



# **CITY OF ATWATER**

## **TITLE VI PROGRAM PLAN**

**AUGUST 2019**

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City Clerk's Office  
Civil Rights Title VI Federal-Aid Program  
Attn: Lucy Armstrong Contract Compliance  
750 Bellevue Road  
Atwater, California 95301

(209) 357-6317 — Voice  
TDD 711

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## **TITLE VI NONDISCRIMINATION STATEMENT**

The City of Atwater, under Title VI of the Civil Rights Act of 1964 and related statutes, ensures that no person in the City of Atwater, on the grounds of race, color, national origin, sex, disability, creed or age, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity it administers.



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Lori Waterman, City Manager

## **EQUAL EMPLOYMENT OPPORTUNITY NON-DISCRIMINATION POLICY**

It is the policy of the City of Atwater to recruit and retain the best qualified individuals without regard to race, color, creed, national origin, age, gender, sexual orientation, disability, or status as a disabled veteran. The City is committed to a policy of non-discrimination in its employment practices and will actively promote and provide equal opportunity to all persons on matters affecting City employment.

The City of Atwater Equal Employment Commission shall be responsible for monitoring the implementation of this equal opportunity policy concerning employment practices.

The Director of Human Resources shall be responsible for the implementation of the City of Atwater Equal Employment Opportunity Non-Discrimination Policy. However, all department heads are responsible for carrying out this policy within their department. Each department head, manager, and supervisor are required to ensure compliance with the City's Equal Employment Opportunity Non-Discrimination Policy.

## **A. INTRODUCTION**

The City of Atwater is a sub-recipient of financial assistance from federal-aid programs. Sub-recipients of this financial assistance are required to comply with various nondiscrimination laws and regulations, including Title VI of the Civil Rights Act of 1964. Title VI of Civil Rights Act of 1964 forbids discrimination against anyone in the United States because of race, color, or national origin by any agency receiving federal funds. The Federal-Aid Highway Act of 1973 added the requirement that there be no discrimination on the grounds of sex. The Civil Rights Restoration Act of 1987 defines the word "program" to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal financial assistance.

The City commits to ensure that none of its activities or programs treats any part of the community any differently than another. It is expected that every City manager, supervisor, employee, and vendor and contractor sub-recipient of federal-aid funds administered by the City, be aware of and apply the intent of Title VI of the Civil Rights Act of 1964 in performing their assigned duties.

The Federal Highway Administration (FHWA) requires recipients of federal-aid highway funds to prepare and implement a program to clarify roles, responsibilities, and procedures established to ensure compliance with Title VI of the Civil Rights Act of 1964.

The City's Title VI Program Plan focuses on fair and equitable access by the public, as well as functional areas with significant public contact responsibilities and provides the policy direction necessary to ensure compliance with Title VI of the Civil Rights Act of 1964.

## **B. STATUTORY AUTHORITIES**

**Title VI of the 1964 Civil Rights Act** provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (implementation through 23 CFR 200.9 and 49 CFR 21).

**Section 162(a) of the Federal-Aid Highway Act of 1973** (Section 324, Title 23 U.S.C.) added the requirement that there be no discrimination on the grounds of sex.

**Section 504 of the Rehabilitation Act of 1973** provides nondiscrimination under Federal grants and programs.

**The Age Discrimination Act of 1975** (Section 6101-6107, Title 42 U.S.C.) prohibits discrimination in federally assisted programs.

**The Civil Rights Restoration Act of 1987, P.L. 100-209** provides clarification of the original intent of Congress in Title VI of the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. (It restores 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, whether such programs and activities are federally assisted or not).

**Executive Order 12898** (issued February 11, 1994) addresses environmental justice regarding minority and low-income populations. Agencies must develop strategies to address disproportionately high and adverse human health or environmental effects of their programs on minority and low-income populations; promote nondiscrimination in federal programs substantially affecting human health and the environment; and provide minority and low income communities access to public information and an opportunity for public participation in matters relating to human health or the environment.

**Executive Order 13166** (issued August 16, 2000) improves access to services for persons with limited English proficiency. Agencies are directed to evaluate services provided and implement a system that ensures that Limited English Proficiency (LEP) persons can access meaningfully services provided, consistent with, and without unduly burdening the fundamental mission of, the local agency. Agencies are directed to ensure that recipients of federal financial assistance provide meaningful access to programs, services, and information to their LEP applicants and beneficiaries free of charge. Language barriers have the potential of prohibiting LEP persons from:

- Obtaining services and information relating to transportation services, programs, and projects;
- Taking advantage of the transit system, which could affect their jobs and social opportunities;

- Understanding the benefits to which they are entitled when their home or business property is acquired through eminent domain.

