



Environmental Handbook

Community Impacts, Environmental Justice, Limited English Proficiency and Title VI Compliance

This handbook provides a regulatory background and outlines the process steps necessary to identify and address the community impacts of transportation projects, including Environmental Justice, Limited English Proficiency and Title VI.

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1.0 Introduction

This handbook provides a regulatory background and outlines the process steps necessary to identify and address the community impacts of transportation projects. The study of potential effects on communities is an important part of the project development process and provides a mechanism to ensure compliance with related federal regulations, policies, technical advisories, Executive Orders (EOs), and, most importantly, Title VI of the Civil Rights Act of 1964. The Federal Highway Administration (FHWA), the Council on Environmental Quality (CEQ), and the Environmental Protection Agency (EPA) all have issued guidance for addressing environmental justice (EJ). While all of these sources are referenced in this handbook, the FHWA guidance takes precedence. Ultimate decision-making responsibility and determinations of compliance with Title VI and EO 12898 are the responsibility of the U.S. Department of Transportation (USDOT) agency with jurisdiction over the project, which is most commonly FHWA for Texas Department of Transportation (TxDOT) projects.

In order to conduct a thorough community impacts assessment (CIA), it is important to note the difference between the Title VI regulation and the FHWA Title VI Program. The Title VI regulation specifically mentions race, color, and national origin as protected classes; however, the FHWA Title VI program also requires the consideration of age, gender, and disability. Therefore, conducting a thorough CIA addresses any concentrations of the elderly, children, persons with disabilities, or minority and low-income population groups (i.e., head of household). It is very important to note that EJ assessments are subsets of a properly conducted CIA.

1.1 TxDOT Policy

It is TxDOT policy to conduct a thorough and complete CIA and address the community impacts of transportation projects. The CIA is addressed in accordance with FHWA, CEQ, and EPA policies, but, in the event of a conflict, FHWA policy is given the highest priority.

1.2 Applicable Project Types

All transportation projects conducted by recipients of federal funds are required to study community impacts for compliance with Title VI, including addressing EJ. As TxDOT is a recipient of federal funding from FHWA, all TxDOT projects must address these topics and follow FHWA procedures; this includes federally funded projects and projects funded solely by the state, regardless of the approval authority.

1.3 Critical Sequencing

Identify any potentially significant community impacts, EJ, and Title VI concerns early in the project development process to allow time for planning and attempts to avoid these impacts, if possible. Thorough CIAs incorporate public participation throughout the process.

Addressing community impacts also may require the consideration of mitigation, which can affect the project timeline. Refer to the [Public Involvement Handbook](#), which is available online in the [TxDOT Public Involvement Toolkit](#), for guidance on conducting and planning public participation.

1.4 Helpful Suggestions

A comprehensive CIA incorporates information from other parts of the environmental analysis for the project, including traffic noise impacts, air quality impacts, and indirect and cumulative impacts, among others. The CIA also includes cross-references to this data, as appropriate.

1.5 Additional Resources

- 1996 FHWA [Community Impact Assessment: A Quick Reference for Transportation](#)
- FHWA Website: [Community Impact Assessment](#), under the Programs Tab > Planning Environment and Realty > Environment Tab > Community Impact Assessment Button on Right
- 2007 FHWA [Desk Reference: Title VI Nondiscrimination in the Federal-Aid Highway Program](#)
- EPA Website: [Civil Rights: Title VI and Environmental Justice at EPA](#)
- 2006 American Association of State Highway and Transportation Officials (AASHTO) Practitioner's Handbook: [Utilizing Community Advisory Committees for NEPA Studies](#)
- 2011 FHWA Memorandum: [Guidance on Environmental Justice and NEPA](#)
- 2002 USDOT [Transportation and Environmental Justice Effective Practices](#)
- 1997 CEQ [Environmental Justice: Guidance Under the National Environmental Policy Act](#)
- FHWA Website: [Environmental Justice](#), including case studies
- FHWA Website: [Environmental Justice Emerging Trends and Best Practices Guidebook](#)
- FHWA Website: [Americans with Disabilities Act \(ADA\)](#)

2.0 Regulatory Overview

The following section outlines the regulations that drive TxDOT policy and procedures related to CIAs, which are designed to ensure compliance with Title VI of the Civil Rights Act of 1964, EO on EJ policy, EO on limited English proficiency (LEP) policy, the National Environmental Policy Act (NEPA), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act). TxDOT released tools designed to help practitioners comply with these regulations and TxDOT policy; gathered related tools from other agency tools, including those listed as additional resources; and made these tools available online in the [TxDOT CIA Toolkit](#).

2.1 National Environmental Policy Act (NEPA)

NEPA, passed in 1969, and subsequent amendments are codified at [40 CFR 1508](#). NEPA requires federal agencies to consider effects including “ecological...aesthetic, historic, cultural, economic, social, or health...” (40 CFR 1508.8). NEPA also established CEQ to oversee federal actions conducted under NEPA.

