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I. INTRODUCTION

The North Dakota Department of Transportation (NDDOT) is a recipient of Federal financial assistance. Title VI of the Civil Rights Act of 1964 requires recipients to comply with various nondiscrimination laws and regulations. Title VI of the Civil Rights Act of 1964 bars discrimination against anyone in the United States because of race, color, or national origin by any agency receiving federal funds.

The broader application of nondiscrimination law is found in other statutes, regulations, and Executive Orders which are detailed in this Title VI/Nondiscrimination and Americans with Disabilities Act (ADA) Program. The Federal-Aid Highway Act of 1973 added the requirement that there be no discrimination based on sex. Age was added in 1975 under the Age Discrimination Act. Disability was added through Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

Additionally, the Civil Rights Restoration Act of 1987 defined “program” to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal financial assistance. Thus, sub recipients are required to comply with Title VI and related nondiscrimination laws and regulations.

Title VI was further defined in 1994, Executive Order 12898 – Environmental Justice (EJ), directed federal agencies to identify and address the effects of all programs, policies, and activities on “minority populations and low-income populations.”

In 2000, Executive Order 13166 – Limited English Proficiency (LEP), was also signed into effect requiring federal agencies to assess and address the needs of otherwise eligible limited English proficient persons seeking access to the programs and activities of recipients of federal financial assistance.

Title VI regulations are for the protection of the public in regard to NDDOT’s activities and effects. NDDOT is the primary recipient of Federal financial assistance. Sub recipients may include contractors, subcontractors, suppliers, consultants, cities, local governments, transit agencies, or any other entity receiving funds directly from NDDOT.

NDDOT is required to protect the public interest by developing a Title VI/Nondiscrimination and ADA Program for their benefit. Title VI Assurances are the foundation of our commitment to nondiscrimination. This Title VI/Nondiscrimination and ADA Program Implementation Plan identifies the implementation, compliance, and enforcement policies and procedures NDDOT has developed to ensure compliance with Title VI at all levels.

Title VI and Related Nondiscrimination Authorities are listed in Exhibit H. A Definition of Terms is found in Exhibit J.

II. TITLE VI/NONDISCRIMINATION AND ADA POLICY STATEMENT

III. USDOT STANDARD TITLE VI/NON-DISCRIMINATION ASSURANCES

The North Dakota Department of Transportation has signed and implemented the U.S. Department of Transportation Standard Title VI/Non-Discrimination Assurances and non-discrimination provisions according to the USDOT Order 1050.2A.

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The North Dakota Department of Transportation ("NDDOT") (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 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 Federal Highway Administration.

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 Federal-Aid Highway Program.

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 Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The North Dakota 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 North Dakota 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 Federal Highway Administration'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 Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, 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 North Dakota 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 Federal-Aid Highway Program. This ASSURANCE is binding on North Dakota Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

By _____
William T. Panos, Director

DATED 09/8/2020

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES**

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, 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.
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 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.
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:
 - 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 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.

A

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX B OF THE TITLE VI ASSURANCES**

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 NDDOT will accept title to the lands and maintain the project constructed thereon in accordance with Title 23, United States Code, the Regulations for the Administration of the Federal-Aid Highway Program, and the policies and procedures prescribed by the Federal Highway 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 NDDOT 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 the NDDOT 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 NDDOT, its successors and assigns.

The NDDOT, 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 NDDOT 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.)

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX C OF THE TITLE VI ASSURANCES**

**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 NDDOT 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, NDDOT 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, NDDOT 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 NDDOT 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.)

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX D OF THE TITLE VI ASSURANCES**

**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 NDDOT 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, NDDOT 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, NDDOT will there upon revert to and vest in and become the absolute property of NDDOT 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.)

