

Title VI Plan for CDOT FHWA Subrecipient

Town of Ridgway: Streets Department

February 13, 2019

Prepared by: Jen Coates, Town Manager

I. Non-Discrimination Policy Statement

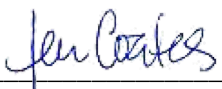
It is the policy of the Town of Ridgway that no person shall on the grounds of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of the Town of Ridgway as provided by Title VI of the Civil Rights Act of 1964 and related statutes.

This policy applies to all operations of the Town of Ridgway including its contractors and anyone who acts on behalf of the Town of Ridgway. This policy also applies to the operations of any department or agency to which the Town of Ridgway extends federal financial assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quality, quantity, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; Discrimination in any activities related to highway and infrastructure or facility built or repaired; and Discrimination in employment.

Title VI compliance is a condition of receipt of federal funds. The Title VI Coordinator is authorized to ensure compliance with this policy, Title VI of the Civil Rights Act of 1964, 42 U.S.C § 2000d and related statutes, and the requirements of 23 Code of Federal Regulation (CFR) pt. 200 and 49 CFR pt. 21.



Town of Ridgway, Town Manager

February 26, 2019

Date

II. Organization, Staffing, and Structure

The Town Manager is ultimately responsible for assuring full compliance with the provisions of Title VI of the Civil Rights Act of 1964 and related statutes and has directed that non-discrimination is required of all agency employees, contractors, and agents pursuant to 23 CFR Part 200 and 49 CFR Part 21.

The Town of Ridgway has appointed the Town Manager to perform the duties of the Title VI Coordinator and ensure implementation of agency's Title VI program. The position of Town Manager oversees the Town of Ridgway Streets Department.

The Title VI Coordinator is responsible for:

- Submitting a Title VI plan and annual reports on the agency's behalf;
- Developing procedures for the prompt processing and disposition of complaints;
- Investigating complaints, compiling a complaint log, and reporting to CDOT.
- Developing procedures for the collection and analysis of statistical data.
- Developing a program to conduct Title VI reviews of program areas;
- Conducting annual Title VI assessments of pertinent program areas;
- Developing Title VI information for dissemination;
- Establishing procedures for resolving deficiency status and reducing to writing the remedial action agreed to be necessary.

III. Primary Program Area Descriptions & Review Procedures

The Streets Department engages in the following program areas:

Program Area	General Description	Title VI/Non-Discrimination Concerns and Responsibilities	Review Procedures for Ensuring Non-Discrimination
<i>Right of Way</i>	Maintenance and repair of town rights-of-way, including snow removal, street sweeping, patching and crack-sealing, road stabilization, landscaping and irrigation, and various special projects such as paving or hard-surfacing streets.	Insure downtown streets and right-of-way are open to all for intended uses.	Proper maintenance and care; ongoing inspections of rights-of-way; clear and accessible wayfinding and signage; ongoing population monitoring for any needed additional signage in alternate languages.

IV. Title VI Complaint Procedures

Complaint procedures are posted on the Town website and available from the Town Manager upon request at 201 North Railroad Street, Ridgway, Colorado 81432. Complaint procedures are in English and will be translated upon request.

Discrimination Complaint Procedure for Town of Ridgway

Federal law prohibits discrimination on the basis of race, color, national origin, age, sex, or disability in any Town of Ridgway program or activity. This prohibition applies to all branches of Town of Ridgway, its contractors, consultants, and anyone else who acts on behalf of Town of Ridgway.

Federal law requires that the Town of Ridgway investigate, track, and report discrimination complaints. Complaints must be filed in writing and will be investigated within sixty days of submission. If you need assistance to file your complaint or need interpretation services, please contact the Town Manager.

Who is eligible to file a complaint?

Anyone who believes they have been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any Town of Ridgway program or activity because of their race, color, national origin, age, sex, or disability may file a complaint.

Discrimination includes lack of access, harassment, retaliation and disparate impacts from a program or activity. Harassment includes a wide range of abusive and humiliating verbal or physical behaviors. Retaliation includes intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they filed a complaint or otherwise participated a discrimination investigation.

How do you file a complaint?