The Code of Federal Regulations (CFR) provides additional detail for compliance with laws in the U.S. Code (USC), and the regulations promulgating the CEQ rules to implement NEPA are outlined in [40 CFR 1500 to 1508](#). Impacts to communities are one example of the types of impacts studied to determine a project's potential effects on the “quality of the human environment.” CEQ defines significantly, as it is used in NEPA and this handbook, in [40 CFR 1508.27](#).

2.2 Title VI of the Civil Rights Act

Title VI of the Civil Rights Act is codified at [42 USC 2000d\(1-7\)](#). This law 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.” This substantive law requires any recipient of federal funding, which

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includes TxDOT, to ensure non-discrimination for all persons under Title VI and states that agency actions are subject to judicial review of compliance with Title VI.

2.3 Environmental Justice (EJ)

Title VI and EJ policies are related but have separate requirements for assessment and compliance. The relationship is succinctly explained in the following excerpt from Section 7(a) of the [USDOT Updated Environmental Justice Order 5610.2\(a\)](#). Refer to Section 2.3.4, for additional details about Order 5610.2(a).

“While Title VI is a key tool for agencies to use to achieve environmental justice goals, it is important to recognize that Title VI imposes statutory and regulatory requirements that are broader in scope than environmental justice. There may be some overlap between environmental justice and Title VI assessments; however, engaging in environmental justice assessment under Federal transportation planning and NEPA provisions will not necessarily satisfy Title VI requirements. Similarly, a Title VI assessment would not necessarily satisfy environmental justice requirements, since Title VI does not include low-income populations.”

2.3.1 Executive Order 12898 Federal Actions to Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations

[EO 12898](#), signed by President Clinton in 1994, directs each federal agency to “make achieving EJ part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” The order instructs each federal agency to develop a strategy for addressing EJ under the provisions of the EO. EO 12898 emphasizes the principles of Title VI and extends consideration to low-income populations, although without the statutory protections. Effective CIAs will include a multidisciplinary study of project impacts that could affect communities, including EJ populations and populations protected under Title VI. The methods for the CIA are described in detail in the [TxDOT CIA Toolkit](#).

2.3.2 CEQ EJ Guidance

CEQ, which oversees the federal agency implementation of NEPA, responded to EO 12898 by issuing [Environmental Justice Guidance under the National Environmental Policy Act](#), published in 1997. This guidance is particularly relevant to TxDOT policies concerning EJ because TxDOT uses the definitions and methodology for identifying minority populations, as outlined in this guidance. The CEQ methodology provides quantitative techniques to identify minority populations, which were defined by FHWA Order 6640.23 simply, as readily identifiable groups of minority persons. These techniques are integrated with those prescribed by the 2011 FHWA guidance and are described in further detail in the TxDOT CIA Toolkit.

2.3.3 USDOT EJ Strategy

In 1995, following the directive of EO 12898, USDOT developed and issued an EJ Strategy. The focus of the 1995 EJ Strategy was the development of an USDOT internal order for implementing EJ policies, which was released as Order 5610.2(a) and is explained in the following section. In 2012, USDOT released an updated strategy, available on the [FHWA Department of Transportation Environmental Justice Strategy Webpage](#), and reaffirmed the following guiding EJ principles, in Section I(C).

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations

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- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations

2.3.4 USDOT Order 5610.2(a): Actions to Address EJ in Minority Populations and Low-Income Populations

As a product of the 1995 USDOT EJ Strategy, Department of Transportation (DOT) Order 5610.2(a), Actions to Address Environmental Justice in Minority Populations and Low-Income Populations was issued in 1997. This order was updated in 2012 and released as Final DOT Environmental Justice Order ([Order 5610.2\(a\)](#)). The updated order instructs all USDOT Operating Administrations (OAs), which includes FHWA, to determine whether programs, policies, or activities they are responsible for will have an adverse human health or environmental effect on minority and low-income populations and whether that adverse effect will be disproportionately high. The order also requires each OA to ensure actions that will have a disproportionately high and adverse effect on minority or low-income populations only will “be carried out if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effect are not practicable.”

An appendix to the order provides definitions for key terms like minority, low-income, and disproportionately high and adverse effects. The 2012 update to the order reaffirmed the USDOT commitment to EJ and revised the categories of racial and ethnic groups in the definition of minority individuals.

2.3.5 FHWA Order 6640.23: Actions to Address EJ in Minority Populations and Low-Income Populations

FHWA issued [Order 6640.23](#), Actions to Address Environmental Justice in Minority Populations and Low-Income Populations in 1998, shortly following the initial issuance of DOT Order 5610.2(a). Also in 2012, FHWA updated [Order 6640.23A](#), like the DOT Order. The order closely mirrors the content of DOT Order 5610.2(a), but it was adapted slightly to describe FHWA-specific policies for complying with the EO. The FHWA order commits project sponsors for FHWA projects to identify and avoid discrimination and disproportionately high and adverse effects on minority populations and low-income populations with the following actions.