## **C. ORGANIZATION, STAFFING, AND RESPONSIBILITIES**

### **Title VI Coordinator**

The City's Title VI Coordinator is responsible for the overall Title VI program implementation and coordination. The City's General Services Department and City Engineer shall provide assistance to the Title VI Coordinator, in the form of guidance and technical assistance on the Title VI matters. The Title VI Coordinator has overall program responsibility for preparing required reports regarding Title VI compliance and initiating monitoring. The Title VI Coordinator is appointed by and reports to the City Manager. The Title VI Coordinator is responsible for:

- Promptly processing and resolving Title VI complaints;
- The collection of statistical data (race, color, national origin, sex, age, and disability) of participants in and beneficiaries of the City's federal-aid programs, activities, and services;
- The identification and elimination of discrimination when found to exist;
- Promptly resolving areas of deficiency;
- Pre-grant and post-grant approval reviews for compliance with Title VI requirements;
- Conducting annual Title VI reviews of the City's federal-aid program areas;
- Ensuring that Title VI requirements are included in policy directives, and that the procedures used have built-in safeguards to prevent discrimination;
- Coordinating the development and implementation of Title VI and related statutes training program;
- Providing an annual report of the City's Title VI accomplishments and upcoming goals, including an annual update to the Title VI Program that reflects organizational, policy, and implementation changes;
- Assisting program personnel to correct Title VI problems or discriminatory practices or policies, and when conducting self-monitoring and review activities;
- Developing Title VI information for public dissemination, where appropriate, in languages other than English.



## **D. FEDERAL-AID TITLE VI IMPLEMENTATION**

### **1. Public Participation/Outreach Activities**

- a. The City will develop and publish a Notice to the Public that as a sub-recipient of federal-aid funds the federal-aid programs are equal opportunity programs and indicating that federal law prohibits discrimination.
- b. The City will disseminate Title VI information and related statutes to the general public and, where appropriate, in languages other than English stating that the Department administers programs subject to the nondiscrimination requirements of Title VI, summarizing those requirements, noting the availability of Title VI information from the City and State and federal agencies, stating persons' rights under the law, and briefly explaining the procedures for filing complaints. The City will develop and publish a Title VI brochure to provide the public with this Title VI information. The brochure will also be translated into languages to ensure compliance with the Department of Justice's Safe Harbor Provision of every 1000 speakers of 5% of the City's population, whichever is less. This brochure will be offered for distribution to the general public and other parties or individuals participating in or otherwise benefiting from Federal-aid programs. The brochure will be made available in mediums other than the written word upon request, and the brochure will be periodically reviewed, and revisions will be made as appropriate. Where feasible, the brochure and other materials relevant to Title VI programs will be displayed prominently in reasonable numbers and places. The City will also include information on Title VI requirements, complaint procedures, and the rights of beneficiaries in handbooks, manuals, pamphlets and other material which are ordinarily distributed to the public to describe the federal-aid programs, and the requirements for participation by recipients and beneficiaries.
- c. Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federal-aid program (e.g., affected by relocation, community meetings, public hearings) needs service or information in a language other than English in order to be effectively informed of or to participate in the program, the City shall take reasonable steps, considering the scope of the program and the size and concentration of such population, to provide information in appropriate languages to such persons. This requirement applies to written material of the type which is ordinarily distributed to the public.
- d. The City web page shall contain the Title VI federal-aid Program and other information and publications regarding Title VI and related statutes. The web page will be accessible to all City employees via the intranet and to the public via the internet.

- e. Site and Facility Location - The City shall not make a selection of a site or location of a facility for participants in and beneficiaries of the City's federal-aid programs if that selection could exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination on the grounds of race, color, or national origin, or could substantially impair the accomplishment of the objectives of nondiscrimination on the aforesaid grounds.
- f. Upon request from persons served by or participating in federal-aid programs administered by the City, the City will provide sign language interpreters and make information available to the public in alternate formats, such as Braille. The following language is included in the City's contract solicitation notices to the public and will be incorporated into all Public Participation/Outreach materials.