Complaints must be filed in writing within 180 days from the last date of the alleged discrimination. However, contact the Town Manager if you believe your complaint may fall outside this deadline.

Reasonable efforts will be made to assist persons with disabilities, non-English speakers, and others unable to file a written complaint. For assistance in filing a complaint, please contact the Town Manager.

Complaints may be submitted via mail, email, fax or in person to:
Ridgway Town Manager; PO Box 10; Ridgway, CO 81432 or jcoates@town.ridgway.co.us

Complaints may also be filed directly with the following agencies:

Colorado Department of Transportation
Civil Rights & Business Resource Center

4201 East Arkansas Ave., Room 150
Denver, CO 80222
dot_civilrights@state.co.us
Phone: (800) 925-3427
Fax: (303) 952-7088
dot_civilrights@state.co.us

Federal Highway Administration, Colorado Division
12300 West Dakota Avenue, Suite 180
Lakewood, Colorado 80228
Phone: (720) 963-3000
Fax: (720) 963-3001

What happens after a complaint is filed?

Title VI complaints must be investigated within sixty days. Investigating a complaint includes interviewing all parties involved and key witnesses. The investigator may also request relevant information such as books, records, electronic information, and other sources of information from all involved parties. You may specify if there is a particular individual or individuals that you feel should not investigate your complaint due to conflict of interest or other reasons.

In some cases, complaints will be forwarded to either the Colorado Department of Transportation or the Federal Highway Administration for investigation. If your complaint is forwarded to one of these agencies, you will be provided the name and contact information of the employee handling your complaint.

Federal law prohibits retaliation against individuals because they have filed a discrimination complaint or otherwise participated in a discrimination investigation. Any alleged retaliation should be reported in writing to the investigator.

Where did the discrimination occur?

Dates and times discrimination occurred?

Were there any other witnesses to the discrimination?

Name	Organization/Title	Work Telephone	Home Telephone

How would you like to see this situation resolved?

Have you filed your complaint, grievance, or lawsuit with any other agency or court?

Who _____ When _____
Status (pending, resolved, etc.) _____ Result, if known _____
Complaint number, if known _____

Do you have an attorney in this matter?

Name _____ Phone _____
Address _____ City _____ Zip _____

Signed _____ Date _____

VI. Data Collection

Program Area	Type of Data Collected & Process for Collecting	Intended Outcome of Data Analysis (i.e. Title VI Purpose for Collecting the Data)
Streets	Tracking race/ethnicity of residents: State Demographer Tracking race/ethnicity of members of the public and those participating in Town meetings: State Demographer and meeting participation logs Collecting US Census data on populations in Ridgway: Census and State Demographer	Understand population changes, projections, participation rates, etc. and identify any gaps in Title VI efforts.

VII. Public Participation

- How will Ridgway identify minority populations for outreach?
Demographic data, use of community liaisons, public login sheets
- How will Ridgway communicate with and conduct outreach to minority populations?
Town website, newsletters, public meetings, social media, etc.
- How will Ridgway communicate with and conduct outreach to Limited English Proficient individuals?
Local or regional translation services.
- Explain how Ridgway considers input from minority populations for decision making within its pertinent program areas.
All meetings are open to the public and advertised generally for all to attend and participate.
All inputs are compiled and considered. In representing and sharing information, inputs may be aggregated.

VIII. Notice of Rights

Notices may be disseminated to the public via website, email, mail, posting or in-person. The notice may be provided in other languages upon requests. The Notice of Rights is as follows:

Your Rights Against Discrimination under Title VI of the Civil Rights Act of 1964

The Town of Ridgway operates its programs and services without regard to race, color, national origin, sex, age, and disability. Anyone who believes they have been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any Town of Ridgway program or activity because of their race, color, national origin, age, sex, or disability may file a discrimination complaint with the Town of Ridgway or the Colorado Department of Transportation.

To file a Title VI discrimination complaint, contact:

Town Manager
201 North Railroad Street
PO Box 10
Ridgway, CO 81432
(970) 626-5308
jcoates@town.ridgway.co.us

Colorado Department of Transportation
Civil Rights & Business Resource Center
4201 East Arkansas Avenue, Room 150
Denver, CO 80222
(303)757-9234
dot_civilrights@state.co.us

IX. Attachment: USDOT Standard Title VI Assurance

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances

DOT Order No. 1050.2A

The Colorado 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 (DOT), through the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), 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 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 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 FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination 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 non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

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 FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 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 FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Colorado 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. That 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.
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, sub-recipients, sub-grantees, 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 Colorado Department of Transportation also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's 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 FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review upon request to FHWA, FTA, or FAA, 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.

