



FY 2020

# Title VI/Nondiscrimination Plan

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Civil Rights Division

November 1, 2019

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## Introduction

The Texas Department of Transportation (TxDOT) was first established on April 4, 1917, as the Texas Highway Department. The mission was to build and improve Texas roads with funds administered through the Federal Highway Act. The mission of TxDOT today has evolved to include delivering a safe, reliable, and integrated transportation system that enables the movement of people and goods through collaboration and leadership. The vision of TxDOT is to be a forward-thinking leader delivering mobility, enabling economic opportunity, and enhancing quality of life for all Texans. TxDOT works diligently to further that mission in a fair and nondiscriminatory way. As a recipient of federal financial assistance from the Federal Highway Administration (FHWA), TxDOT is required to comply with Title VI of the Civil Rights Act of 1964, which provides:

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

Title VI served as the model for subsequent nondiscrimination laws including the Federal-Aid Highway Act of 1973 (gender), Section 504 of the Rehabilitation Act of 1973 (disability), and Age Discrimination Act of 1975 (age). TxDOT’s nondiscrimination policy statement includes these protected classes to ensure that no person be subjected to any form of discrimination in our programs or activities ([Attachment 1](#)).

The U.S. Department of Justice (DOJ), as the federal government’s coordinating agency for Title VI, implemented its Title VI program in 28 Code of Federal Regulations (C.F.R.) Part 42 and issued guidance in two main documents: The Title VI Legal Manual and the Complaint Investigation Procedures Handbook.

Title VI authorizes and directs federal agencies to enact “rules, regulations, or orders of general applicability” to achieve the statute’s objectives. The U.S. Department of Transportation (DOT) implemented its Title VI program in 49 C.F.R. Part 21. FHWA’s implementing regulations can be found in 23 C.F.R. Part 200.

### *Discrimination under Title VI*

As a TxDOT employee, it is everyone’s responsibility at TxDOT to prevent, minimize, and eradicate any form of discrimination. There are two types of discrimination prohibited under Title VI and its related statutes: (1) disparate treatment that alleges similarly situated persons are treated differently because of their race, color, or national origin (i.e. intentional discrimination); and (2) disparate impact/effects when a facially neutral policy, procedure, or practice results in different or inferior services or benefits to members of a protected group. In disparate impact, the focus is on the consequences of a decision, policy, or practice rather than the intent.

Prohibited forms of Discrimination include, but may not be limited to:

- The denial of services, financial aid, or other benefits provided under a program;
- Distinctions in the quality, quantity, or manner in which a benefit is provided;
- Segregation or separation of persons in any part of the program;
- Restriction in the enjoyment of any advantages, privileges, or other benefits provided to others;
- Differing standards or requirements for participation;
- Methods of administration that directly or indirectly, or through contractual relationships would defeat or impair the accomplishment of effective nondiscrimination; (and/or)
- Discrimination in any activities or services related to a highway, infrastructure or facility built or repaired in whole or in part with federal funds.

TxDOT's efforts to prevent such discrimination must address, but not be limited to, how a program or activity:

- Impacts the public;
- Provides accessibility;
- Provides equal access to benefits;
- Encourages participation;
- Provides services equitably;
- Initiates contracting and training opportunities;
- Investigates complaints;
- Allocates funding; and
- Prioritizes projects.

The nondiscrimination evaluation criterion applies to all offices within TxDOT. There is special emphasis placed on some Divisions and all Districts that directly affect the public through activities such as:

- Project planning & design;
- Environmental process;
- Right-of-way acquisition;
- Construction and Maintenance;
- Traffic safety operations;
- Contracting; and
- External communications

In addition, TxDOT as a state agency administering programs that receive federal financial assistance must establish a Title VI compliance program for all subrecipients that obtain federal assistance through it.

## *Authorities*

The authorities applicable to TxDOT's Title VI/Nondiscrimination Program include:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- **49 CFR Part 21** (entitled *Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964*);
- **23 CFR Part 200** (FHWA's Title VI/Nondiscrimination Regulation);
- **28 CFR Part 50.3** (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964); and,
- **Texas Administrative Code §9.4**, Civil Rights – Title VI Compliance

The following Executive Orders place further emphasis on preventing discrimination based on race and national origin:

- **Executive Order 12898**, 3 CFR 859 (1995), entitled "*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*"; and
- **Executive Order 13166**, 3 CFR 289 (2001), entitled "*Improving Access to Services for Persons with Limited English Proficiency.*"

## Policy Statement

Title VI of the Civil Rights Act of 1964 prohibits discrimination on federal and federally-assisted projects and programs based on race, color, and national origin. Since 1964, additional statutes have prohibited discrimination based on sex (Federal-aid Highway Act of 1973), age (The Age Discrimination Act of 1975), and disability (Section 504 of the Rehabilitation Act of 1973 and Americans with Disabilities Act of 1990). Additionally, the Civil Rights Restoration Act of 1987 defined the word “program” to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal assistance.

*“The Texas Department of Transportation, as a recipient of federal financial assistance and under Title VI of the Civil Rights Act of 1964 and related statutes, ensures that no person shall on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment per 42 U.S.C. §2000d-3), color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any Department programs or activities.”*

The nondiscrimination statement signed by TxDOT’s Executive Director, James M. Bass, is included as [Attachment 1](#).

## **Standard DOT Assurances**

23 CFR 200.9(a)(1) requires assurances from TxDOT 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 otherwise be subjected to discrimination under any program or activity for which the recipient receives federal assistance from the U.S. Department of Transportation (U.S. DOT), including the FHWA.

The Title VI Assurances are submitted to the FHWA annually or when TxDOT appoints a new executive director during the federal fiscal year. TxDOT's Title VI Assurances signed by the Executive Director are included as [Attachment 2](#).

## Organization & Staffing

TxDOT's Title VI/Nondiscrimination Program has been established in accordance with federal rules under 23 CFR Part 200 and falls within the scope and responsibilities of the Civil Rights Division (CIV). CIV, located in Austin, forms a central resource for TxDOT Districts and Divisions (DDs) and the general public.

### *Organization*

In accordance with 23 CFR 200.9(b)(1), the CIV Director serves as TxDOT's Title VI/Nondiscrimination Coordinator. With support from TxDOT's administration, the CIV Director is responsible for all aspects of TxDOT's Title VI/Nondiscrimination Program and has been delegated sufficient authority and responsibility to effectively carry out the duties assigned to this position. The letter signed by TxDOT's Executive Director designating Michael D. Bryant as the Title VI/Nondiscrimination Coordinator is included as [Attachment 3](#).

The TxDOT organizational chart, included as [Attachment 4](#), depicts the relationship the Title VI/Nondiscrimination Coordinator has with TxDOT's Executive Director.

### *Staffing*

CIV is responsible for administering TxDOT's Title VI/Nondiscrimination Program. The CIV Director reports to TxDOT's Deputy Executive Director and has direct access to TxDOT's Executive Director at any time. CIV's organizational chart is included as [Attachment 4a](#).

### Title VI/Nondiscrimination Coordinator

The Title VI/Nondiscrimination Coordinator works to ensure there is a demonstrated commitment on the part of administration to enforce Title VI and is responsible for overall Title VI program implementation. Specifically, this person has the authority and responsibility to implement the Title VI program by:

- Recommending, developing, disseminating, monitoring, and pursuing policies and guidelines on the implementation of Title VI;
- Providing leadership, guidance, and technical assistance to program areas having significant impacts on the public and businesses, which are referred to as federal program areas, in carrying out their Title VI responsibilities;
- Reviewing, evaluating, and monitoring the federal program areas activities and programs related to Title VI and effectuating changes to ensure consistency and program effectiveness;
- Ensuring that all complaints of discrimination or complaints alleging non-compliance with Title VI are processed, investigated, and resolved in a fair and timely manner in accordance with Title VI and federal operating regulations; and
- Advising the Executive Director concerning significant developments in the implementation of TxDOT's Title VI/Nondiscrimination Program.

### Title VI Program Administrator

As a specialist for Title VI, the Title VI Program Administrator assists and supports TxDOT's Title VI/Nondiscrimination Program by:

- Providing technical assistance and training to Title VI liaisons and DD personnel;
- Assisting federal program areas to identify and address discriminatory practices or policies and advising the Title VI/Nondiscrimination Coordinator of any Title VI issues;
- Developing a review schedule to evaluate departmental documents at Districts and Divisions for content compliant with Title VI and other nondiscrimination statutes;
- Works in Partnership with District personnel to address and review Title VI concerns at a project level;
- Conducting Title VI compliance reviews of federal program areas, cities, counties, consultants, contractors, suppliers, colleges/universities, planning agencies, and other subrecipients of federal assistance;
- Developing Title VI training material and conducting training sessions, learning workshops and making information available on the TxDOT website;
- Developing Title VI information for dissemination to the public and, where appropriate, in languages other than English; and,
- Processing Title VI external complaints of discrimination in accordance with the FHWA External Complaint Processing Procedures.

### Interdisciplinary Approach

FHWA policy guidance prescribes an interdisciplinary approach to maintaining compliance with Title VI. CIV works with DDs in ensuring compliance with Title VI/Nondiscrimination requirements. CIV's partnership with the DDs helps ensure nondiscrimination in the delivery of TxDOT's programs and activities. Additionally, personnel from TxDOT's 25 districts and 34 divisions serve as Title VI liaisons and are responsible for ensuring Title VI compliance in their respective DD through policy, development, procedures, and monitoring. It is essential that a collaborative relationship be maintained between the Title VI liaison and the Title VI Program Administrator. DD liaisons provide organizational knowledge of their respective disciplines and the program administrator provides a practical application of Title VI.

