

GAMPO

**Georgia Association of MPO's
November 30, 2010**

Civil Rights and Disadvantaged Business Enterprise (DBE)

Presented by Michael G. Cooper, Director Equal Opportunity Office

JFK's Simple Justice

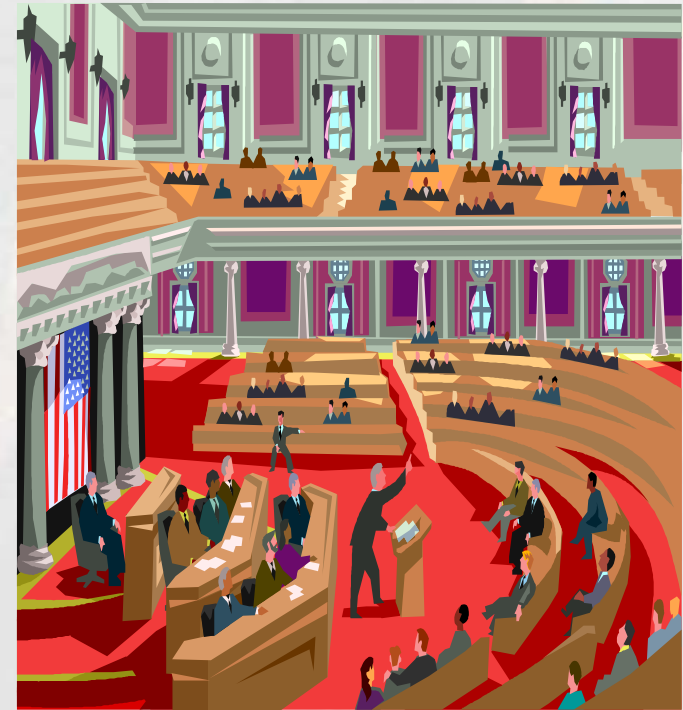
“Simple Justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination”

Title VI of 1964 Civil Rights Act (42 U.S.C. 2000d)

“No person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Civil Rights Restoration Act of 1987

- Clarified the original intent of Congress in Title VI of the Civil Rights Act.
- Restored the broad, institution-wide scope and coverage of the non-discrimination statutes to include **ALL** programs and activities of federal aid recipients, sub-recipients and contractors.



Other Nondiscrimination Authorities Expanded the range and scope of Title VI coverage and applicability

The 1970 Uniform Act (42 USC 4601)

Section 504 of the 1973 Rehabilitation Act (29 USC 790)

The 1973 Federal-aid Highway Act (23 USC 324)

The 1975 Age Discrimination Act (42 USC 6101)

Implementing Regulations (49 CFR 21 & 23 CFR 200)

Executive Order 12898 on Environmental Justice (EJ)

Executive Order 13166 on Limited English Proficiency (LEP)

Discrimination



- That **act** (action or inaction), whether intentional or unintentional, through which a person in the United States solely because of their race, color, national origin, sex, age, disability, etc. is subjected to **disparate/unequal treatment or impact**, in any program or activity receiving Federal financial assistance from FHWA under 23 USC.

The DOT Order on Environmental Justice

- **This order incorporates environmental justice principles into the GDOT's existing programs, policies, and activities.**
- **GDOT's Planning, Programming and Construction activities will include explicit consideration of the effects of the activities on minority and low-income populations.**
- **GDOT will continuously monitor its programs, policies, and activities to ensure that disproportionately high and adverse effects to minority and low-income populations are avoided, minimized, and mitigated.**

The DOT Order on Environmental Justice (cont'd.)

- **The *U.S. DOT Order* applies to all policies, programs, and other activities that are undertaken, funded, or approved by the Federal Highway Administration (FHWA), the Federal Transit Authority (FTA), or other U.S. DOT components:**

Policy Decisions,
System Planning,
Metropolitan and Statewide Planning,
Project Development and Environmental Review under NEPA,
Preliminary Design,
Final Design Engineering,
Right-of-Way,
•Construction,
Operations;
Maintenance



Limited English Proficiency (LEP)



*Let
Everyone
Participate*

www.LEP.gov

Limited English Proficiency (LEP)

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

These individuals may be entitled to language assistance with respect to a particular type or service, benefit, or encounter. Federal laws particularly applicable to language access include Title VI of the Civil Rights Act of 1964.

Limited English Proficiency (LEP)

Limited English Proficiency: Promotes a cooperative understanding of the importance of language access to Federal programs and Federally-assisted programs.

www.lep.gov. LEP.gov

Recipients and sub recipients must take reasonable steps to ensure individuals that do not speak, read, write or understand English as a primary language have access to information on federally assisted programs and services. Failure to allow participation may be a violation under Title VI.

Key to Compliance



- **Ensure that service recipients receive**
 - Equal treatment
 - Equal access
 - Equal rights
 - Equal opportunities

without regards to their race, color, national origin, including Limited English Proficiency (LEP)

Noncompliance Penalties

- **WITHHOLDING** of federal funds to the recipient (GDOT) until the recipients compliance, and or
- **CANCELLATION, TERMINATION** or **SUSPENSION** of federal funds, in whole or in part.

Georgia DOT's DBE Policy

In accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26 GDOT has:

1. established a Disadvantaged Business Enterprise (DBE) Program.
2. signed an assurance that it will comply as a condition of receiving federal financial assistance.

Policy Assurances

- **Ensure nondiscrimination in awards and administration of USDOT-assisted contracts**
- **Create a level playing field on which DBE can compete fairly**
- **Narrowly tailor program in accordance with applicable law**
- **Help remove barriers to DBE participation**
- **Provide flexibility of opportunities for DBEs**
- **Ensure that only firms that fully meet DBE eligibility standards participate**
- **Assist the development of DBEs so that they can compete in the marketplace outside the DBE Program**

Required Contract Provisions

FHWA 1273

- Is included in every federal aid contract and subcontract;
- outlines all of the equal opportunity/equal employment opportunity requirements;
- supersedes the construction manual (The Source).

Monitoring Execution of DBEs' Work,

When monitoring, DBEs' resident engineers Project Manager shall:

- Know whether a project has a DBE goal and the amount of the goal;
- Know the names of any DBE contractors or suppliers who have contracts to work on the project;
- Know what work the DBE has been subcontracted to do;
- **Address discrepancies and/or discrimination early**
- **Submit copies of all correspondence and reports are sent to District EEO Office. Ensure completion and submittal of monthly DBE reports by the prime contractor**
- **Monitor closely payments to DBE's – prompt payment**

Contract Compliance Complaint Process

**Complaints
must be:**

- written,
- signed;
- filed within 180 calendar days of the discriminatory act.

Complaint Process (cont'd.)

Complaints should include:

- **Your name, address, and telephone number**
 - If filing on behalf of another person, include your name, address, telephone number, and your relation to that person (e.g. friend, attorney, parent, etc.)
- **Name and address of agency, institution, or department you believe discriminated against you**
- **How, why, and when you believe you were discriminated against**
- **Names of any persons that the investigating agency could contact for additional information to support or clarify the allegations.**

Reporting Violation or Complaint

To report a violation or complaint, please contact:

**Georgia Department of Transportation
Equal Opportunity Office
One Georgia Center
600 W. Peachtree St., N.W.
7th Floor
Atlanta, GA 30308
(404) 631-1972**

Complaints can also be submitted at the same address and number to :

Michael G. Cooper, Director Equal Opportunity



It's Question Time!