Colorado Department of Transportation 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 the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on Colorado Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

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 Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, (*Title of Modal Operating Administration*), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** 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 Non-discrimination 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 the (*Title of Modal Operating 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 (*Title of Modal Operating Administration*), 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 Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the (*Title of Modal Operating Administration*) 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 the **(Title of Modal Operating 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.

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 U.S. Department of Transportation as authorized by law and upon the condition that the Colorado Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with **(Name of Appropriate Legislative Authority)**, the Regulations for the Administration of **(Name of Appropriate Program)**, and the policies and procedures prescribed by the **(Title of Modal Operating Administration)** of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation 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 the Colorado Department of Transportation all the right, title and interest of the U.S. Department of Transportation 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 Colorado Department of Transportation 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 the Colorado Department of Transportation its successors and assigns.

The Colorado Department of Transportation, 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 the Colorado Department of Transportation 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, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, 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 non-discrimination 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 U.S. Department of Transportation 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.)

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 Colorado Department of Transportation 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 Non-discrimination covenants, Colorado 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 Non-discrimination covenants, the Colorado 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 Colorado 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 to make clear the purpose of Title VI.)

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 Colorado Department of Transportation 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 Non-discrimination covenants, Colorado 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 Non-discrimination covenants, Colorado Department of Transportation will there upon revert to and vest in and become the absolute property of Colorado 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 to make clear the purpose of Title VI.)

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 non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination 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 USC § 471, Section 47123), 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, sub-recipients 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 Non-discrimination 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 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;
- 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).

Title VI Requirements for FHWA Subrecipients



**Colorado Department of Transportation
Civil Rights & Business Resource Center**

August 2018

Introduction

Title VI of the Civil Rights Act of 1964 and related non-discrimination statutes require that recipients of federal financial assistance ensure that no one is excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of race, color, national origin, sex, age, or disability in any federally-assisted program and activity. Title VI should not be confused with Title VII, which prohibits employment discrimination.

For Title VI purposes, the term “program or activity” means all of the operations of a department, agency, special district, or other instrumentality of a local government. For example, if a local agency’s public works department receives any federal financial assistance, Title VI program requirements apply to every part of that public works department whether federally funded or not. However, Title VI program requirements do not apply to all other departments of the local agency unless the federal assistance is transferred to such departments.

While the original Title VI law only prohibits discrimination on the basis of race, color and national origin, FHWA’s “Title VI Program” incorporates related statutes that have been passed since 1964 and, therefore, prohibits discrimination on the basis of race, color, national origin, sex, age, and disability. Subrecipients must also comply with federal policies regarding environmental justice and limited-English proficiency. The U.S. Department of Transportation (USDOT)’s Title VI implementing regulations are contained in 49 CFR Part 21 and the Federal Highway Administration (FHWA)’s Title VI regulations are in 23 CFR Part 200.

Agencies that receive federal funds from CDOT are referred to as subrecipients. Subrecipients that receive FHWA funds through CDOT are required to establish a Title VI program that is subject to review by CDOT pursuant to 23 CFR 200.9(b)(7). The purpose of the program is to not only prohibit discrimination but to ensure non-discrimination through policies, procedures and regular program reviews.

CDOT’s Civil Rights & Business Resource Center (CRBRC) monitors CDOT subrecipients for Title VI compliance. CDOT will send out a survey to determine compliance annually to all funded Local Public agencies. The following is a summary of items that are required as part of a subrecipient’s Title VI program.