The Title VI Interdisciplinary Team (I-Team) at TxDOT is comprised of CIV staff, and DD liaisons selected for a Title VI program review that fiscal year. The federal program areas that are normally reviewed include: Construction, Design, Environmental, Maintenance, Planning, Public Involvement, Contracts, Public Transportation, Right of Way, and Traffic Safety. Other divisions may be identified and integrated into the I-Team during development of the Goals and Accomplishments report the following year. CIV has established an annual District office rotation to include five Districts selected for a Title VI program review. The selected Districts are invited to participate in the I-Team discussion during that review cycle. By the nature of their operations, Districts have direct contact with the public and provide a

more comprehensive perspective for how the Title VI Program is functioning. All Title VI liaisons, meet quarterly and those on the I-Team participate in focused group meetings to effectively implement TxDOT's Title VI/Nondiscrimination program. Additionally, the I-Team meets with CIV annually to review desk audit criteria from the previous year. The focus is to maintain relevant questions that provide consistent information with the upcoming fiscal year Title VI/Nondiscrimination Plan. The DD liaisons and I-Team support CIV with Title VI compliance by:

- Communicating and coordinating with CIV in activities impacted by Title VI;
- Promoting Title VI awareness in their respective office;
- Providing technical assistance to headquarters, district, and local agency personnel;
- Coordinating Title VI compliance reviews conducted in DDs;
- Self-monitoring and implementation of corrective actions within its respective program area for Title VI compliance;
- Documenting Title VI activities identified in the plan;
- Providing the requested information to annually prepare the *Title VI/Nondiscrimination Plan* and *Title VI/Nondiscrimination Annual Work Plan and Accomplishment Report*;
- Referring Title VI allegations and complaints to CIV for further investigation;
- Ensuring the collection and analysis of statistical data to determine transportation investment benefits and burdens to the eligible population, including minority and low-income populations; and
- Developing Title VI information for public dissemination and, where appropriate, in languages other than English.

The remaining DD Title VI liaisons not directly part of the I-Team works closely with CIV staff to ensure Title VI compliance by:

- Assisting CIV and the Title VI I-Team in conducting Title VI program reviews;
- Working with staff within their respective office to promote awareness of Title VI requirements, policies, and processes;
- Self-monitoring and implementation of any corrective actions for Title VI compliance;
- Assisting CIV in collecting data from Districts and Divisions completing surveys;
- Ensuring documentation of all Title VI activities;
- Annually providing requested information to prepare the *Title VI/Nondiscrimination Annual Work Plan and Accomplishment Report*;
- Referring Title VI complaints and allegations to CIV; and
- Disseminating Title VI information to the public, and where appropriate, in languages other than English.

### Division Directors and District Engineers

TxDOT is comprised of 34 Divisions and 25 Districts across a wide range of disciplines that play an integral role in agency's transportation mission. Division Directors and District Engineers are responsible for familiarizing themselves with the requirements detailed in the Title VI/Nondiscrimination Plan and complying with The Title VI program at TxDOT. The Division Directors and District Engineers assists CIV with Title VI compliance by:

- Ensuring CIV is notified, of any Title VI allegations or complaints;
- Providing the necessary resources to CIV to investigate and resolve a Title VI complaint;
- Providing support necessary to implement the Title VI requirements related to their Divisions or Districts;
- Ensuring specific activities related to Title VI are surveyed and reported to CIV for the annual reporting process;

### Subrecipients

Subrecipients refer to any organization other than TxDOT with administrative or functional responsibilities which are affiliated with a governmental body that indirectly receives federal funds. In accordance with 23 CFR 200.9(b)(7), FHWA requires TxDOT to review subrecipients of federal funds including cities, counties, planning organizations, transportation authorities, and universities. Responsibilities for subrecipients include, but are not limited to:

- Maintaining and providing a policy statement and standard Title VI assurances to be signed every three years unless a change in leadership occurs;
- Maintaining an updated Title VI/Nondiscrimination Plan and monitoring accomplishments to demonstrate program milestones being met.
- Designating a person suitable of serving in the role of Title VI Coordinator;
- Developing external discrimination complaint handling procedures and defining a process for reporting informal and formal Title VI complaints to TxDOT;
- Participating in TxDOT Title VI training;
- Collecting relevant data and information for compliance with E.O. 13166, E.O. 12898, contract administration requirements; and
- Monitoring public involvement procedures to ensure proposed actions solicit input from minority populations within that agency's jurisdictional boundary.

## Program Area Monitoring and Internal Review Process

As part of the Title VI internal monitoring program, CIV works with the federal program areas to perform reviews on specific departmental policies and processes that involve the public. Each federal program area is responsible for the following:

- Identifying processes that impact the public;
- Scheduling reviews to cover all the identified processes within a three-year period;
- I-Team assisting CIV in performing personnel interviews with program area specialist; and
- Submitting an analysis report to CIV.

### *Program Review Procedures*

Internal Title VI reviews are performed annually in the form of a Title VI questionnaire. TxDOT's federal program areas and select District Office Title VI liaisons are notified of the review from the Title VI Program Administrator. If necessary, notification can also occur through a memorandum sent from the CIV Director to the Division Director of that federal program area or the District Engineer of that select District. The internal review request from CIV includes a questionnaire tailored with general and program specific questions that focus on gathering information about the implementation of Title VI/Nondiscrimination requirements. Once the questionnaire is completed, the information will be summarized and provided to FHWA in the Accomplishment Report.

Process for implementing the desk audit and completing the review:

- Federal program areas identified in the Title VI/Nondiscrimination Plan will be evaluated annually.
- Five districts per year will be selected based on a five-year rotation, unless a Title VI complaint requires additional information gathering from that District.
- CIV will review each questionnaire response and analyze the data to determine if any discriminatory trends exist. In the event discriminatory practices are identified, CIV will submit a corrective report and work closely with that program area or District to resolve the issue.
- CIV will submit questions/issues to the Title VI Liaisons. Where an issue requires corrective action, CIV will work with the program area or District to schedule and complete the corrective actions.
- CIV will prioritize, plan and complete extended audits for federal programs and Districts where:
  - There have been Title VI Complaint(s) regarding a TxDOT process or procedure;
  - FHWA recommends an audit;
  - There are issues with Title VI data collection;
  - Desk audit responses are incomplete;
  - Operation manuals in a Program area need to be updated;

- Title VI issues are identified in an operations manual with corrective action procedures;
- Issues concerning EJ and LEP populations exist in the Public Participation process;

### *Findings*

The findings will be used to determine what areas CIV may need to provide additional technical assistance and identify strategic goals for the next federal fiscal year. The results of the reviews will be noted in the *Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report*. If a program area or District does not respond to the desk audit or extended audit, the issue will be escalated to TxDOT's Deputy Executive Director.

### *Follow-up Monitoring*

CIV will determine if additional monitoring and training are needed to ensure on-going compliance with Title VI requirements. If action items identified are not completed then follow-up monitoring will document the non-compliance and the Deputy Executive Director will be notified.

### *Title VI Considerations for Internal Review:*

#### Construction

The Construction Division (CST) performs inspection testing and provides administrative oversight for all department construction contracts. CST is also responsible for contractor pre-qualification, bid proposal issuance and awarding (letting) construction and maintenance contracts. CST will monitor construction project work for practices that adhere to the Title VI/Nondiscrimination Plan. CST will ensure that policies and procedures for monitoring construction activities, reviewing and approving change orders and inspections are applied in a nondiscriminatory manner. Some considerations for internal review will include:

- Information regarding TxDOT mitigation commitments made during the environmental process are documented in the final engineering plan set;
- Procedures and the practices for completion of tasks in order to fulfill those commitments by the final acceptance stage of the project;
- Data regarding procedures for temporary traffic and pedestrian routing during various sequences of construction to preserve pedestrian and ADA accessibility; and
- Demographic profiles of the communities within an active project and internal procedures for maintaining Title VI compliance.

## Design

The Design Division (DES) will assure that all aspects of the design phase, including final design, are executed in accordance with the TxDOT Title VI/Nondiscrimination Plan. The design process includes solicitation of proposals, consultant selection, preliminary design work, development of alternatives on larger projects, and finalizing the design before a project goes to letting for construction. The design process requires effective outreach strategies to solicit and incorporate, where practicable, input from minority and low-income populations into the final design. Some considerations for internal review will include:

- Data on consultant contracts including award amounts and demographic data on consultant firm ownership;
- Number of public meetings and public hearings held during the design phase and their relative proximities to the project area;
- The process to consider public input and concerns received during the design phase; and
- Demographic profile of project area under design and internal procedures for maintaining Title VI compliance.

## Environmental

The Environmental Affairs Division (ENV) will ensure that the environmental effects of a project and the proposed mitigation measures to offset the impacts are developed in accordance with the TxDOT Title VI/Nondiscrimination Plan. The NEPA process, Title VI of the Civil Rights Act and related statutes, and Executive Orders on EJ and LEP are incorporated in the environmental process to ensure nondiscrimination and identify and address any disproportionately high health and environmental impacts to minority and low-income populations and LEP populations. Furthermore, the environmental process considers all social, economic and environmental effects of a proposed project to preemptively identify any Title VI issues that may exist. ENV will ensure a reasonable study area is developed for assessing community impacts and that potential impact to minority and low-income populations are considered in the type of environmental documentation done on a project. Once a project receives environmental clearance, the mitigation commitments are clearly documented in the environmental document, outlined in the plans for construction and any associated permits. Because there is a substantial time gap between environmental clearance and end of construction, TxDOT Districts must ensure that commitments are communicated from environmental clearance and detailed design, pre-bid conference, project letting, construction, and final acceptance. Some considerations for internal review will include:

- Methods for identifying minority populations and conducting a community impact assessment report that identify any issues related to Title VI;
- Procedures to identify projects with a disproportionately high and adverse impact on minority population will consult with CIV proactively to address any Title VI concerns;

- The number and types of environmental clearances performed (Categorical Exclusions, Environmental Assessments or Environmental Impact Statement);
- Data on the demographics of public meeting participants and representative attendance from the community being impacted by a proposed project;
- Strategies for engaging minority and LEP populations for reducing any barriers that may exist in the transportation decision-making process; and
- Procedures followed during the environmental process to incorporate formal and informal public comments into the transportation decision-making process.