- Identifying and assessing environmental, public health, and interrelated social and economic effects of FHWA programs, policies, and activities
- Proposing measures to avoid, minimize, and/or mitigate disproportionately high and adverse environmental or public health effects and interrelated social and economic effects
- Providing, if permitted by law and consistent with EO 12898, offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by FHWA programs, policies, and activities
- Considering alternatives to proposed programs, policies, and activities if such alternatives result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, are permitted by law, and are consistent with EO 12898
- Providing public involvement opportunities and considering the results thereof, including providing meaningful access to public information concerning the human health or environmental impacts and soliciting input from affected minority populations and low-income

populations during the consideration, planning, and development of alternatives and decisions

The order states that FHWA activities with disproportionately high and adverse effects on minority populations and or low-income populations will be carried out only if further mitigation measures or alternatives to avoid or reduce the disproportionately high and adverse effects are not practicable. Finally, the FHWA order provides definitions of important EJ terms, which are consistent with those defined in USDOT Order 5610.2(a). These definitions, as adapted for use by TxDOT, are provided in the Glossary (Section 15.0) of this handbook.

2.3.6 FHWA Technical Advisory 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents

FHWA issued Technical Advisory (TA) 6640.8A, Guidance for Preparing and Processing Environmental Documents in 1982, which focused mostly on documentation for Environmental Impact Statement (EIS) projects and provided limited guidance for other types of environmental documentation. In 1987, the TA was updated to expand that limited guidance for other environmental documentation, and the title changed to Guidance for Preparing and Processing Environmental and Section 4(f) Documents. This TA provides guidance for the “format, content, and processing of the various environmental studies and documents” prepared for FHWA projects pursuant to NEPA.

The Social Impacts Section ([V.G.3.e](#)) of the TA is relevant to assessing impacts to EJ populations, as it calls for documentation to include identification of the social groups, including minority populations, specially benefitted or harmed by the proposed project and an assessment of whether any social group is disproportionately impacted. While this guidance is intended for EISs, this level of analysis also may be appropriate for environmental assessments (EAs) with potentially adverse impacts to EJ populations.

2.3.7 FHWA Memorandum: Guidance on Addressing EJ and NEPA

The FHWA [Guidance on EJ and NEPA Memorandum](#), issued in 2011, released guidance intended to supplement TA 6640.8A and the existing guidance on compliance with EJ principles. The document provides a step-by-step process for identifying EJ populations and identifying and addressing potentially disproportionately high and adverse effects. This methodology has been adapted for TxDOT projects and is provided in the [TxDOT CIA Toolkit](#).

Additionally, this guidance outlines the FHWA policy regarding projects with a disproportionately high and adverse impact to populations protected by Title VI. A proposed action will not be approved unless FHWA determines there is a substantial need for the project based on the overall public interest and alternatives that would have less adverse effects on protected populations have either: adverse social, economic, environmental, or human health impacts that are more severe or would involve increased costs of an extraordinary magnitude.

2.4 Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act)

In 1971, the Uniform Act was signed into law and is codified at [42 USC 61](#). The purpose of the Uniform Act is to establish policies that provide protections and assistance for people whose property is acquired or who are displaced for a federally funded project. Additional detail for compliance with laws in the USC and the regulations promulgating the rules to implement the Uniform Act are outlined in [49 CFR 24](#). The purpose of the regulations is, in part, to ensure that owners of real property proposed for acquisition for federal and federally-assisted projects are treated fairly, consistently, and

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equitably so that such displaced persons will not suffer disproportionate injuries caused by projects designed for the benefit of the public as a whole.

Generally, rights afforded to displaced persons considered eligible include receipt of the following: a notice as soon as it is feasible, an appraisal of the property, a written offer not less than the appraised fair market value, an opportunity to consider the offer and partake in negotiations, and payment for moving expenses. The regulations at [49 CFR 24](#) also provide that no person displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling has been made available to the person. According to the definition in the regulations, a comparable replacement dwelling must be decent, safe, and sanitary, among other requirements. Finally, the regulations require that agencies' relocation assistance satisfy the requirements of Title VI.

2.5 Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP)

[EO 13166](#), Improving Access to Services for Persons with Limited English Proficiency, was signed by President Clinton in 2000 and directs each federal agency to "examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services." Identifying any LEP persons and making accommodations for communication in languages other than English ensures that agencies do not violate the Title VI prohibition against national origin discrimination.

2.5.1 U.S. Department of Justice LEP Guidance

In January 2001, the U.S. Department of Justice (DOJ) released the [Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited Proficient Persons](#) to clarify recipients' obligations to take reasonable steps to ensure access by LEP persons. This guidance defined a LEP person as one who has a limited ability to read, write, speak, or understand English. The purpose of this guidance is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing laws. Additionally, the guidance describes the four factor assessment that can be used to ensure meaningful access for LEP persons.

2.5.2 USDOT LEP Guidance

This [guidance](#) is modeled after the DOJ guidance, specifically describing USDOT recipients' responsibility to ensure meaningful access for LEP persons to their programs and activities. The guidance reiterates the four factor assessment outlined by DOJ.