D

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX E OF THE TITLE VI ASSURANCES**

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 non-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.*)

E

IV. ORGANIZATION AND STAFFING

A. Civil Rights Division Director (CRDD)

The Director of NDDOT established a Civil Rights Division with a Division Director and sufficient staffing to effectively administer its civil rights programs. The CRDD reports to the Director of the Office of Operations. The Director of the Office of Operations reports directly to the Deputy Director of Engineering, who reports directly to the Director of NDDOT. The CRDD has direct access to the Director of NDDOT. See Exhibit A.

The Civil Rights Division is staffed by a CRDD and three Civil Rights Program Administrators for the following programs: Disadvantaged Business Enterprise (DBE), On-the-Job Training (OJT), DBE/On-the Job Training Supportive Services, Contractor Compliance, Labor Compliance, Title VII, and-Title VI/Nondiscrimination and ADA Program. The Civil Rights Division serves as the focal point for equal opportunity compliance by Divisions and Districts statewide. See Exhibit B.

As the chief civil rights administrator for NDDOT, the CRDD was appointed as the Title VI Liaison Officer and ADA Coordinator and provides the NDDOT with the administrative direction necessary to ensure that NDDOT policies and procedures relating to the Title VI/Nondiscrimination and ADA Program are implemented and that its established goals are appropriately attained.

The CRDD is granted the authority to develop, administer, and monitor the Title VI/Nondiscrimination and ADA Program, and also monitors other NDDOT programs, activities, and services for all funding sources including:

The CRDD's Title VI responsibilities include the following:

1. Provide technical assistance, guidance, and advice to all levels of NDDOT management on the Title VI/Nondiscrimination and ADA Program.
2. Develop and implement procedures for the prompt processing and resolution of External Complaints of Discrimination.
3. Develop and implement procedures for prompt processing of Requests For Reasonable Accommodations.
4. Review findings and recommendations of Program Area Internal Reviews and Sub Recipient Reviews to ensure compliance with 23 CFR 200.
5. The CRDD is fully involved in NDDOT's budget process to ensure that NDDOT has an earmarked budget and appropriation for civil rights enforcement. The CRDD has authority over the funds received for salaries, office resources, equipment, and Title VI enforcement.
6. The CRDD will be responsible for coordination and preparation of the Title VI/Nondiscrimination and ADA Program Implementation Plan, Goals and Accomplishment Report, and the External Complaints of Discrimination Log that is submitted annually to FHWA.

B. Title VI Program Administrator

The Title VI Program Administrator's responsibilities include the following:

1. The Title VI Program Administrator, under the direct supervision of the CRDD, will be responsible for the day-to-day administration of the Title VI/Nondiscrimination and ADA Program including:

- a) Write the Title VI/Nondiscrimination and ADA Program Implementation Plan, Goals and Accomplishments Report, and External Complaints of Discrimination Complaint Log for submission to FHWA by October 1, annually.
- b) Ensure the Title VI/Nondiscrimination and ADA Program Implementation Plan is submitted to FTA by October 1, every three years.
- c) Upon approval by the Federal Highway Administration (FHWA), ensure the dissemination of the Title VI/Nondiscrimination and ADA Program Implementation Plan to executive management, Division Directors, District Engineers, Title VI Specialists, sub recipients, consultants, and stakeholders.
- d) Assists CRDD process External Complaints of Discrimination.
- e) Receive and process Requests for Reasonable Accommodations.
- f) Develop, conduct, and review training for Title VI Specialists, NDDOT employees, sub recipients, and stakeholders.
- g) Develop, coordinate, and review materials for dissemination to the public.
- h) Coordinates, monitors, and updates provider services for telephonic interpreters, sign language interpreters, audio recording of materials, and written translation of materials.
- i) Provide technical assistance and guidance on program requirements to CRDD, Title VI Specialists, sub recipients, and stakeholders.
- j) Monitor program areas and conduct program area internal reviews over a three-year period. Write reports including findings, recommendations, and if necessary, corrective actions taken or planned for each review.
- k) Provide guidance in conducting sub recipient reviews to assure compliance with the Title VI/Nondiscrimination and ADA Program requirements.
- l) Maintain and update Title VI/Nondiscrimination and ADA Program forms, sub recipient templates, and post to the Title VI/Nondiscrimination and ADA Program webpages.
- m) Maintains the Title VI/Nondiscrimination and ADA Program procedures manual.
- n) Appointed as the Title VI Specialist for Civil Rights Division.