Individuals requiring reasonable accessibility accommodations may request written materials in alternate formats, physical accessibility accommodations, sign language interpreters, or other reasonable accommodations by contacting our City Clerk at (209) 357-6317, from 8:00 a.m. to 5 p.m., Monday through Friday (excluding holidays). Persons who are deaf or hard of hearing may make contact by first dialing the California Relay Service at 7-1-1. Requests should be made at least one week in advance to ensure availability.

## **2. City Programmatic Activities**

### *a. Limited English Proficiency Program*

In accordance with Executive Order 13166 ("Improving Access To Services For Persons With Limited English Proficiency"), the City will develop an evaluation and implementation program to ensure that Limited English Proficiency (LEP) persons who are served by federal-aid programs administered by the City are provided, free of charge, meaningful access to programs, services, and information without unduly burdening the fundamental mission of the City. Specifically, the LEP program will address language barriers that could prevent LEP persons from obtaining services and information relating to services, programs, and projects.

For federal-aid programs administered by the City, the City will conduct an LEP Needs Assessment using the four-factor analysis recommended by the United States Department of Transportation to identify reasonable steps to ensure meaningful access to its programs and activities by LEP persons in accordance with the guidance described in Attachment A.

*b. Environmental Justice in Minority and Low-Income Populations*

In accordance with Executive Order 12898 ("Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"), the City will develop strategies to address disproportionately high and adverse human health or environmental effects on minority and low-income populations, to promote nondiscrimination in federal-aid programs substantially affecting human health and the environment, and to provide minority and low-income communities access to public information and an opportunity for public participation in matters relating to human health or the environment.

*c. Site and Facility Location*

The City shall not make a selection of a site or location of a facility for participants in and beneficiaries of the City's federal-aid programs if that selection could exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination on the grounds of race, color, or national origin, or could substantially impair the accomplishment of the objectives of non-discrimination on the aforesaid grounds.

*d. Data Collection*

The Title VI Coordinator and City Engineer will gather, analyze, and maintain statistical data on race, color, national origin, sex, age, and disability of participants in and beneficiaries of the City's federal-aid programs (e.g. relocates, affected populations, and participants) to determine the investment benefits and burdens to the eligible population, including minority and low-income populations. Data gathering procedures will be reviewed regularly to ensure sufficiency of the data administration. The Title VI Coordinator and City Engineer will regularly analyze and evaluate the data collected, and data-gathering procedures to determine the effectiveness of outreach methods in meeting the requirements of the Title VI program to ensure that no group is excluded during the decision-making process or is not given an opportunity to voice their opinions or concerns. Data collection shall be conducted in accordance with the guidance described in Attachment B.

*e. Complaint Process*

The City shall ensure that no employee or agent of the City or other person shall intimidate, retaliate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege to file a complaint, or because an individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing arising thereunder. If any individual believes that s/he or any other federal-aid program beneficiaries have

been subjected to unequal treatment or discrimination on the grounds of race, color, national origin, sex, age or disability, s/he may exercise their right to file a complaint with the City. The City will develop procedures for prompt processing and disposition of Title VI complaints that incorporate appropriate due process standards, and which provide for the prompt and equitable resolution of complaints that allege discrimination on basis of race, color, national origin, age, sex, or disability. The procedures will provide for the identification of each complainant by the nature of the complaint; the dates the complaint was filed, and the investigation completed; the disposition; the date of the disposition; and other pertinent information. The Title VI Coordinator will maintain records of each such complaint and its disposition. The identity of complainants shall be kept confidential except to the extent necessary to carry out any investigation, hearing, or judicial proceeding arising thereunder. A copy of the complaint, together with a copy of the City's report of investigation, shall be forwarded to the appropriate State and Federal officials.

*f. Training*

The City will provide training on Title VI and its related statutes, including the Executive Order on Limited English Proficiency, for managers, supervisors, and staff, especially those with frequent public contact in the administration of federal-aid programs.

*g. Title VI Construction Contract Provisions*

The City shall include the provisions indicated in Appendix A of Exhibit B of the "Administering Agency-State Agreement for Federal-Aid Projects Master Agreement" of the California Department of Transportation Local Assistance Program Manual (LAPM) in contracts and agreements, where applicable, between the City and contractors.

Federal-aid construction contracts must include provisions, which require compliance with Title VI. The specific contract provision language is included in the Federal Highway Administration (FHWA) Form 1273 that is physically inserted in the federal-aid construction contract (See Chapter 12, "Plans, Specifications and Estimate", of the LAPM).