2.6 Americans with Disabilities Act (ADA)/Section 504 of the Rehabilitation Act of 1973

The Americans with Disabilities Act (ADA) [42 USC 126](#) signed in 1990, prohibits discrimination and guarantees that people with disabilities have opportunities equal to others for participating in mainstream American life. The primary focus of the FHWA ADA program is to ensure that pedestrians with disabilities have the opportunity to use the transportation system in an accessible and safe manner. As part of FHWA's regulatory responsibility under Title II of the ADA and Section 504 of the Rehabilitation Act of 1973, FHWA ensures the following.

- Recipients of federal aid and state and local entities responsible for roadways and pedestrian facilities do not discriminate on the basis of disability in any highway transportation program, activity, service or benefit they provide to the general public

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- People with disabilities have equitable opportunities to use the public rights-of-way system.

2.7 Paths to Compliance

To develop a CIA, the proposed project sponsor must examine the proposed project for each of the three individual community impacts issues. The three issues to address in a CIA are displacements; community cohesion; and access and travel. Most projects do not impact all of these issues to the same magnitude; therefore, it is possible to have a different level of analysis for each of the three issues. The levels are ordered from the most to least adverse impact to communities and must be determined for each of the three community impact issues.

- **High** – The proposed project has potentially significant impacts to communities, or the proposed project is controversial. A full CIA is required.
- **Medium** – The proposed project has potential impacts that are neither negligible nor significant.
- **Low** – The proposed project has little or no potential impact to communities.

3.0 Procedural Requirements

The procedural requirements outlined below were developed by TxDOT to help practitioners conduct a CIA and identify any EJ or Title VI concerns related to the project. However, not every step will be required for every project.

Step One: CIA Threshold – Determine if it is necessary to complete a CIA or risk assessment. If a project is classified as an EIS or EA then proceed to Step Two. If the project is classified as a listed categorical exclusion (CE), refer to the CE threshold table in [Scoping Procedure for Categorically Excluded TxDOT Projects](#) in the TxDOT NEPA and Project Development Toolkit and proceed to Step Two if necessary.

Step Two: Initial Data Collection – Gather data on location of homes, businesses, and community facilities such as hospitals, schools, churches, grocery stores in relation to the project limits and the presence of non-automobile transportation modes like walking, biking, and transit, and general community character to describe the general study area. This data can be gathered using census data, NEPAassist, aerial photos, desktop internet searches, etc. Proceed to Step Three.

Step Three: Risk Assessment – Complete the community impacts risk assessment using the data gathered in Step Two and necessary project details. Determine whether a high, medium, or low level of assessment is appropriate for each of the three community impact topics: displacement, community cohesion, and access and travel. Refer to the [TxDOT CIA Toolkit](#), for guidance on completing the risk assessment. If the risk assessment concludes that an analysis is required, proceed to Step Four. If based on the results of the risk assessment it is determined that there is a high level of risk associated with the project, consult with the TxDOT Environmental Affairs Division (ENV) to determine if the documentation standards are appropriate or if a traditional technical report is warranted.

Step Four: Develop Community Profile – Delineate a specific geographic project study area including communities expected to be affected by the project. This study area should not necessarily be restricted to areas that are physically impacted by project activities.

The community profile documentation standard, available in the [TxDOT CIA Toolkit](#), outlines the information required to complete a comprehensive community profile. Some of the necessary information may have been gathered in Step Two; however, it is likely that additional or more detailed data will be

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required. The profile also will indicate if an EJ and/or LEP analysis is required. After the EJ and/or LEP analysis profile is complete, proceed to Step Five.

Step Five: Public Participation – This step is not required for all projects; refer to the [Public Involvement Toolkit](#) for information on when public participation should be conducted. If the project requires public involvement and EJ or LEP populations were identified in Steps Two and Four, the project sponsor must make a concerted effort to ensure meaningful opportunities for input from these groups. Public participation may be useful in refining the boundaries and any sub-geographies of the study area, like individual communities or neighborhoods. The TxDOT Office of Public Involvement can provide guidance on effectively assisting LEP persons. After public input has been gathered, proceed to Step Six.

Step Six: Verify Information – Determine if any information received during public participation changes any assumptions established in Steps Three and Four. After the information has been verified and updated as necessary, proceed to Step Seven.

Step Seven: Assess Impacts – Based on the risk assessment, community profile, and information gathered during public participation, undertake a more detailed CIA to determine the potential project effects on the community from displacements, impacts to community cohesion, and changes in access and travel. Determine whether any impacts would be adverse and whether there would be any associated beneficial impacts. Analysis documentation standards for each of the three impact types are available in the TxDOT CIA Toolkit. The documentation standards provide a framework for the information required to complete a comprehensive CIA analysis. After the CIA is complete, proceed to Step Eight.