### Maintenance

The Maintenance Division (MNT) oversees the preservation, upkeep, inspection, evaluation and restoration of all Texas highways and rights of way. MNT will monitor maintenance projects and activities for practices that adhere to the Title VI/Nondiscrimination Plan. MNT will ensure that policies and procedures for monitoring maintenance activities are applied in a nondiscriminatory manner. Some considerations for internal review will include:

- Procedures to recognize and preserve any commitments developed during environmental clearance and executed in project construction will not be undone during the operation and maintenance phase of a project.
- Demographic profiles of project areas identified for maintenance activities and internal procedures for maintaining Title VI compliance; and
- Data regarding procedures for temporary traffic and pedestrian routing during maintenance activities to preserve pedestrian and ADA access.

### Planning

The Transportation Planning and Programming Division (TPP) has the primary responsibility for ensuring multi-modal statewide transportation planning initiatives are developed. Implementing statewide planning requires the consideration of social, economic and environmental effects of a proposed plan or program to avoid biased or discriminatory practices. TPP will ensure that all aspects of the planning process and monitoring of Metropolitan Planning Organizations (MPOs) are executed in accordance with the TxDOT Title VI/Nondiscrimination Plan. When minority and low-income populations are identified within a study area, TPP will place special emphasis on soliciting and incorporating public input from these populations into the transportation plan. Some considerations for internal review will include:

- Data on consultant contracts including award amounts and demographic data on consultant firm ownership;
- Number of public meetings and public hearings held during the planning phase and in what locations around the state;
- Demographic data and information regarding the distribution of state and federal funds under consideration in all aspects of the proposed transportation implementation plans;

- Strategies for engaging minority and LEP populations for reducing any barriers that may exist in the transportation planning process;
- Procedures followed to ensure Title VI issues are identified proactively, and where possible, addressed early during the planning process; and
- Information on various public involvement activities during the planning process to incorporate formal and informal public comments into TPP's transportation decision-making process.

### Public Involvement

The Office of Public Involvement (OPI) develops training that educates TxDOT employees on effective strategies for engaging the public. OPI works with the DD offices to provide assistance with advertisements, post meetings notices to the TxDOT website; and develop presentation aids for meetings with the public. Some considerations for internal review will include:

- Public Involvement strategies that are project based procedures for the development and implementation of plans to effectively engage the public;
- Data on public meetings and hearings held to include the number of people from the public in attendance and the demographic profile of the area affected by the project;
- Information on the process for recording and incorporating formal and informal comments received at a public meeting into the decision-making process; and
- Information regarding services requested and/or provided to LEP persons at a public meeting or event.

### Contracting

The Contract Service Division (CSD) is responsible for the creation and administration of negotiated contracts. CSD will monitor contracting procedures and activities for practices that adhere to the Title VI/Nondiscrimination Plan. CSD also ensures Federal-aid construction contracts include the required language, provisions, and attachments that are required for compliance with Title VI. Some considerations for internal review will include:

- Number and amount federally funded construction and professional service contracts awarded at TxDOT;
- Demographic information on business owners with professional service contracts; and
- Description of procedures to ensure federally required nondiscrimination language is in all federal-aid contracts.

### Procurement

The Procurement Division (PRO) and Professional Engineering Services Division (PEPS) are responsible for procuring a variety of professional services for transportation projects. They establish procedures regarding the bidding and award process to ensure it is being conducted in compliance with Title VI. PRO and PEPs also develop templates to ensure bid

proposals and consultant contracts include the required Title VI language. When a Request for Proposals (RFP) is created a historically underutilized business's (HUB) goal is established to encourage participation of minority owned businesses. Some considerations for internal review will include:

- Number and amount of professional service contracts awarded at TxDOT;
- Demographic information on business owners with professional service contracts; and
- Description of procedures to ensure federally required nondiscrimination language is in all federal-aid contracts.

### Public Transportation

The Public Transportation Division (PTN) has the primary responsibility to provide a safe and reliable network of transportation options for people who do not use driving as a primary means of transportation. PTN provides financial, technical and coordination assistance to rural and urban public transit providers around the state. In addition PTN oversees the Bicycle/Pedestrian program at TxDOT. PTN will ensure that all aspects of services provided are executed in accordance with the TxDOT Title VI/Nondiscrimination Plan. Where appropriate, TPP will partner with CIV to educate rural and public transit providers of the requirements under Title VI. Some considerations for internal review will include:

- Data and information regarding the distribution of state and federal funds to rural and urban public transit providers;
- Data on professional service contracts including award amounts and demographic data on consultant firm ownership;
- Demographic data and information regarding the distribution of services in minority communities in both rural and urban areas of the State;
- Information regarding services requested and/or provided to LEP persons utilizing public transportation; and
- Information on the public involvement process to advertise services available to minority populations living in rural and urban areas of the state.

### Right of Way

The Right of Way Division (ROW) coordinates the acquisition of land to build, widen or enhance highways. ROW will monitor property acquisition for practices that adhere to the Title VI/Nondiscrimination Plan. ROW will ensure that policies and procedures for property acquisition are applied in a fair, equitable and nondiscriminatory manner in accordance with the Uniform Relocation Act of 1970. Some considerations for internal review will include:

- Demographics of relocatees and other beneficiaries of ROW compensation and/or relocation assistance program;
- Data regarding the appraisal process, including just compensation offers and supporting documentation;

- Information on accommodations provided to LEP persons and frequency of interpretation services provided; and
- Data on right of way acquisition and relocation contracts including award amounts and demographic data on consultant firm ownership.

### Traffic Safety

The Traffic Safety Division (TRF) oversees the design and placement of signs, signals, pavement markings and intelligent systems. TRF also develops traffic safety initiatives to reduce fatalities and serious injuries from motor vehicle crashes. TRF will monitor projects and activities for practices that adhere to the Title VI/Nondiscrimination Plan. MNT will ensure that policies and projects implemented to keep the public safe are done in a nondiscriminatory manner. Some considerations for internal review will include:

- Demographic profiles of project areas identified for the placement of traffic safety activities and internal procedures for maintaining Title VI compliance; and
- Demographic data regarding the distribution of services in minority and low-income population areas requiring signs, ADA accommodations, signals pavement markings and lighting improvements.

## **Subrecipient Review Procedures**

In addition to the internal monitoring program, TxDOT is responsible for developing and implementing an effective external monitoring program. In accordance with 23 CFR, 200.9(b)(7), CIV conducts reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of federal-aid highway funds.

### *Monitoring of Subrecipients*

The Title VI/Nondiscrimination Technical Assistance Guide for Subrecipients was developed as a resource to assist subrecipients in understanding and complying with the requirements of Title VI and related nondiscrimination laws and regulations. This guide is available on TxDOT's Web site at: <http://www.txdot.gov/inside-txdot/division/civil-rights/title-vi.html>. The Title VI review process focuses on, but is not limited to, compliance with the following major Title VI components:

1. Developing a Title VI/Nondiscrimination Policy Statement
2. Developing Title VI/Nondiscrimination Assurances
3. Appointing a Title VI/Nondiscrimination Coordinator
4. Developing a Title VI/Nondiscrimination Plan
5. Developing procedures for processing external discrimination complaints
6. Maintaining a list of external discrimination complaints and lawsuits
7. Providing accommodations for LEP persons
8. Addressing Executive Order 12898 in minority and low-income populations
9. Ensuring nondiscrimination in the public participation process
10. Collecting and analyzing data to ensure nondiscrimination in programs and activities
11. Ensuring that solicitations for bid/requests for proposals contain the
12. Title VI/Nondiscrimination Assurance paragraph
13. Ensuring subcontracts contain the appropriate contract provisions and language from the Title VI Assurances
14. Ensuring nondiscrimination in the award of contracts
15. Developing a Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report

## *Selection Process*

Priority for conducting reviews will be given to those recipients of federal highway funds with the greatest potential to impact those groups covered by Title VI. Selection will be based on neutral criteria or evidence of a violation. Criteria for identifying subrecipients for review may include the following:

1. Issues frequently identified as problems faced by program beneficiaries;
2. Geographical areas TxDOT wishes to target because of known problems beneficiaries are experiencing or because that area has not been visited for some time;
3. Issues raised in a complaint or identified during a complaint investigation;
4. Problems identified by community organizations or advocacy groups that cite actual incidents to support their concerns;
5. Problems identified by its grant recipients; and/or
6. Problems identified by other state, federal, or local civil rights agencies.

### Local Public Agencies

TPP has oversight of local government projects. Local Governments (LGs) may be municipalities, counties, regional mobility authorities, local toll authorities, government agencies created under state law, or private entities. CIV works with TPP in obtaining a list of its current local government projects and ensures a diverse group of LGs with varying funding amounts be reviewed. The following approach is used in selecting an LG for review:

1. At a minimum, two LGs are selected for review every quarter;
2. The average dollar value of all federally funded contracts awarded is determined, one LG is selected from the higher end and one LG is selected from the lower end; and
3. The number of projects and the type of work to ensure the project(s) provides opportunity for public involvement.

### Planning Agencies

TPP also has oversight responsibility for federal transportation planning funds and fosters and participates in necessary training for district planning staff, MPO boards and MPO staff. CIV works with TPP in selecting MPO(s) for review based on the Federal Certification Review schedule.

### Consultant Contractors

ROW is responsible for securing the property required for highway construction. This includes identification of impacted properties, appraisal, acquisition, and relocation assistance. This work may be done with TxDOT staff or by consultants. CIV works with ROW

in selecting federal-aid consultants for review to ensure the administration of the right of way program is compliant with Title VI.