The "Local Agency Construction Contract Administration Checklist" (Exhibit 15-A of the LAPM) confirms that DBE and labor/EEO compliance requirements are performed and documented in the project files. Exhibit 15-A of the LAPM documents that the local agency will meet all of the requirements prior to the award of a construction contract (See Chapter 15, "Advertise and Award Project", of the LAPM).



The "Resident Engineer's Construction Contract Administration Checklist" (Exhibit 15-B of the LAPM) is completed by the local agency Resident Engineer. The purpose of this checklist is to assist the local agencies in administering federal-aid highway construction projects. It also provides a record that the EEO/Wage Rate/False Statements posters are being posted at specific locations, that employee interviews will be conducted in accordance with the Labor Compliance/EEO interview form, and that DBE requirements are met. The local agency submits Exhibit 15-B, along with the Award Package, shortly after award of the construction contract (See Chapter 15, "Advertise and Award Project", of the LAPM).

#### *h. Consultant Procurement*

City contracts contain the following language regarding Compliance with Civil Rights Laws:

#### ***Compliance with Civil Right Laws***

Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e)(1) through 2000 (e)(17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical disability, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. Contractor shall comply with its EEO Certification (Form PW-7).

### **3. Program Assessment**

The City will perform a periodic assessment of each of the Public Participation/Outreach and City Programmatic Activity areas in relation to the major federal-aid program areas to determine the City's effectiveness in ensuring that no person, shall on the grounds of race, color, national origin, sex, disability or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any federal-aid programs or activities it administers. Title VI compliance issues, if found to exist, will be addressed by immediate action.

### **4. Annual Work Plan**

The City will develop an annual report of City Title VI accomplishments and upcoming goals, including an update to the Title VI Program, that reflects organizational, policy, and implementation changes, and a Work Plan outlining Title VI monitoring and review activities planned for the coming plan year.

## **ATTACHMENT A: LIMITED ENGLISH PROFICIENCY NEEDS ASSESSMENT GUIDANCE**

The City of Atwater, as a sub-recipient of federal-aid funds from the United States Department of Transportation (DOT), is required to take reasonable steps to ensure meaningful access to its programs and activities by Limited English Proficiency (LEP) persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:

- the number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the City;
- the frequency with which LEP individuals come in contact with the program, activity, or service;
- the nature and importance of the program, activity, or service to people's lives; and
- the resources available to the City and costs.

The intent of this guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small businesses, small local governments, or small nonprofit organizations. After applying the above four-factor analysis to the various kinds of contacts a recipient has with the public, the City may conclude that different language assistance measures are sufficient to ensure meaningful access to the programs, activities, and services it offers. For instance, some of The City's activities will have a greater impact on or contact with LEP persons than others, and thus may require more in the way of language assistance. The flexibility that the City has in addressing the needs of the LEP populations it serves does not diminish, and should not be used to minimize, the obligation that those needs be addressed. Sub-recipients of federal-aid funds from the United States Department of Transportation should apply the following four factors to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons.

### **(1) The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population**

The greater the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population, the more likely language services are needed. Ordinarily, persons "eligible to be served, or likely to be directly affected, by" a recipient's programs or activities are those who are, in fact, served or encountered in the eligible service population. This population will be program-specific and includes persons who are in the geographic area that is part of the recipient's service area. However, where, for instance, a motor vehicle office serves a large LEP population, the appropriate service area is that served by the office, and not the entire population served by the City. Where no service area has previously been approved, the relevant service area may be that which is

approved by State or local authorities or designated by the recipient itself, provided that these designations do not themselves discriminatorily exclude certain populations. When considering the number or proportion of LEP individuals in a service area, recipients should consider LEP parent(s) whose English proficient or LEP minor children and dependents encounter the services of DOT recipients.

Recipients should first examine their prior experiences with LEP individuals and determine the breadth and scope of language services that are needed. In conducting this analysis, it is important to: include language minority populations that are eligible beneficiaries of recipients' programs, activities, or services, but may be underserved because of existing language barriers; consult additional data, for example, from the census, school systems, and community organizations, and data from State and local governments, community agencies, school systems, religious organizations, and legal aid entities.