Step Eight: Assess Distribution of Impacts and Prepare an EJ Conclusion – If the community profile (Step Four) indicates the need for an EJ or LEP analysis, complete this step. If the community profile indicates neither an EJ nor LEP analysis is necessary, proceed to Step Nine.

For projects with a tolled alternative, consider the impacts of tolling on low-income populations. In general, the economic impact of tolling is higher for low-income users because the cost of paying tolls would represent a higher percentage of household income than for non-low-income users; the impact to these populations must be assessed carefully. The project-level analysis should be integrated as appropriate with regional toll analyses in urban areas.

LEP considerations are primarily applicable during the public participation process. The LEP portion of the EJ and LEP documentation standards ensure that the public participation addressed LEP issues and is not intended to create a redundant or secondary process. If the existing public participation documentation demonstrates consideration of and accommodations for LEP persons, reference the public participation section of the Environmental Compliance Oversight System (ECOS) in the documentation standard. Additional work is only necessary, when the opportunity to participate meaningfully in the process was not provided to LEP persons.

Compare the project impacts on minorities and low-income populations to the impacts on the overall population within the project area. The EJ and LEP Impact Documentation Standard, available in the [TxDOT CIA Toolkit](#), provides a framework for completing a comprehensive EJ analysis. Make a conclusion statement explaining whether the impacts will be predominantly borne by low-income and/or minority populations, and proceed to Step Nine.

Step Nine: Consider Mitigation – Develop any necessary mitigation, and ensure the inclusion of meaningful opportunities for public participation while determining the mitigation. Mitigation for displacement impacts is always required, as outlined by the Uniform Act; however some impact categories, such as community cohesion and access and travel, do not have clearly defined mitigation requirements. TxDOT district and ENV staff must discuss the anticipated impacts and feasibility of mitigation for those impacts. After establishing a mitigation plan, proceed to Step Ten.

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Step Ten: Reassess Distribution of Impacts (EJ Conclusion) – Assess whether the project effects are disproportionately high and adverse, even after the consideration of mitigation and offsetting benefits. If there is still a disproportionately high and adverse effect on an EJ populations after taking benefits and mitigation into account, assess whether there is a further practicable mitigation measure or practicable alternative that would avoid or reduce the disproportionately high and adverse effect(s). Update the conclusion statement (Step Eight) by including an explanation of whether the impacts predominantly borne by EJ populations still will be disproportionately high and adverse after the consideration and inclusion of mitigation. Proceed to Step Eleven.

Step Eleven: Report Results – For projects with minor impacts including most CEs, the completed documentation standards are sufficient documentation. For most EAs, the completed documentation standards sufficiently record all of the detailed technical information. Then the conclusion statement from the end of each documentation standard and any other necessary background information is copied into the EA. For projects with more substantial impacts including EISs and some EAs, as determined in Step Three, the documentation standards may not be sufficient and a technical report may be necessary. After the technical report is complete, the conclusion and any necessary background information should be included in the NEPA document.

If there are disproportionately high and adverse effect(s) to a group protected under the EJ EO, document the following.

- a substantial need for the project based on the overall public interest
- Any information necessary to support a finding that the alternatives with less adverse effects on protected populations have either more severe adverse social, economic, environmental, or human health impacts or involve increased costs of an extraordinary magnitude

4.0 Project Scoping and Planning

Use the CE threshold and Procedural Requirements listed in Section 3.0 of this handbook to scope and plan the CIA for a project. Even if not explicitly required, the risk assessment can be used to scope a project or to verify that no permanent impacts are anticipated. If the risk assessment is completed as a requirement or voluntarily, the recommended forms will be completed. If a protected population, community facility, or other sensitive resource is discovered in the project area during the initial data gathering or when compiling the community profile, it may be possible to avoid the resource and potential impact.

At this time, also undertake desktop identification of the locations of protected Title VI and low-income populations. Compare the locations of the proposed project alternative(s) and any protected populations in the project area. Early communication with project engineers may allow for modifications that reduce or avoid impacts, such as displacements and particularly disruptive changes in travel patterns.

5.0 Assessing Study Area Community Characteristics

According to [23 CFR 771.105\(f\)](#), no person – because of handicap, age, race, color, sex, or national origin – will be excluded from participating in, be denied the benefits of, or be subject to discrimination under any program or procedural activity required by or developed pursuant to this regulation. Information on the demographics of a project area can be gathered using census data, aerial photography, field observations, and interviews with local residents. When possible, conduct a field visit or interview. Census information and aerial photography are important data sources but can be outdated. Additionally, for

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some rural areas, the areas captured in the census data are so large that the data may not be representative of the populations in the more specific project area being examined.

Refer to the [TxDOT CIA Toolkit](#) for detailed instructions on identifying populations protected by Title VI and low-income populations using census data and on supplementing that data with field verification, when necessary. Due to the demographic characteristics of Texas, it is rare to encounter a project area with a minority population of zero, and many geographic locations have a minority population of over 50 percent, which is sometimes referred to as a minority-majority. If there are no populations, meeting the definition of EJ populations, present in the study area no further EJ assessment is necessary.