### Universities and Colleges

TxDOT's Research and Technology Implementation Division (RTI) manages TxDOT's Cooperative Research and Implementation Program. The program provides for TxDOT to contract with Texas state-supported institutions of higher education, through a competitive process, to improve Texas transportation. CIV works with RTI in selecting federal-aid Universities for review.

A minimum of one review subject will be selected from each of the subrecipient categories of planning agencies, consultant contractors and universities and colleges annually.

### *Notification*

Subrecipients will be notified in writing at least 30 days in advance that they have been selected for a compliance review. The notification letter will include an itemized listing that outlines the major Title VI components that subrecipients are required to submit supporting documentation for. The supporting documentation is due to CIV 30 days from the date of the notice.

### *Findings*

The Title VI Program Administrator will review the documents and information submitted by the subrecipient during the desk audit and will prepare a report of findings, including corrective actions, if applicable. If there are no deficiencies, the report may still provide recommendations for strengthening the subrecipient's Title VI Program.

### *Follow-up Monitoring*

CIV will determine if additional monitoring is needed to obtain a compliant status and ensure ongoing compliance with Title VI/Nondiscrimination requirements. Follow-up reviews may be conducted to ensure the subrecipient has complied with the noted deficiencies.

### *Compliance Assessment Tool*

CIV is developing an online *Title VI Compliance Assessment Tool and associated technical guidance* for subrecipients to understand and comply with the requirements of Title VI. TxDOT will provide technical assistance to subrecipients in the process of achieving program compliance and periodically verify Title VI program criteria with onsite technical assistance visits. Agency certification for Title VI compliance will be a three-year reoccurring process in cooperation with TxDOT's Local Government Office. A description of the compliance assessment tool under development is included in the FY 2019-2020 Title VI/Nondiscrimination Goals and Accomplishments Report.

## **Data Collection/Reporting/Analysis**

Statistical data on race, color, national origin, sex, age, and disability of participants in and beneficiaries of TxDOT's programs will be gathered annually and analyzed to determine the transportation investment benefits and burdens to the public, including minority and low-income populations. Beneficiaries include relocatees, impacted citizens, and affected communities. Collecting, analyzing, and maintaining statistical data are crucial elements of the Title VI Program because they constitute an effective mechanism by which to numerically verify the distribution and impact of program funding.

Each federal program area is responsible for collecting Title VI/Nondiscrimination-related data and analyzing the data annually to identify and address any trends or patterns of discrimination. Data collection is key to ensuring that transportation programs, services, facilities and projects effectively meet the needs of "all persons" without discrimination (i.e., disproportionately benefiting or harming one group over another is a violation of Title VI.) Based on Title VI implementing regulations, each federal program area is required to:

1. Provide for the collection of data and information to demonstrate effective enforcement of Title VI;
2. Collect data about beneficiaries;
3. Analyze the data and information collected;
4. Identify potential discrimination and work with CIV to eliminate if found;
5. Take affirmative measures to ensure nondiscrimination.

### *Data Collection*

Federal program areas are responsible for collecting data on race, color, national origin, sex, age, and disability as it pertains to their potential interaction with the public. Additional data can include language spoken other than English and income status. CIV will work individually with each program area to develop a collected data set which will support the Title VI questionnaire for reporting to FHWA. Potential sources of data and analysis tools include:

- Census Data
- American Community Survey
- School Districts
- Forms or Surveys
- Management Systems (Pavement and Congestion)
- Land Use Plans
- Geographic Information Systems
- Transportation Growth Projection Models
- MPO Committees (e.g., Citizen Advisory Committees)

## Reporting

Internal Title VI reviews are performed annually as a Title VI questionnaire. TxDOT's federal program area Divisions and select District Offices submit an annual Title VI questionnaire for review by CIV. Title VI liaisons work directly with the Title VI Program Administrator to complete the questionnaire and provide any additional requested information. TxDOT's federal program area liaisons will be notified by the Title VI Program Administrator when the Title VI questionnaire is due to CIV. If necessary, notification can also occur through a memorandum sent from the CIV Director to the Division Director of that federal program area or the District Engineer of that select District to submit the Title VI questionnaire. CIV will work with the federal program areas to identify which data needs to be analyzed from the questionnaire responses. Data analysis results will be included in the *Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report*.

## Analysis

Once the Title VI data is collected, the data must be analyzed for identifying patterns of discrimination or the potential for discrimination. Each federal program area is responsible for analyzing the data collected and recommending corrective action, as appropriate to CIV. A pattern of discrimination may result from a specific process, or as the result of a process or procedure being implemented in a discriminatory manner.

When determining compliance with Title VI, each program area may consider the following:

- The way services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of their protected class as defined by Title VI authorities;
- The population eligible to be served by race, color and national origin;
- 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;
- 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; and
- Where determination of location is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color and national origin.

Types of analysis to address compliance with Title VI include:

- Percent of benefits allocated to persons below the poverty line versus persons above the poverty line;
- Distribution of benefits (dollars, facilities, systems, projects) by groups and communities;
- Allocation of funds by mode (highway, bus, etc.);

- Impact of investments on income, race, color, national origin, sex, age and disability groups;
- Projected population increases versus planned facilities and type of facilities;
- Impacts of the location of existing or proposed facilities connected with a project;
- Alternatives to modes, locations, and types of facilities;
- Language assistance needs assessment;
- Transportation needs of all persons within boundaries of plans or projects;
- Persons included in the decision-making process;
- Strategies to address impacts and develop mitigation;
- Priorities for investments;
- Sources for financing investments, and
- Strategies to disseminate information.

## **Title VI Training**

TxDOT's Title VI/Nondiscrimination Training Program consists of an internal and external component. A summary of training conducted will be reported in the *Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report*.

### *Internal*

CIV provides training, presentations, and resources Department-wide that provide comprehensive information on the Title VI requirements, its application to specific program operations, identification of Title VI issues, and the resolution of potential or formal complaints.

Additionally, CIV staff and the Title VI liaisons meet quarterly throughout the year to discuss practical solutions to Title VI/Nondiscrimination requirements and plan implementation.

CIV has developed training for all TxDOT employees to have a basic understanding of the requirements of Title VI and the TxDOT Title VI/Nondiscrimination Plan. CIV will work with Enterprise Learning Management System to build a training module for internal use.

### *External*

As part of the TxDOT Title VI Subrecipient review program, the Title VI Program Administrator provides technical assistance to subrecipients to ensure they understand their roles and responsibilities in meeting the Title VI/Nondiscrimination requirements. CIV developed the *Title VI/Nondiscrimination Technical Assistance Guide for Subrecipients* to assist subrecipients in understanding and implementing their Title VI requirements. The technical assistance guide addresses the following objectives:

- Understanding the Title VI/Nondiscrimination requirements;
- Identifying regulations and guidelines related to Title VI;
- Understanding the roles of TxDOT and the LPAs;
- Recognizing and eliminate discrimination prohibited under Title VI;
- Providing guidance necessary to build a Title VI/Nondiscrimination program, and
- Preparing for a Title VI technical assistance visit from TxDOT.

This guide is available on TxDOT's Web site. Additionally, Title VI requirements are discussed during TxDOT's Local Government Project Procedures (LGPP) Qualification Program course, which is a mandatory course for local public agencies that wish to obtain federal funding through TxDOT to administer local projects. To potentially expand the target subrecipient audience and make the information overall more accessible, CIV is developing Title VI Program templates that will be available on [www.txdot.gov](http://www.txdot.gov) website. The templates will accompany the compliance assessment tool questions and assist the agency in achieving compliance with Title VI requirements. CIV will conduct regional training to assist LPAs with understanding the federal requirements of compliance with Title VI. The trainings will be

strategically held around the state to allow LPAs a greater opportunity to attend. The Title VI Program Administrator is also available to provide assistance in understanding the TxDOT guidance on Title VI programs, data collection and analysis.

## **Complaint Procedures**

The following procedures cover complaints filed under Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987. Any person who believes they, or any specific class of persons, to be subjected to prohibited discrimination based on race, color or national origin may file a written complaint individually or through a representative. A complaint must be filed no later than 180 days after the date of the alleged discrimination, unless the discrimination is ongoing, or the time for filing is extended by the FHWA. Complaints related to the Federal-aid highway program may be filed with TxDOT, FHWA Division Office, the FHWA Headquarters Office of Civil Rights (HCR), the USDOT Departmental Office of Civil Rights, or the USDOJ. TxDOT will ensure that all complaints are sent to the appropriate authority for disposition.

Complaints alleging violations of Title VI by TxDOT may be filed in writing directly with the following FHWA agencies:

### **Federal Highway Administration – Texas Division**

300 E. 8<sup>th</sup> St.  
Austin, TX 78701

### **Federal Highway Administration**

Office of Civil Rights  
HCR-20, Room E81-320  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Complaints alleging violations of Title VI filed against a subrecipient to TxDOT (e.g. city, county, college or university, contractor, consultant, etc.) may be filed in writing with TxDOT at:

### **Texas Department of Transportation**

Civil Rights Division  
Attn: Title VI Program Administrator  
125 E. 11<sup>th</sup> Street  
Austin, Texas 78701

Additionally, complaints filed against subrecipients to TxDOT may be filed with FHWA or the U.S. Department of Justice at:

### **Federal Coordination and Compliance Section - NWB**

Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

**NOTE:** Additional information regarding the Title VI complaint process can be found at: <http://www.txdot.gov/inside-txdot/division/civil-rights/title-vi.html>

Complaint and investigation files are confidential. The contents of such files will only be disclosed to appropriate TxDOT personnel and federal authorities in accordance with Federal and State laws. TxDOT will retain files in accordance with records retention schedules and all Federal guidelines.