## (2) The Frequency with which LEP Individuals Come in Contact with the Program, Activity, or Service

Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance, as the more frequent the contact, the more likely enhanced language services will be needed. The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that serves LEP persons daily. Recipients should also consider the frequency of different types of language contacts, as frequent contacts with Spanish-speaking people who are LEP may require certain assistance in Spanish, while less frequent contact with different language groups may suggest a different and/or less intensified solution. If an LEP individual accesses a program or service on a daily basis, a recipient has greater duties than if the same individual's program or activity contact is unpredictable or infrequent. However, even recipients that serve LEP persons on an unpredictable or infrequent basis should use this balancing analysis to determine what to do if an LEP individual seeks services under the program in question. This plan need not be intricate. It may be as simple as being prepared to use a commercial telephonic interpretation service to obtain immediate interpreter services. Additionally, in applying this standard, recipients should consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

## (3) The Nature and Importance of the Program, Activity, or Service Provided by the Program

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. The obligations to communicate rights to an LEP person who needs public transportation differ, for example, from those to provide recreational programming. A recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Decisions by a Federal, State, or local entity to make an activity compulsory, such as requiring a driver to have a license, can serve as strong evidence of the importance of the program or activity.

#### (4) The Resources Available to the Recipient and Costs

A recipient's level of resources and the costs imposed may have an impact on the nature of the steps it should take in providing meaningful access for LEP persons. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. In addition, "reasonable steps" may cease to be reasonable where the costs imposed substantially exceed the benefits. Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns.

Resource and cost issues, however, can often be reduced by technological advances, reasonable business practices, and the sharing of language assistance materials and services among and between recipients, advocacy groups, affected populations, and federal agencies. For example, the following practices may reduce resource and cost issues where appropriate:

- Training bilingual staff to act as interpreters and translators;
- Information sharing through industry groups;
- Telephonic and video conferencing interpretation services;
- Translating vital documents posted on Web sites;
- Pooling resources and standardizing documents to reduce translation needs;
- Using qualified translators and interpreters to ensure that documents need not be "fixed" later and that inaccurate interpretations do not cause delay or other costs;
- Centralizing interpreter and translator services to achieve economies of scale;
- Formalized use of qualified community volunteers;

Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well substantiated before using this factor as a reason to limit language assistance. Such recipients may find it useful to be able to articulate, through documentation or in some other reasonable manner, their process for determining that language services would be limited based on resources or costs.

This four-factor analysis necessarily implicates the "mix" of LEP services required. Recipients have two main ways to provide language services: oral interpretation either in person or via telephone interpretation service (hereinafter "interpretation"), and written translation (hereinafter "translation"). Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons to access through commercially available telephonic interpretation services. Written translation, likewise, can range from translation of an entire document to translation of a short description of the



document. In some cases, language services should be made available on an expedited basis, while in others the LEP individual may be referred to another office of the recipient for language assistance. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, a motor vehicle department or an emergency hazardous material cleanup team in a largely Hispanic neighborhood may need immediate oral interpreters available and should give serious consideration to hiring bilingual staff (of course, many such departments have already made these arrangements). Additionally, providing public transportation access to LEP persons is crucial. An LEP person's inability to utilize effectively public transportation may adversely affect his or her ability to obtain health care, or education, or access to employment. In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be low, and the costs and resources needed to provide language services may be high—such as in the case of a voluntary general public tour of an airport or train station—in which prearranged language services for the particular service may not be necessary. Regardless of the type of language services provided, quality and accuracy of those services can be critical. Recipients have substantial flexibility in determining the appropriate mix.

– End of Attachment A

## **ATTACHMENT B: DATA COLLECTION GUIDANCE**

Applicants, recipients, and sub-recipients of federal-aid funds are required to provide relevant and current Title VI information. Examples of data and information which, to the extent necessary and appropriate for determining compliance with Title VI, are as follows:

- (1) The manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination;
- (2) The population eligible to be served by race, color, and national origin;
- (3) Data regarding covered employment, including use or planned use of bilingual public-contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English;
- (4) The location of existing or proposed facilities connected with the program, and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination;
- (5) The present or proposed membership, by race, color, and national origin, in any planning or advisory body which is an integral part of the program;
- (6) Where relocation is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color or national origin.
- (7) Where additional data, such as demographic maps, the racial composition of affected neighborhoods or census data, is necessary or appropriate, for understanding information required in Item (2) above, agencies shall specify, in their guidelines or in other directives, the need to submit such data. Such additional data should be required, however, only to the extent that it is readily available or can be compiled with reasonable effort.

- End of Attachment B