C. Title VI Specialists

Title VI Specialists are selected by Division Directors and District Engineers and appointed by the Director of NDDOT to assist in the development and implementation of the NDDOT's Title VI responsibilities. Title VI Specialists have responsibilities in their current positions, therefore, adequate time is made available to carry out the additional Title VI responsibilities.

Small divisions may share a Title VI Specialist with another division. There are Title VI responsibilities that cannot be handled by one specialist covering both divisions due to lack of detailed knowledge of the other division. Each division will be responsible for providing updated information, annually, on individual division goals and accomplishments.

Division and District Title VI Specialist's responsibilities include the following:

1. Assist the CRDD and Title VI Program Administrator to ensure Title VI, ADA, LEP, and EJ compliance in NDDOT's programs, services, and activities.
2. Prepare, gather, and submit documentation for Request For Information for Program Area Reviews.
3. Communicate to their respective Division Directors and District Engineers all deficiencies found in the program and promote new concepts to the program.
4. Receive and report External Complaints of Discrimination to the CRDD for processing.
5. Receive, report, and assist CRDD in processing Requests For Reasonable Accommodations.
6. Report concerns of discrimination issues to the CRDD for guidance.
7. Annually, collect statistical data and prepare a Goals and Accomplishments Report necessary to evaluate the effectiveness of compliance with Title VI, ADA, LEP, and EJ requirements within their division or district.
8. Annually conduct pre-award and post-award Title VI reviews of sub recipients.
9. Coordinate Title VI awareness training for respective division and district staff members on the requirements of the Title VI/Nondiscrimination and ADA Program.

D. Title VI Program Area Division Directors and District Engineers

Division Directors and District Engineers Title VI responsibilities include the following:

1. Ensure compliance with Title VI/Nondiscrimination and ADA Program requirements in their respective program areas.
2. Maintain knowledge of and adhere to NDDOT's Title VI/Nondiscrimination and ADA Program.
3. Assure prompt reporting, processing, and disposition of Title VI/Nondiscrimination and ADA issues or complaints in their respective program areas and coordinate with the CRDD.
4. Support and assist the Title VI Specialists in their involvement in the program.
5. Assure that practices and procedures involving all programs and activities within their area of responsibility are applied uniformly and equitably in conformance with Title VI/Nondiscrimination and ADA regulations.

V. PROGRAM AREA MONITORING AND INTERNAL REVIEW PROCESS

A. PLANNING PROGRAM AREA

The Planning Program Area has the primary responsibility for ensuring that multi-modal planning and the results of that planning are executed in accordance with Title VI. These processes require consideration of social, economic, and environmental effects of a proposed plan or program on identified groups to avoid biased or discriminatory programs. The Planning Program Area's Title VI Responsibilities include, but are not limited to, assisting the Civil Rights Division (CRD) with the following tasks:

- implementing methods to collect and analyze demographic information regarding transportation benefits; public meeting/hearings; surveys; comments;
- public involvement strategies and procedures; contract information; Title VI Complaints; and submit an Annual Report of Goals and Accomplishments.

The following NDDOT divisions may conduct activities under this major program area: Bridge; Communications; Design; Environmental and Transportation Services; Local Government; Materials and Research; Planning/Asset Management; Programming, and Safety.