According to the FHWA [Community Impact Assessment: A Quick Reference for Transportation](#), an assessment of community characteristics includes the identification of economic and social history characteristics and the identification of community resources. Such resources include gathering places, facilities providing public services and businesses offering products or services important to the community such as an auto parts store, hardware store, and job training services. The FHWA quick reference provides excellent information on defining a study area, developing a community profile, analyzing impacts, etc.

6.0 Assessing Community Impacts

A CIA of a project's effect on the community must include a comprehensive assessment of all types of impacts and cross-references to other elements of the environmental analysis. The Documentation Standards for Travel Pattern and Access, Community Cohesion, and Displacements provide a framework for the necessary analysis. The methodology used in development of the documentation standards was based on established practices listed and available in the [TxDOT CIA Toolkit](#). One of the primary references is the FHWA [quick reference](#), which suggests assessing impacts in the following categories.

- Social and Psychological Aspects
- Physical Aspects
- Visual Environment
- Land Use
- Economic Conditions
- Mobility and Access
- Provision of Public Services
- Safety
- Displacements

Examine the following types of impacts in detail: diminished access to facilities and/or services; disruption of community cohesion; disruption of people, businesses, and farms; changes in tax base and property values; traffic congestion; traffic noise; relocation of residences and businesses; and diminished quality of the water, air, or natural environment used by residents. TxDOT incorporated all of these considerations into its process. Detailed instructions for conducting this multidisciplinary CIA are provided in the [TxDOT CIA Toolkit](#).

7.0 Assessing Impacts to EJ Populations

While identifying EJ populations and potential adverse effects occurs early in project planning, an assessment of impacts to EJ populations can be undertaken only after fully assessing community impacts and other environmental impacts of the project. According to an FHWA [memorandum](#), determinations of the degree of impact to EJ populations must assess a variety of topics, including: air quality; traffic noise; water pollution; hazardous waste; aesthetic values; community cohesion; economic vitality; employment effects; displacement of persons, businesses, or farms; accessibility; traffic congestion; relocation impacts; safety; and construction and/or temporary impacts. Compare impacts on EJ populations to impacts on the overall population within the project area, and consider any offsetting benefits of the project and mitigation. Refer to the [TxDOT CIA Toolkit](#), for detailed guidance on assessing impacts.

8.0 Addressing EO 13166, Improving Access to Services for Persons with Limited English Proficiency

For TxDOT projects, compliance with [EO 13166](#) relates primarily to ensuring LEP persons have access to information about the proposed project and to meaningful opportunities for providing input on the project. Several data sources are available to assess the linguistic characteristics of project area populations, including the U.S. Census Bureau American Community Survey. Observation of signs in the project area and input from community groups or local agencies also may provide information about languages spoken in the project area. Refer to the [TxDOT CIA Toolkit](#), for detailed instructions for identifying LEP populations.

Once any LEP populations and their primary language(s) are identified, the project team determines the type of language assistance services appropriate for the project. Potential accommodations for LEP populations include, but are not limited to, making a translator available at public events related to the project, publishing notices for events in languages other than English, and/or preparing technical reports or other project documentation in languages other than English. Contact the [TxDOT Office of Public Involvement](#), for more information on accommodations for LEP populations.

9.0 Displacements and the Uniform Act

The regulations regarding the Uniform Act, codified at [49 CFR 24](#), provide guidance on the type of information to gather for relocation planning. While any necessary right of way acquisitions have not occurred and there may be uncertainty about which properties will be acquired at this point in the process, enough general information for the properties to be acquired will be available to plan accordingly. This assessment ensures the consideration of the full impact of any residential and/or commercial displacements. Additionally, this information assists in planning for any mitigation or assistance. For example, if it is determined there are limited comparable replacement dwellings in the area, the project sponsor may need to provide payments in excess of the standard payment limits to ensure decent, safe, and sanitary dwellings are made available to all eligible displacees.

The regulations at [49 CFR 24](#) suggest conducting a relocation study, which can include making estimates of the following impacts. The risk assessment helps determine which of these issues to investigate and the level of investigation.

- The number and type of properties to be acquired
- The number of households to be displaced
- The number of comparable replacement dwellings in the area

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- The number, type, and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected
- The number of businesses in the area similar to those that would be displaced

Additionally, project planners must consider whether the project has any anticipated relocation problems or a need for special advisory services. Refer to the [TxDOT CIA Toolkit](#), for detailed instructions on assessing the impacts of displacements.

10.0 Compliance with Title VI

Under the NEPA assignment program, FHWA retains responsibility for the Title VI program. While the project sponsor can prepare the assessment for FHWA projects, FHWA is responsible for ensuring projects are in compliance with Title VI programs and policies. Details on how FHWA, with DOJ assistance, administers its Title VI program can be found in the [TxDOT CIA Toolkit](#). Title VI is generally associated with race; however, six different classes are protected: handicap, age, race, color, sex, and national origin (23 CFR 771.105(f)). When assessing impacts for Title VI compliance, consider all six classes.