### *Roles and Responsibilities*

CIV is charged with the primary responsibility of processing Title VI external discrimination complaints received by TxDOT. All discrimination complaints received by DDs must be referred to CIV for review and action. CIV processes complaints consistent with FHWA's *Questions and Answers for Complaints Alleging Violations of Title VI of the Civil Rights Act of 1964* guidance. CIV will inform the FHWA Division Office, which will forward the complaint to the FHWA Headquarters Office of Civil Rights (HCR) for review and further investigation if accepted.

### *Processing Complaints*

Complaints shall set forth, as fully as possible, the facts and circumstances surrounding the alleged discrimination. If a person makes a verbal complaint to a TxDOT employee, that person shall be interviewed by CIV. If necessary, CIV will assist the person in documenting the complaint in writing and submitting the written version to the person for signature.

Within 10 days of receipt of the complaint, CIV will acknowledge receipt, inform the complainant of action proposed or taken, and forward the complaint to the appropriate regulatory agency. Complainants are provided TxDOT's Title VI flyer Title VI, "Protecting your civil rights is good business" with current contact information. Complaints forwarded to the FHWA will include the following information, if available:

- Name, address, and phone number of the complainant;
- Name(s) and address(es) of alleged discriminating official(s);
- Basis of complaint (i.e., race, color, national origin, sex, age, disability);
- Date of alleged discriminatory act(s);
- Date of complaint received by TxDOT;
- A statement of the complaint;
- Other agencies (state, local or federal) where the complaint has been filed; and
- An explanation of the actions TxDOT has taken or proposed to resolve the issue raised in the complaint.

FHWA has the authority for making all final decisions, including dismissing complaints and issuing letters of findings for complaints concerning the Federal Highway Program. The following are four potential outcomes once a complaint is submitted to FHWA:

- **Accept:** if a complaint is filed timely, contains sufficient information to support a claim under Title VI, and concerns matters under FHWA's jurisdiction, then FHWA will send to the complainant, the respondent agency, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
- **Preliminary review:** if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then FHWA may (1) dismiss it, or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
- **Procedural Dismissal:** if a complaint is not filed timely, is not in writing and signed, or features other procedural/practical defects, then FHWA will send the complainant, respondent, and FHWA Division Office a written notice that it is dismissing the complaint.
- **Referral\Dismissal:** if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter, or (2) lacks jurisdiction over the respondent entity, then FHWA will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

### *Investigative Process for Subrecipient Complaints*

FHWA may delegate a Title VI complaint filed on a subrecipient to TxDOT for investigation. Within 60 days of receipt of the complaint, CIV will conduct and complete an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to FHWA. FHWA will issue final decisions in all cases, including those complaints investigated by CIV. The complaint will be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.

### *Developing an Investigative Plan*

An Investigative Plan (IP) will be prepared to define the issues and lay out the blueprint to complete the investigation. The IP is used to keep the investigation on track and focused on the issues and sources of evidence or corroboration. The IP outline is as follows:

- Complainant name and contact information, and that of their attorney, if applicable;
- Respondent name and contact information, and that of their attorney, if applicable;
- Applicable laws and regulations;
- Basis of complaint (i.e., race, color, national origin, sex, age, disability);

- Allegation(s)/Issue(s);
- Theory(ies) of discrimination (for Title VI only);
- Background;
- Interviewee(s) name and contact information;
- Questions for the complainant, respondent, and interviewee(s);
- Evidence to be obtained;
- Estimated investigation time line;
- Remedy sought by the complainant(s).

### *Complaint Log*

CIV maintains a complaint database to document all activity related to the complaint. Screen shots of the database are included as [Attachment 5](#). Information captured includes:

- Complainant's name, and if provided, race, color, and national origin;
- Respondent's name;
- Basis(es) of the discrimination complaint;
- Allegation(s)/Issue(s) surrounding the discrimination complaint;
- Date the discrimination complaint was filed;
- Date the investigation was complete;
- Disposition;
- Disposition date; and
- Other pertinent information.

### *Preparing the Report of Investigation*

A Report of Investigation (ROI) will be prepared setting forth all the relevant facts obtained during the investigation. The ROI will include a finding for each issue and recommendations, where necessary. Documentation regarding any attempts and outcomes that were made to resolve the complaint prior to the initial receipt of the written complaint will be summarized in the ROI. The ROI and recommended decision will be forwarded to the FHWA for a final decision.

## **Dissemination of Title VI Information**

In accordance with 23 CFR 200.9(a)(12), TxDOT is required to develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English.

### *Notification to Beneficiaries*

TxDOT's website was updated to ensure Title VI information is readily accessible to the public. The website informs the public of their rights under Title VI and provides information on how to file a complaint. Title VI information available on TxDOT's Web site includes:

- TxDOT's Title VI/Nondiscrimination Plan
- Title VI Nondiscrimination Agreement
- Title VI and Related Statutes Nondiscrimination Statement (English and Spanish)
- Title VI Nondiscrimination Assurances
- TxDOT's Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report
- TxDOT's External Discrimination Complaint Form (English and Spanish)
- Title VI Poster
- Title VI Training
- Title VI Requirements for Subrecipients
- TxDOT's Title VI/Nondiscrimination Technical Assistance Guide for Subrecipients
- TxDOT's Language Assistance Plan

The above information is located on TxDOT's Web site at <http://www.txdot.gov/inside-txdot/division/civil-rights/title-vi.html>. The DD offices have Title VI Posters on display and Title VI Brochures available upon request.

### *TxDOT Offices and Statewide Planning Meetings*

Working through Title VI liaisons, CIV instructs DD offices to display Title VI Posters in areas of high visibility or places where TxDOT has the most interaction with the public. In most circumstances, it is the main lobby of the Division, District, Area or Maintenance Offices. Title VI brochures are also provided to the various offices and provided to the public upon request.

To further the mission of the Department, TxDOT conducts long-range planning meetings to identify the needs of the traveling public into the future. The meetings include public outreach around the state to better consider public and stakeholder input. Title VI brochures are available to the public at these meetings. The objective is to convey to the public that Title VI is carefully considered in all the phases of TxDOT's project development.

## Public Involvement

In 2011, TxDOT adopted a public involvement policy that committed to purposefully involving the public in planning and project implementation by providing for early, continuous, transparent and effective access to information and decision-making processes. TxDOT's Office of Public Involvement, currently overseen by TPP, provides guidance and resources to assist DDs in effectively engaging the public. The Office of Public Involvement regularly updates guidance to reflect evolving best management practices and incorporate strategies found to be effective in encouraging broad participation reflective of the needs of the state's population.

Additionally, TxDOT provides opportunities for public review and comment at key decision points during the statewide transportation planning process as required by the Moving Ahead for Progress in the 21st Century Act (MAP-21).

ENV has made available a Public Involvement Toolkit, which provides guidance, procedures, and examples for environmental practitioners to use in preparing for and executing public involvement-related tasks in compliance with federal and state regulations. This includes the *Environmental Handbook for Public Involvement*, which outlines the public involvement process necessary to comply with state and federal requirements during the environmental phase of project development. The toolkit is available on TxDOT's Web site at <https://www.txdot.gov/inside-txdot/division/environmental/compliance-toolkits/public-involvement.html>

### *Interested Parties, Public Involvement, and Consultation*

TxDOT informs all stakeholders about proposed plans and projects during the statewide transportation planning process. During this process, TxDOT also seeks input from all stakeholders on specific projects and issues. Notification of any actions taken on the Statewide Transportation Improvement Program (STIP) or the long-range statewide transportation plan, including how and where to obtain a copy of the subject document, the time and date of the public hearing, instructions to those interested in providing comments, and a copy of the applicable Texas Register public notice, is sent to the following:

- MPO directors
- State and federal environmental agencies
- Texas Bicycle Coalition
- Tribal governments
- Bureau of Indian Affairs
- Central Federal Lands Highway Division
- National Park Service/Intermountain Region office

All other interested parties are provided notice of the comment period and public hearings via the Texas Register public notice and on TxDOT's Web site. Interested parties are able to access planning documents at TPP, District offices, and on TxDOT's Web site. Written comments can be provided to District Office personnel or can be mailed directly to TPP at, P.O. Box 149217, Austin, Texas 78714-9217. Copies of all documents are available for review at the location of the public hearing.

TxDOT's statewide public involvement process allows for at least 45 calendar days from the date the public hearing notice appears in the Texas Register for the public to review and comment (in writing or in person at the hearing) on a planning document before it is adopted.

At least once every five years (after the adoption date of the plan), TxDOT will review and solicit comments from non-metropolitan local officials and other interested parties for a period of not less than 60 calendar days regarding the effectiveness of the consultation process outlined in the plan, and any proposed changes. A specific request for comments will be directed to the State association of counties, State municipal league, regional planning agencies, or directly to non-metropolitan local officials.