A. Title VI Plan

Subrecipients are required to submit a Title VI Plan to the CRBRC that documents procedures used for complying with FHWA’s Title VI requirements. Subrecipients may create their Title VI Plan using CDOT’s Title VI template, which is available at <https://www.codot.gov/business/civilrights/accessibility/titlevi/title-vi-subrecipients>. Whether the subrecipient uses CDOT’s template or develops its own format for a Title VI Plan, it must contain the following:

- **Non-discrimination Policy Statement:** A subrecipient must provide a statement of its commitment to non-discrimination and Title VI compliance that is signed by its top official

and circulated throughout the organization and general public. The policy statement must define federal financial assistance and delineate specific forms of prohibited discrimination. For an example, CDOT's Nondiscrimination Policy is available at <https://www.codot.gov/business/civilrights/accessibility/titlevi/title-vi-assets/policy-directive-604-0-policy-on-non-discrimination>.

- **Standard DOT Assurances:** A Title VI Plan must include the USDOT's Standard Title VI Assurance in which the subrecipient assures that its program will be conducted in a non-discriminatory manner. The Standard Assurance should have been included and signed with your agency's intergovernmental agreement with CDOT. The subrecipient must ensure that it has a copy of a signed Standard Assurance or executes one to be included in the plan. The subrecipient is also responsible for ensuring that the applicable appendix of the Standard Assurance is included in each federally-assisted contract. A template of the Standard Assurance and its appendices is available at <https://www.codot.gov/business/civilrights/titlevi/title-vi-assets/usdot-assurances.pdf>
- **Title VI Coordinator:** The subrecipient must designate a Title VI Coordinator who is responsible for managing and monitoring Title VI compliance, providing reports to CDOT, and handling Title VI complaints.
- **Primary Program Area Descriptions:** The Title VI Plan must describe the nature of the subrecipient's primary program areas and the way in which the subrecipient seeks to ensure non-discrimination in each area. For example, a city's public works department may have divisions for transportation planning and right of way services. Each of these program areas has unique Title VI-related responsibilities to ensure non-discrimination. For example, Planning must ensure equal access to the planning process and equal consideration of the interest of minority populations and Right of Way must ensure equal treatment of minorities throughout the acquisition process.
- **Monitoring and Review Process:** The subrecipient must develop procedures for identifying and addressing potential discrimination or discriminatory procedures within the agency. The Title VI Plan must include a description of how the subrecipient's pertinent program areas are reviewed for Title VI compliance and outline procedures to eliminate and address discrimination and resolve deficiencies when non-compliance occurs. Subrecipients administering federal aid contracts are also required to monitor prime contractors and subcontractors for Title VI compliance.
- **Notice of Rights:** Members of the public must be informed of their rights against discrimination under Title VI and how they can file a Title VI discrimination complaint. The Notice must be made available on the agency's website and be posted in locations accessible to the public. For an example, CDOT's notice is available at <https://www.codot.gov/business/civilrights/titlevi/title-vi-assets/nondiscrimin-access-eng.pdf>. If more than five percent of the subrecipient's population in its service area is limited English proficient (LEP), the notice must be translated into the applicable language of that population.

- **Complaint Procedures:** Subrecipients must develop procedures for investigating and tracking Title VI discrimination complaints pursuant to 23 CFR 200.9(b)(3). The complaint procedures must be consistent with CDOT's complaint procedures and disseminated by the local agency internally and externally. The complaint procedures must indicate that all Title VI violation complaints against the subrecipient, must be filed or forwarded to CDOT or the relevant Federal Operating Administration. At a minimum, the complaint procedures must be posted on the subrecipient's website. For an example, CDOT's complaint procedure is available at https://www.codot.gov/business/civilrights/titlevi/title-vi-assets/cdot-discrimination-complaint-procedure_updated-june-2018.pdf. If more than five percent of the subrecipient's population in its service area is limited English proficient (LEP), the notice must be translated into the applicable language of that population.
- **Complaint Investigation and Tracking.** Any complaints directly against the local agency and/or an employee of the local agency must be forwarded to CDOT for investigation. Local agencies are required to investigate complaints against its subrecipients, contractors, consultants, and anyone else acting on its behalf. Such complaints must be investigated within 60 days of receipt and a final investigative report must be submitted to CDOT for review. Complaints must be investigated by someone knowledgeable in Title VI and discrimination investigations. Contact CDOT's Civil Rights & Business Resource Center if your agency does not have anyone qualified to investigate complaints or if a conflict of interest may exist.
- **Data Collection and Analysis:** The subrecipient is required to develop procedures for the collection of statistical data (race, color, sex, and national origin) of participants in, and beneficiaries of the subrecipient's programs. See 23 CFR 200.9(b)(4). Collecting data helps identify and prioritize problem areas and evaluate the effectiveness of policies and programs to ensure non-discrimination. The Title VI Plan must describe how the subrecipient plans to collect Title VI-related data on an on-going basis. For example, the subrecipient may collect data such as meeting attendees, board member demographics, persons affected by acquisitions and relocations, impacted communities, etc. Results of the analysis should be reported on a yearly basis in the Annual Goals and Accomplishments Report.
- **Public Participation:** The Title VI Plan must describe procedures for eliciting and soliciting participation by minority communities. The Title VI Plan must identify how the subrecipient communicates with and conducts outreach to minority and limited-English proficient (LEP) individuals. The process must address how input from minority populations is considered during agency decision-making.
- **Staff Training:** The Title VI plan must indicate how agency staff is trained on Title VI related policies and procedures.