FHWA ensures that this compliance is occurring at TxDOT on a program level through an annual report produced by the TxDOT Office of Civil Rights with input from all TxDOT program areas. Although rare, it is possible to encounter a Title VI issue on a project level. If there is a Title VI issue on a project contact ENV for assistance.

11.0 Public Participation Requirements

Public input is considered in every aspect of the CIA. While many forms of data are available, information derived directly from the public impacted by the project is always the most current and accurate information available. Best practices, as outlined in an FHWA [memorandum](#), include practices to involve the public in the “decision-making process related to the alternative selection, impact assessment, and mitigation.” For projects being processed with an EIS or projects with potentially significant community impacts, a Community Advisory Committee (CAC) may be used to formalize community participation in the project development and process. Refer to the AASHTO Practitioner’s Handbook: [Utilizing Community Advisory Committee for NEPA Studies](#), for more information.

When EJ populations have the potential to be adversely impacted, the project sponsor must undertake proactive efforts to ensure meaningful opportunities for public participation, including activities to increase low-income and minority participation. Additionally, public participation efforts also must reflect an understanding of language trends in the project area and accommodate any LEP populations, as explained above. Contact the TxDOT Office of Public Involvement for assistance with accommodating LEP populations.

12.0 Agency Coordination

While the ultimate decision-making responsibility lies with TxDOT (with the exception of Title VI issues) for most community impacts issues, some coordination with other agencies may be appropriate. Although there are no permits issued by regulatory agencies related to community impacts, local groups and any cooperating agencies must be consulted for potentially valuable information. It is best to initiate this coordination at the outset of the project and continue to involve any interested agencies throughout the environmental and project development process.

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Projects with a disproportionately high and adverse effect on minority populations may also have adverse effects under Title VI, but not projects only impacting low-income populations only, as Title VI does not protect people based on poverty. Under the NEPA Assignment program, TxDOT has the authority to make EJ conclusions but has not taken responsibility for Title VI. If the project has disproportionately high and adverse EJ impacts or the project team anticipates potential Title VI issues for any other reason, then TxDOT coordinates the project with FHWA.

13.0 Documentation

The documentation of all community impacts consultation, coordination, determinations, and approvals is intended to establish a record of compliance with the regulatory process, and these requirements differ depending on the required level(s) of assessment. Documentation also provides evidence that the substantive requirements were met.

The risk assessment will inform the analyst which of the documentation standards are necessary. There are five documentation standards that may need to be completed: Community Profile, Displacements, Travel Pattern and Access, Community Cohesion, Environmental Justice and Limited English Proficiency. All of the documentation standards are available in the [TxDOT CIA Toolkit](#) and should be uploaded into the Environmental Justice and Community Impacts section of the Documents Page in ECOS.

14.0 Review and Approval Process

The department delegate assesses compliance with EO 12898 and all the other regulations and orders listed in Section 2.0, except Title VI, during the review of the environmental documentation as part of NEPA approval process. For projects with a disproportionately high and adverse impact on minority populations under EO 12898, coordination with FHWA must occur to address any associated Title VI issues.

15.0 Glossary

Adverse Effects – The totality of significant individual or cumulative human health or environmental impacts. Includes social and economic impacts, which may include, but are not limited to the following:

- bodily impairment, infirmity, illness, or death;
- air, noise, and water pollution and soil contamination;
- destruction or disruption of:
 - human-made or natural resources,
 - aesthetic values,
 - community cohesion or a community's economic vitality, and
 - the availability of public and private facilities and services;
- vibration;
- adverse employment impacts;
- displacement of persons, businesses, farms, or nonprofit organizations;

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- increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and
- denial of, reduction in, or significant delay in the receipt of, benefits of TxDOT programs, policies, or activities.

Comparable Replacement Dwelling – Based on an abbreviation of the definition provided at [49 CFR 24](#), the term comparable replacement dwelling refers to a dwelling that is:

- decent, safe, and sanitary;
- the same in function and utility;
- adequate in size to accommodate the occupants;
- in an area not subject to unreasonable adverse environmental conditions;
- in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities;
- reasonably accessible to the person's place of employment;
- on a site that is typical in size for residential development with normal site improvements, including customary landscaping;
- currently available to the displaced person on the private market; and
- within the financial means of the displaced person.

Decent, Safe, and Sanitary Dwelling – Based on the definition provided at [49 CFR 24](#), this term means that a dwelling meets local housing and occupancy codes. However, any of the following standards not met by the local code shall apply unless waived for good cause by the federal agency funding the project. The dwelling shall:

- be structurally sound, weather tight, and in good repair;
- contain a safe electrical wiring system adequate for lighting and other devices;
- contain a heating system capable of sustaining a healthful temperature of approximately 70 degrees for a displaced person, except in those areas where local climatic conditions do not require such a system;
- be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person; however:
 - the number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing the federal agency with jurisdiction over the project, and
 - the displacing the federal agency with jurisdiction over the project shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, the policies of such agencies;
- contain a separate, well lighted, and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, which are all in good working order and properly connected to appropriate sources of water and to a sewage drainage system, in the case of a housekeeping dwelling, there shall be:

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- a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system and
- adequate space and utility service connections for a stove and refrigerator;
- contain at least one unobstructed egress to safe, open space at ground level; and
- for a displaced person with a disability, be free of any barriers precluding reasonable ingress, egress, or use of the dwelling by such displaced person.

