Other Direct Costs	\$200
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Travel \$200

TOTAL COST	\$102,062
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Funding

MassDOT Administrative Services Contract #68581