### *Public Involvement and Consultative Tools*

TxDOT utilizes the following methods to communicate information regarding department activities and opportunities for public and stakeholder participation in the statewide planning process:

- Newsletter/Mailings
- Media Releases
- Notices Published in the Texas Register
- Visualization Presentations/Techniques
- Local Community Public Meetings
- Statewide Public Hearings
- TxDOT's Web site
- MPO Internet Sites
- Facebook and Twitter
- Podcasts

## *Public and Stakeholder Outreach and Visualization Tools*

To ensure that all stakeholders are included in the long-range planning process and during the development of the PIP and other plans and programs referenced in it, TxDOT provides opportunities for stakeholders and the public to participate during public meetings and stakeholder working sessions TxDOT also provides the public with access to all planning documents on TxDOT's Web site:

- Hearings and Meetings Schedule: <http://www.txdot.gov/inside-txdot/get-involved/about/hearings-meetings.html>
- Transportation Planning Publications: <http://www.txdot.gov/inside-txdot/forms-publications/publications/transportation-planning.html>
- Media Center for up-to-minute transportation information: <http://www.txdot.gov/inside-txdot/media-center.html>

## Available Geographic Information System (GIS) Data

TxDOT makes available to the public several sources of Geographic Information (GIS) data used in the planning process. TxDOT also incorporates GIS technology to provide the following maps and data on TxDOT's Web site:

- Load Restricted Bridges Map application
- Roadway Recycled Materials Summaries
- Right of Way Maps application
- Project Tracker

## Texas Transportation Plan/Stakeholder and Public Participation Plan

The Texas Transportation Plan (TTP) 2040 addresses the statewide planning requirements under MAP-21 and Texas Administrative Code Title 43, Chapter 16. The *Stakeholder and Public Participation Plan* (SPPP) is project-specific to the TTP 2040, which is produced once every four years. The SPPP objectives include:

- Establish early and continuous public participation opportunities that provide timely information about transportation issues and decision-making processes to all interested parties;
- Provide reasonable public access to educational, technical, and policy information to enhance the public's knowledge and ability to participate in the development of the TTP;
- Provide adequate public notice of participation opportunities during the development of the TTP and time for public review and comment at key decision points in the planning process;
- Ensure that public participation opportunities are held at convenient and accessible locations and times (in compliance with the ADA);

- Make information easy to understand using visualization techniques and provide the information in appropriate electronically-accessible formats and means (i.e., PDF and PowerPoint) via TxDOT's Web site, technology-enabled media (i.e., Facebook and Twitter), and video-teleconferencing;
- Include measures for seeking input from and considering the needs of those traditionally underserved by existing transportation, such as low-income, minority, and non-English speaking households who may face challenges accessing employment and other services; and
- Provide for the periodic review of the public participation process to ensure the effectiveness of TxDOT's public involvement efforts and revise the process as appropriate.

The TTP stakeholder and public participation activities are intended to solicit meaningful input from:

- Users of the transportation system (all modes), including disabled, low-income, minority, and non-English speaking populations;
- Metropolitan and Rural Planning Organizations (MPOs and RPOs);
- Public transportation agencies (metropolitan and rural);
- Freight shippers and providers of freight services (in coordination with the Texas Freight Mobility Plan stakeholder engagement efforts);
- Private providers of transportation;
- Affected state and federal resource agencies;
- Affected Tribal Governments;
- State and local elected officials (metropolitan and non-metropolitan areas); and
- All other interested parties.

### *Limited English Proficiency (LEP)*

Executive Order 13166, guidance entitled "Improving Access to Services by Persons with Limited English Proficiency" requires federal agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to LEP, cannot fully and equally participate in or benefit from those programs and activities. LEP individuals are those who do not speak English as their primary language and have a limited ability to read, write, speak, or understand English as a result of their national origin. These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

The U.S. DOJ's LEP Guidance advises each federal department or agency to "take reasonable steps to ensure 'meaningful' access to LEP individuals to the information and services they provide." It further explains that the identification of "reasonable steps" to ensure meaningful access will be contingent on a number of factors. Among the four factors to be considered are:

- The number or proportion of LEP persons in the eligible service population;
- The frequency with which LEP individuals come in contact with the program;
- The importance of the service provided by the program;
- The resources available to the agency.

TxDOT's Language Assistance Plan (LAP) has been developed to assist DDs in their efforts to ensure information and services are accessible to LEP individuals by providing guidance on translation, interpretation, and outreach services for LEP individuals seeking access to TxDOT programs. To expedite the access to language services, TxDOT established a statewide purchase order that can be utilized by all DDs for written, oral and auditory translation services. CIV will annually monitor the LAP to evaluate its effectiveness in serving LEP individuals and modify it accordingly. To further implement the LAP, each DD must conduct a four-factor analysis and develop its own LEP Implementation Plan to improve access for LEP individuals in the area it serves. Additionally, each DD will annually re-evaluate the changes in demographics, services and programs, and other factors that should be considered when determining LEP needs. This annual assessment will help guide DDs in determining what changes, if any, are needed to update its LEP plan.

TxDOT's LAP is available on TxDOT's Web site at <http://www.txdot.gov/inside-txdot/division/civil-rights/title-vi.html>.

### *Public Involvement during the Environmental Process*

Public involvement occurs as a part of the social and economic impact analysis. Public involvement efforts must also reflect an understanding of language trends in the project area and accommodate any LEP populations. The public assists TxDOT in providing important information for socio-economic analysis by:

- Helping to develop a project's purpose and need;
- Profiling the community's demographics;
- Identifying alternatives and impacts;
- Identifying community values and community landmarks; and
- Developing strategies and solutions for avoiding, mitigating, minimizing, or enhancing impacted resources.

Public involvement is an ongoing aspect of the project planning process that encourages and solicits public input and provides the opportunity for the public to become fully informed

about project development. Public involvement considerations include: Types of Public Involvement Procedures, Specialized Public Involvement – Cultural Resources, Public Involvement Following Project Approvals, and Notices and Media Releases for continued engagement.

### *Types of Public Involvement Procedures*

Early in the planning process, projects are included in the STIP and the Transportation Improvement Program (TIP). Meetings to discuss the recommended projects are advertised allowing any interested citizen to provide input in the project planning and programming process. In some instances these meetings can be considered adequate public involvement for minor projects constructed in existing right of way and/or general maintenance projects. However, depending on the type and complexity of the project, public concerns, associated social, economic, and environmental factors, the following additional public involvement may be required:

- Meetings with affected property owners (MAPO) – MAPOs are held with property owners affected by minor or temporary projects and may occur at any stage of the project development process. Due to the informal nature of MAPOs, the format and conduct will be tailored to the individual project, allowing for ample time for public questions and comment.
- Public Meetings – Public meetings are held to inform the public and provide a forum for a free exchange of project views and concerns. Public meetings occur as early as TxDOT determines is feasible to assure public input in project planning, location, and design alternatives. Public meetings include meetings with interested citizens, the general public, or local, neighborhood, or special interest groups. A public meeting will be held during the drafting of a DEIS to present the draft coordination plan.
- Opportunities for Public Hearing – An opportunity for public hearing is advertised to determine if any interested citizens desire TxDOT to hold a public hearing for a proposed project. This is a minimum requirement for projects requiring acquisition of significant amounts of new right of way, those requiring a substantial change in layout or function of the roadway or connecting roadways, or requiring measurable adverse impact on abutting real property. The decision to afford an opportunity for a public hearing is generally decided upon by a district in consultation with ENV and FHWA (for federally funded projects). If no requests for public hearing are received by the deadline, the district will submit a certification to that effect signed by the district engineer or his/her designee.
- Public Hearings – Public hearings are held to present project alternatives. They also serve to encourage and solicit public comment on the location, design, and environmental analyses of a project. The Public Participation handbook includes sections that describe various aspects of public hearings, including the format and procedures for conducting a public hearing.
- Stakeholder Meetings or Advisory Groups – Specialized public involvement must be considered when EJ populations have the potential to be adversely impacted. It is the

role of project development specialist to undertake proactive efforts to engage the community in meaningful opportunities for public participation. These efforts must reflect the socioeconomic constraints of the targeted population one is trying to elicit input from, as well as the accommodations made for LEP persons.

### *Specialized Public Involvement – Cultural Resources*

Section 106 of the National Historic Preservation Act requires that special care be taken when potential historic and/or archaeological resources are involved in a transportation project. For projects involving historical resources and archaeological sites, districts will identify and coordinate with interested parties early in the project planning process. The *Environmental Handbook for Historic Properties* includes procedures related to Letter Content, Certified Letter Transmittal, Responding to Interested Parties, and Informing the Public.

### *Public Involvement Following Project Approvals*

Additional public involvement (opportunity, public hearing, public meeting or limited meeting) is scheduled when:

- Substantial change occurs in the project (major design changes, changes in right of way requirements, etc.);
- Substantial unanticipated development occurs in the project area;
- New significant social, economic, and environmental effects are identified as project related; and
- An unusually long time passes before major steps are taken to advance the project. Major steps include authority to acquire right of way and issuance of construction letter of authority.

### *Notices and Media Releases*

The *Environmental Handbook on Public Involvement* describes the requirements and formats for publishing the following notices and media releases, which also includes publishing notifications in English and any other prominent language identified and spoken in the project area:

- Publishing notices – Official notices are published in local general circulation newspapers, regional newspapers (if there is no local newspaper), and special interest newspapers, such as neighborhood, ethnic, or foreign language.
- Publication requirements – The opportunities for public hearing notice is published approximately 30 days prior to the deadline for submission of written requests for holding a public hearing and at a minimum, will be published at least 30 days before the day of a public hearing. Additionally, public hearing notices must include a statement that the hearing will be conducted in English and that any requests for language

interpreters or other special communication needs should be made in advance and TxDOT will make every reasonable effort to accommodate these needs.

- Other forms of publicity – Other forms of publicity include temporary signs, leaflets posted in public locations, media releases, notices mailed to residents, etc.
- Notices of availability - Environmental Assessment (EA) and Final Environmental Impact Statement (FEIS) – Informs the public of the approval of an EA and required following approval of a FEIS; notice of availability is published in local newspapers.
- Media releases – Can be used any time to publicize meetings or other information about projects. Once the public involvement process is complete, project planning and development decisions are to be publicized through press releases to inform the public about the project. Any changes to a transportation project may require additional public involvement.
- Notice of construction – The district will send a notice of impending project construction to landowners abutting the roadway within the project limits, local governments, and public officials. Projects that involve the addition of at least one-travel lane or construction on a new location require notices of construction. The notice is sent at least 90 days prior to the proposed letting date.

## Review of STA Directives

Development and issuance of Title VI policy, procedures, directives, and policy interpretations are major functions of CIV. TxDOT incorporates Title VI policy and mission statements into its procedures and manuals. Additionally, by conducting program process reviews, CIV ensures that Title VI requirements are included in program area directives and that procedures used have built-in safeguards to prevent discrimination.