Disproportionately High and Adverse Impact on Minority and Low-Income Populations – This is a type of adverse impact defined by the populations it affects. To qualify as this type of impact, the adverse impacts of a proposed project must be:

- predominately borne by a minority population and/or a low-income population or
- suffered by the minority population and/or low-income population at an appreciably more severe or greater magnitude than the adverse impacts suffered by the nonminority population and/or non-low-income population.

Environmental Justice (EJ) – With respect to the development, implementation, and enforcement of environmental laws, regulations, and policies regarding TxDOT projects, EJ is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income.

Limited English Proficiency (LEP) – This term applies to people who are unable to communicate effectively in English because their primary language is not English and they have not developed fluency in the English language. A person with LEP may have difficulty speaking or reading English.

Low-Income – A person whose median household income is at or below the Department of Health and Human Services poverty guidelines for a family of four for the current year.

Low-Income Population – This term is used to describe any readily identifiable group of low-income persons living in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons, such as migrant workers or Native Americans, similarly affected by a proposed TxDOT project.

Minority (as defined by EO 12898) – A person meeting any of the following criteria is considered a minority.

- Black: a person having origins in any of the black racial groups of Africa
- Hispanic or Latino: a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race
- Asian American: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent
- American Indian and Alaskan Native: a person having origins in any of the original people of North America, South America, and Central America, who maintains cultural identification through tribal affiliation or community recognition
- Native Hawaiian and Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands

Minority Population – Minority populations can include any readily identifiable groups of minority persons living in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons, such as migrant workers or Native Americans, similarly affected by a proposed TxDOT project. TxDOT defines groups of minority persons as groups:

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- with a percentage of minority persons approaching or exceeding 50 percent of a census block population and
- where the project area geographies may have minority populations that are meaningfully greater than an appropriate unit of geographic assessment. The appropriate unit of geographic assessment may be a governing body's jurisdiction, a neighborhood census tract, or other similar unit.

Refer to the [TxDOT CIA Toolkit](#), for further guidance on identifying minority populations.

Significant or Significantly – As used in NEPA, a determination of significance requires considerations of both context and intensity.

- Context – Context is the concept that the significance of an action must be analyzed in several contexts, such as society as a whole (human and national), the affected region, the affected interests, and the locality. Significance varies with the proposed project setting, and both short and long-term impacts are relevant.
- Intensity – Intensity is a concept for measuring the severity of an impact. There are ten factors to determining the intensity of an impact, and these are outlined in [40 CFR 1508.27](#).

Title VI – Title VI of the Civil Rights Act is a substantive law, codified in [42 USC 2000d\(1-7\)](#), and this law requires any recipient of federal funding, which includes TxDOT, to ensure non-discrimination for all persons under Title VI. It states that agency actions are subject to judicial review of compliance with Title VI, which specifically mentions race, color, and national origin as protected classes.

Title VI Program – This FHWA program requires the consideration of age, gender, and disability in addition to race, color, and national origin classes listed in the Title VI of the Civil Rights Act. As a recipient of federal funding, TxDOT must comply with both the Title VI law and FHWA Title VI program requirements. Therefore, conducting a thorough CIA includes addressing any concentrations of the elderly, children, persons with disabilities, or minority and low-income population groups (i.e., head of household), as required by the FHWA program.”

16.0 Abbreviation and Acronyms

AASHTO	American Association of State Highway and Transportation Officials
ADA	Americans with Disabilities Act
CAC	Community Advisory Committee
CE	Categorical Exclusion
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CIA	Community Impacts Assessment
DOJ	U.S. Department of Justice
DOT	Department of Transportation
EA	Environmental Assessment
ECOS	Environmental Compliance Oversight System
EJ	Environmental Justice
EIS	Environmental Impact Statement
ENV	TxDOT Environmental Affairs Division
EO	Executive Order
EPA	Environmental Protection Agency
FHWA	Federal Highway Administration
LEP	Limited English Proficiency
NEPA	National Environmental Policy Act
OA	Operating Administration
TA	Technical Advisory
TxDOT	Texas Department of Transportation
Uniform Act	Uniform Relocation Assistance and Real Property Acquisition Policies Act
USC	U.S. Code
USDOT	U.S. Department of Transportation

Appendix A

The following table shows the revision history for this guidance document.

Revision History	
Effective Date Month, Year	Reason for and Description of Change
April 2014	Version 1 was released.
January 2015	Version 2 has corrected broken hyperlinks and added clarification to several points in the Procedural Requirements section.