B. Language Assistance Plan

LEP individuals are those individuals for whom English is not their primary language and have a limited ability to speak, read, write, or understand English. Failure to provide language assistance for LEP persons may result in national origin discrimination. Therefore, pursuant to Executive Order 13166, FHWA subrecipients are required to perform an LEP analysis of their service area and develop a plan for providing language assistance and outreach to LEP populations.

The following is the four-factor analysis which should be used to determine what measures are necessary provide meaningful access for LEP individuals:

1. **Identify the number or proportion** of LEP persons likely to be encountered by the subrecipient.
2. **Determine the frequency** with which LEP persons come into contact with the subrecipient.
3. **Determine Importance** of the program, activity, or service provided.
4. **Identify the resources** available to the subrecipient and the costs.

For more information about completing the four factor LEP analysis and developing a Language Assistance Plan, refer to the USDOT's LEP Guidance at <https://www.transportation.gov/civil-rights/civil-rights-awareness-enforcement/dots-lep-guidance>.

The Language Assistance Plan must be distributed throughout the subrecipient's agency. The agency should record requests for language assistance and measures taken to assist LEP Persons. This information must be included in the annual report to CDOT.

C. Adherence to Environmental Justice Principles

Executive Order 12898 directs federal agencies to identify and address the disproportionately high and adverse human health and environmental effects of their actions on minority and low-income populations. Subrecipients are required to comply with the federal government's Environmental Justice (EJ) policy by integrating EJ principles into their programs. This can be accomplished by describing how minority and low-income data is collected, describing how EJ populations are included in public participation activities, and analyzing how a subrecipients' actions impact EJ populations. For more information, visit CDOT's Environmental Justice webpage at <http://www.coloradodot.info/business/civilrights/accessibility/titlevi/ej>.

D. Annual Goals and Accomplishment Survey

The subrecipient is required to respond to an annual survey regarding its Goals and Accomplishments and its Title VI compliance from the previous Federal Fiscal Year by program area. The survey will also ask for a summary of Title VI complaints and request the subrecipient to include program specific goals and work plan for the following year.

E. CDOT Compliance Reviews

CDOT is responsible for conducting compliance reviews of its subrecipients. Compliance reviews focus on determining whether the subrecipient has met the criteria of FHWA's Title VI program and how effective the subrecipient is at ensuring nondiscrimination. CDOT staff may evaluate the subrecipient's Title VI Plan and related documents, interview individuals with Title VI responsibilities, and/or conduct a site visit as part of the process.

Completed Title VI and Language Assistance Plans should be readily available for CDOT review. If you would like assistance in completing these plans, contact the CDOT CRBRC at the information provided below.

Title VI Resources

Title VI Plan Template

<https://www.codot.gov/business/civilrights/titlevi/fhwa-subrecipients>

Standard DOT Assurance

<https://www.codot.gov/business/civilrights/titlevi/title-vi-assets/usdot-assurances.pdf>

U.S. DOT LEP Guidance

<https://www.transportation.gov/civil-rights/civil-rights-awareness-enforcement/dots-lep-guidance>

FHWA Investigating External Complaints of Discrimination

<http://www.fhwa.dot.gov/civilrights/programs/iecd.cfm>

Contact Us

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