Currently, the Title VI Program Administrator reviews program documents as they are submitted to the Civil Rights Division for review. CIV has been in communication with the General Counsel Division (GCD) regarding representation on the I-Team to ensure the State directives are compliant with Title VI requirements. The I-Team and CIV developed a process to expand the Title VI program process reviews and ensure that Title VI requirements are included in program area directives.

### *Title VI Special Provision*

Special Provision 000--002, Nondiscrimination, provides for the inclusion of Appendix A and Appendix E from the U.S. DOT Standard Title VI Assurances into every contract as mandated by Title VI of the Civil Rights Act of 1964. CIV monitors the monthly State Let Construction Federal-aid Contracts to ensure its inclusion. With the implementation of the new 2014 Standard Specifications Book, all provisions were updated. A copy of the Special Provision is included as [Attachment 6](#).

## **Compliance and Enforcement Procedures**

### *Identifying and Eliminating Discrimination*

TxDOT will actively pursue the prevention of Title VI deficiencies and will take the necessary steps to ensure compliance with all administrative program requirements. To further enhance the ability to identify and eliminate patterns of discrimination, CIV will ensure that staff, subrecipients, and beneficiaries are educated and informed regarding their Title VI roles and responsibilities.

CIV conducts compliance reviews to 1) ensure compliance with Title VI; 2) provide technical assistance in the implementation of TxDOT's Title VI/Nondiscrimination Program; and 3) correct deficiencies, when found to exist. When conducting Title VI compliance reviews, any deficiencies will be communicated in writing with the remedial action agreed upon by CIV within a period not to exceed 90 days. Efforts to secure voluntary compliance will be undertaken at the outset in every noncompliance situation and will be pursued through each enforcement action. CIV will seek the cooperation of its program areas and subrecipients in correcting deficiencies found during the review. CIV will also provide technical assistance, guidance, and assistance in finding methods, strategies, and processes to ensure effective Title VI implementation and enforcement. When a subrecipient fails or refuses to comply with the requirements within the time frame allotted, CIV will initiate administrative remedies.

### *Process to Resolve Deficiencies Identified By FHWA*

Effective Title VI compliance requires TxDOT to take prompt action to achieve voluntary compliance in all instances in which deficiencies are found by FHWA. TxDOT will correct any deficiencies found within a reasonable time period, not to exceed 90 days in order to implement Title VI compliance in accordance with required guidelines.

Within 30 days from the receipt of a deficiency, CIV will develop a corrective action plan (CAP) to include:

- Deficiency;
- Applicable laws, rules, regulations;
- Actions to be taken by CIV to correct the deficiency;
- Timeframe to correct the deficiency;
- Plan for monitoring the progress of the CAP; and
- Timeframe for providing updates to the FHWA.

The CAP will be submitted to FHWA for approval. Upon approval, CIV will implement the CAP and provide periodic updates to FHWA. If necessary, CIV will update its procedures or work with the affected program area to update its procedures to reflect the outcome of the CAP.

The CAP, and its results, will be included in the *Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report*.

## *Reporting to FHWA*

TxDOT will submit the *Title VI/Nondiscrimination Plan* and the *Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report* to FHWA annually by October 1. This report updates FHWA on how TxDOT is monitoring the implementation of TxDOT's Title VI/Nondiscrimination Program. This report will include:

### Accomplishments

1. Internal Reviews: A summary of internal reviews conducted, the results, and any actions taken as a result;
2. A list of all Title VI training given by TxDOT, including the topics covered, and the number of attendees;
3. A summary of all Title VI complaints received and the outcomes for those complaints; and
4. A summary of all liaison/I-Team meetings with CIV topics and any issues raised by the Title VI team.

### Goals

1. A description of the reviews planned for the next year (both internal and external);
2. Develop Title VI program metrics to be presented in an Accomplishment Report to FHWA;
3. A summary of the external (subrecipient) participation in the compliance assessment tool and onsite technical assistance reviews conducted by TxDOT;
4. A description of any training sessions planned (both internal and external); and
5. Any other Title VI related activities TxDOT intends to participate in for the fiscal year.



FY 2020

Title VI/Nondiscrimination Plan

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Attachments

# Attachment 1 – Title VI/Nondiscrimination Statement



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## TITLE VI AND RELATED STATUTES

### NONDISCRIMINATION STATEMENT

The Texas Department of Transportation, as a recipient of Federal financial assistance and under Title VI of the Civil Rights Act of 1964 and related statutes, ensures that no person shall on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment per 42 U.S.C. § 2000d-3), color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any Department programs or activities.

  
James M. Bass  
Executive Director  
Texas Department of Transportation

  
Date

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## TITULO VI YE ESTATUTOS RELACIONADOS

### DECLARACION DE NO DISCRIMINACION

El Departamento de Transporte de Texas, como recipiente de Asistencia Financiera Federal y segun el Acta de Derechos Civiles Titulo VI del 1964 Y estatutos relacionados, asegura que ninguna persona sera excluida a causa de raza, religion (donde el objetivo principal es asistencia financiera para proveer empleo segun 42 U.S.C. § 2000d-3), color, origen nacional, sexo, edad o incapacidad de participacion en, o negados los beneficios de, o de otra manera sea sujeto a discriminacion en cualquiera de los programas o actividades del Departamento.

  
James M. Bass  
Director Ejecutivo  
Departamento de Transporte de Texas

  
Date

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## Attachment 2 – Title VI Assurances



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THE UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT)

STANDARD TITLE VI/NONDISCRIMINATION ASSURANCES

DOT ORDER NO. 1050.2A

Texas Department of Transportation (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (USDOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

#### Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 Code of Federal Regulations (CFR) Part 21 (entitled Nondiscrimination In Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964);
- 28 CFR §50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

#### General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure 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 otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

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### Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally-assisted USDOT programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §21.23(b) and §21.23(e) of 49 CFR §21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all USDOT programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
 

*"The Texas Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*
3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. The Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - (a) for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - (b) for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

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- 8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - (b) the period during which the Recipient retains ownership or possession of the property.
- 9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, subrecipients, subgrantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
- 10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any subrecipients, subgrantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the USDOT access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the USDOT. You must keep records, reports, and submit the material for review upon request to USDOT, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by USDOT under all Department of Transportation programs. This ASSURANCE is binding on Texas, other recipients, subrecipients, subgrantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in all Department of Transportation programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

  
 \_\_\_\_\_  
 James M. Bass  
 Executive Director  
 Texas Department of Transportation

  
 \_\_\_\_\_  
 Date

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the USDOT, the FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:
  - (a) withholding payments to the contractor under the contract until the contractor complies; and/or
  - (b) cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the

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contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

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## APPENDIX B

## CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the USDOT as authorized by law and upon the condition that TxDOT will accept title to the lands and maintain the project constructed thereon in accordance with all applicable federal statutes, the Regulations for the Administration of all DOT programs, and the policies and procedures prescribed by FHWA of the USDOT in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, USDOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of USDOT pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. §2000d to §2000d-4), does hereby remise, release, quitclaim and convey unto TxDOT all the right, title and interest of USDOT in and to said lands described in Exhibit A attached hereto and made a part hereof.

## (HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto TxDOT and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on TxDOT, its successors and assigns.

TxDOT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that TxDOT will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, CFR, USDOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the USDOT, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the USDOT and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

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## APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY,  
FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Recipient pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the Texas Department of Transportation will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the Texas Department of Transportation will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Texas Department of Transportation and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

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## APPENDIX D

## CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED

## UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the Recipient pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, the Texas Department of Transportation will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, the Texas Department of Transportation will there upon revert to and vest in and become the absolute property of the Texas Department of Transportation and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

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## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

## Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

OUR VALUES: People • Accountability • Trust • Honesty

OUR MISSION: Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.

An Equal Opportunity Employer

Attachment 3 – Title VI/Nondiscrimination Coordinator



125 EAST 11<sup>TH</sup> STREET | AUSTIN, TEXAS 78701-2483 | (512) 463-8588 | WWW.TXDOT.GOV

March 28, 2016

Achille Alonzi  
Division Administrator  
Federal Highway Administration  
300 East 8<sup>th</sup> Street, Room 826  
Austin, Texas 78701

Dear Mr. Alonzi:

In accordance with 23 CFR §200.9(b)(1), I am designating the Office of Civil Rights' Director, Michael D. Bryant as the Texas Department of Transportation's Title VI Coordinator.

With my support, Michael will be directly responsible for all aspects of the Title VI Program. Michael's contact information is below.

Michael D. Bryant  
Texas Department of Transportation  
Office of Civil Rights  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701

Office - (512) 416-4700  
E-mail – Michael.D.Bryant@txdot.gov

Sincerely,

A handwritten signature in black ink that reads "James M. Bass".

