International
City/County
ICMA
Management
Association

August 4, 2000

Title VI Guidance Comments
US EPA
Office of Civil Rights
1200 Pennsylvania Avenue (1201 A) NW
Washington, DC 20406

Re: Draft Title VI Guidance

Dear Colleague,

Thank you for the opportunity to comment on the ***Draft Title VI Guidance*** document. First, let me congratulate EPA on its efforts to develop a comprehensive guidance for this very difficult topic. The guidance does a remarkable job of providing suggestions for ways that recipients can better address Title VI issues so that they do not become barriers to economic or community development. Congratulations also on your fine work to develop a frame work for addressing Title VI complaints. Despite EPA's fine work in developing its Title VI Guidance document, there are some areas that should be expanded or made clearer, especially as they apply to local governments.

Please find my comments below written with the intentions to help you make the guidance better and more useful for all stakeholders involved in Title VI issues.

OVERALL:
While Title VI issues may apply over-whelmingly to state environmental agencies that grant permits, many local jurisdictions receive EPA assistance and are also in need of the Title VI Guidance. To that end, the language of the report is overly attendant to state governments and agencies without proper recognition of local government officials who oversee land use processes such as zoning, and site placement. In these days of diminishing state funds for enforcement, local professionals are often left negotiating between alleged polluters and the complaintant community.

Community is not clearly defined through out the documents. Do you mean residents, local governments, all local stakeholders? This term should be better defined so that all readers are reading with the same definition.

GUIDANCE TO EPA ASSISTANCE RECIPIENTS
Title VI Approaches and Activities
This section needs an expanded and clearer explanation of inter-governmental communication and coordination. This should be explicitly stated as both coordination among one level of government's (e.g. state or local) agencies, such as environment, housing or economic development. At ICMA, we call this intra-governmental coordination. The definition of governmental communication and coordination should also emphasize a coordination among jurisdictions within a region as well as between levels of governments-local, state, regional and federal agencies. We call this inter-governmental coordination. The need for a coordinated and well-managed approach to Title VI issues, which are by their nature cross-cutting, cannot be over-emphasized.

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Disparate Impact Analysis
This comment should also be considered under *Conduct Impact and Demographic Analysis* and *Adverse Disparate Impact Decisions*
This section does an excellent job of identifying measures that can be used to weigh disparate impact. However, some potentially valuable resources are not mentioned. Well documented community-based research and anecdotal evidence should be weighed along with air and water measures. For example, if the times that childhood asthma incidences coincide with certain activities at a facility – this should be considered as a part of the evidence suggesting disparate impact. Likewise, if community members document that the soil turns blue after certain releases or deliveries to a facility – this should also be considered important information and a part of the documentation of the facility.

Local governments also have important information and tools that could be used as part of the process of measuring disparate impact. For example, records of emergency services to neighborhoods or traffic counts on streets could all be used to help determine disparate impacts.

Stakeholder Involvement
In addition to discussion about encouraging public participation and outreach. Recipients also must be responsible for conducting education, both about the environmental issues at hand as well as about related economic, social and land use impacts of a facility. To this end, recipients ought to include communities in developing policies and practices about these issues.

Title VI Activities **This comment can also be applied to *Evaluate Title VI Activities***
In addition to encouraging public participation and outreach, recipients must also work with communities to develop community-based research methods and strategies. Likewise, recipients should be responsible for ensuring that communities have access to tools and resources to learn about issues and their impacts on their own terms and time.

GUIDANCE FOR INVESTIGATING TITLE VI
Accepting or Rejecting Complaints
Given the well documented and public procedures for participation, hearings, permit application processes and other actions necessary activities, a filing period of 180 calendar days from the time that the permit is granted is too long. Community organization have more than adequate time to make comment on and appeal a permit process. 120 days would be adequate.

Investigative Procedures
The discussion of cumulative impact seems not clear in this section. How cumulative impact is assessed and whether or not outside factors are considered is not discussed.

As referenced above, the guidance comments that EPA will rely on data and analysis prepared by recipients, but makes no allowances for community members to undertake research or analysis. EPA should make sure that data measurement and analysis means are available to communities.

FINAL NOTES
Thank you, again for the opportunity to comment on the Title VI Guidance. I hope that ICMA's comments are helpful as you finalize the document and consider ways that Title VI laws and policies apply to and affect local governments. ICMA has a number of tools and resources that it could use to help. disseminate information about Title VI complaints and investigations. Please feel free to contact me if you have any further concerns.

Sincerely,

Molly Singer

Molly Singer
Senior Project Manager