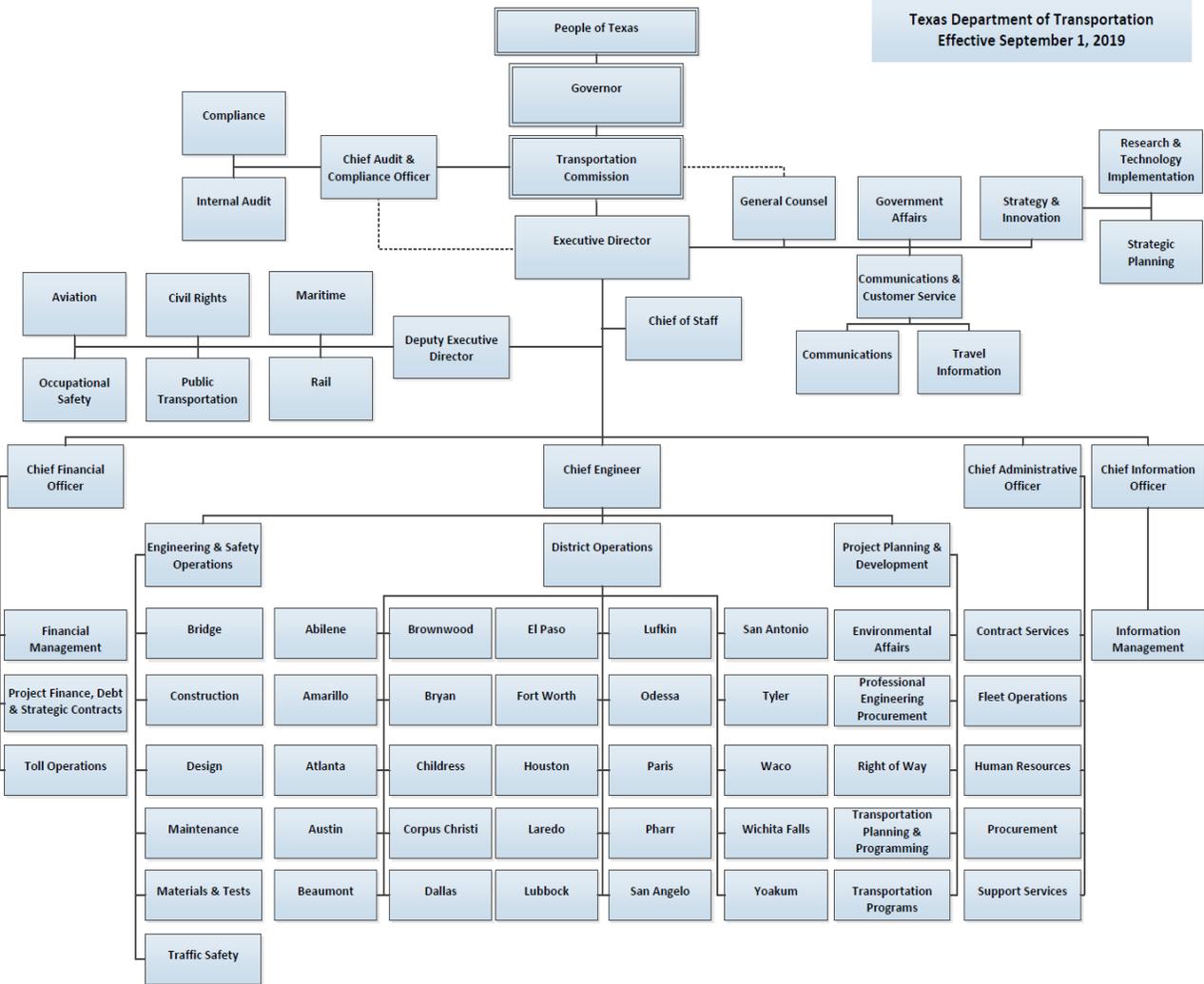
James M. Bass  
Executive Director

cc: Mark Arrington, Federal Highway Administration Civil Rights Specialist

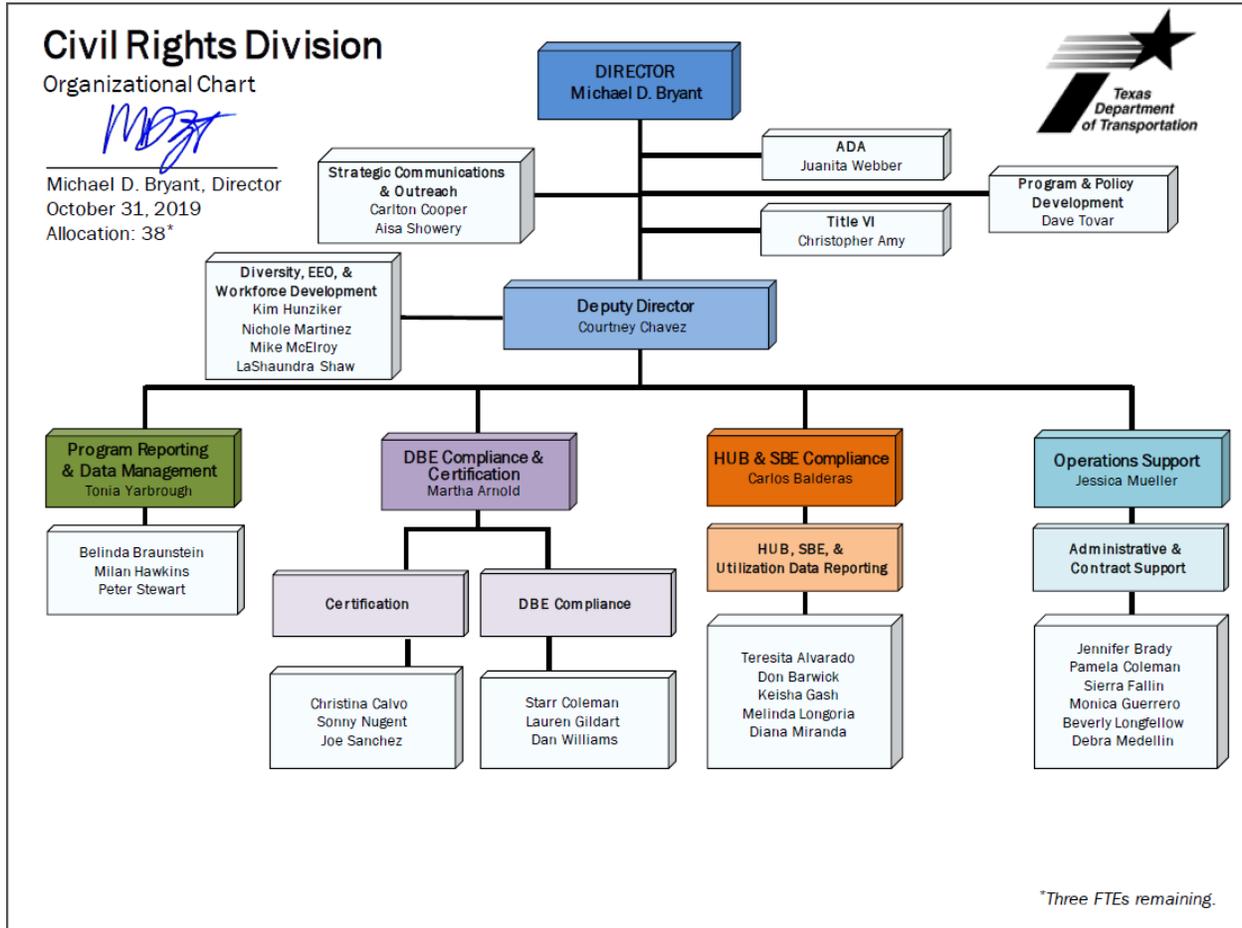
OUR GOALS  
MAINTAIN A SAFE SYSTEM • ADDRESS CONGESTION • CONNECT TEXAS COMMUNITIES • BEST IN CLASS STATE AGENCY

*An Equal Opportunity Employer*

# Attachment 4 – TxDOT Organizational Chart



# Attachment 4a – CIV Organizational Chart



# Attachment 5 – Complaint Database Screenshots

List Mgmt Menu Home Page

### Title VI Discrimination Complaint Requirements Data Entry Form

**General Information:**

Date Complaint Filed with CIV:   Complaint Number:

Complainant Name:

Respondent Name:

Complainant Info Respondent Info Advisor Info Issue Action/Status Notes/Specialist

**Complainant Info:**

Name of Business:

Race:

Street:

City:  State:  ZIP:

Phone Number:

Alt PhoneNumber:

E-mail:

Notes:

List Mgmt Menu Home Page

### Title VI Discrimination Complaint Requirements Data Entry Form

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Respondent Name:

Complainant Info Respondent Info Advisor Info Issue Action/Status Notes/Specialist

**Respondent Info:**

Name of Business:

Position Title:  Race:

Street:

City:  State:  ZIP:

Phone Number:

Alt PhoneNumber:

E-mail:

Notes:



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Specialist Assigned to Complaint: <input style="width: 200px;" type="text"/>						

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## Special Provision to Item 000

### Nondiscrimination

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#### 1. DESCRIPTION

All recipients of federal financial assistance are required to comply with various nondiscrimination laws including Title VI of the Civil Rights Act of 1964, as amended, (Title VI). Title VI forbids discrimination against anyone in the United States on the grounds of race, color, or national origin by any agency receiving federal funds.

Texas Department of Transportation, as a recipient of Federal financial assistance, and under Title VI and related statutes, ensures that no person shall on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment per 42 U.S.C. § 2000d-3), color, national origin, sex, age or disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any Department programs or activities.

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#### 2. DEFINITION OF TERMS

Where the term "Contractor" appears in the following six nondiscrimination clauses, the term "Contractor" is understood to include all parties to Contracts or agreements with the Texas Department of Transportation.

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#### 3. NONDISCRIMINATION PROVISIONS

During the performance of this Contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- 3.1. **Compliance with Regulations.** The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.
- 3.2. **Nondiscrimination.** The Contractor, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 3.3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- 3.4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

- 3.5. **Sanctions for Noncompliance.** In the event of a Contractor's noncompliance with the Nondiscrimination provisions of this Contract, the Recipient will impose such Contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
- withholding payments to the Contractor under the Contract until the Contractor complies, and/or
  - cancelling, terminating, or suspending a Contract, in whole or in part.
- 3.6. **Incorporation of Provisions.** The Contractor will include the provisions of paragraphs (3.1) through (3.6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

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#### 4. PERTINENT NONDISCRIMINATION AUTHORITIES:

During the performance of this Contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- 4.1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- 4.2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- 4.3. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- 4.4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- 4.5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- 4.6. Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- 4.7. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and Contractors, whether such programs or activities are Federally funded or not);
- 4.8. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- 4.9. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- 4.10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- 4.11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- 4.12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).