Title VI Considerations for Internal Review:

The following items regarding the Planning Program Area will be periodically reviewed by the CRD as part of NDDOT's Internal Review Process:

1. The Public Involvement strategies, programmatic and project-based, used by the divisions. This includes written procedures as well as implementation.
2. Data and information regarding specific public meetings, including:
 - The number and locations of public hearings/informational meetings held;
 - Any handouts distributed at the meetings;
 - The approximate number of persons attending the meetings;
 - The demographics of the attendees; and
 - The demographic profiles of the project areas involved.
3. The numbers and types of assistance provided to other divisions to help with their outreach efforts.
4. Information on coordination with divisions or other entities to address the needs of individuals with limited English proficiency.
5. Information on coordination with divisions to ensure that formal and informal public comments are incorporated into the transportation decision-making process.
6. Demographic data and information regarding the distribution of State and Federal funds in the aggregate for all transportation projects.
7. The process or strategies used to ensure Title VI issues are addressed in the Planning Program Area. This includes written procedures as well as implementation of those procedures.
8. Data and information regarding subrecipient reviews.
9. Information regarding project prioritization procedures for MPOs as well as rural projects.
10. Title VI complaints received regarding the Planning Program Area.
11. Data concerning consultant contracts entered into for Planning Program Area, including the competitive contracting process including selection of consultant.

B. PROJECT DEVELOPMENT PROGRAM AREA

The Project Development Program Area is responsible for analyzing the environmental effects and resulting impacts and mitigating measures of planned projects and ensuring they are executed in accordance with Title VI. These processes require consideration of the social, economic, and environmental effects of a proposed project to identify possible discriminatory issues, meeting the identified transportation needs and goals of a community, and ensuring the protection and enhancement of the environment.

The Project Development Program Area is responsible for assuring that aspects of the design phase and the resulting final design are executed in accordance with Title VI. This process includes solicitation for proposals, consultant selection, preliminary design work, development of alternatives, and final design and requires an effective outreach strategy to solicit and incorporate the input of minority populations into design.

The Project Development Program Area is responsible for assuring that all Right-of-Way functions and the results of those activities are executed in accordance with Title VI. These activities include property appraisals, negotiations with property owners, acquisition of properties, and relocations of people and businesses. The Project Development Program Area's Title VI Responsibilities include, but are not limited to, assisting the CRD with the following tasks:

- implementing methods regarding nondiscrimination in the public involvement process including the analysis and removal of potential barriers to participation;
- consider potential impacts to minority populations; implement adequate mitigation to minority populations; access and understanding to programs/activities for LEP;
- to collect and analyze demographic information regarding the public involvement process; public meeting/hearings; surveys; comments; public involvement strategies and procedures;
- consultant agreements include Title VI contract provisions;
- nondiscrimination regarding procurement of appraisers and right-of-way agreements
- Equitable treatment of displaced businesses and persons including appraisals, offers of just compensation, relocation counseling/assistance packages; data collection
- ROW internal procedures reviewed for Title VI compliance;
- Title VI Complaints; and divisions submit an Annual Report of Goals and Accomplishments.

The following NDDOT divisions may conduct activities under this major program area: Bridge; Communications; Design; Districts; Environmental and Transportation Services; Legal; Local Government; Materials and Research; Planning/Asset Management; Programming.

Title VI Considerations for Internal Review:

The following items regarding the Project Development Program Area will be periodically reviewed by the CRD as part of NDDOT's Internal Review Process.

1. Data and information regarding the demographics of public meeting participation, including comparisons to the relevant population for each project.
2. The public involvement strategies used for engaging minority and limited English proficiency populations in transportation decision-making and for reducing participation barriers.
3. A description of the methods used to ensure that issues/concerns raised by the public, including minority populations were appropriately considered in the transportation decision-making process. This includes formal and informal records of public comments and integration into environmental documents.
4. The number and types of environmental reviews.
5. The methods for identifying minority populations for Title VI purposes.
6. Data and information regarding the potential impacts on minority populations regarding:
 - a. Air quality
 - b. Noise
 - c. Community cohesion
 - d. Relocations
 - e. Community services
 - f. Mitigation measures
7. The Public Involvement strategies, programmatic and project-based, used by the divisions. This includes written procedures as well as implementation.
8. Data and information regarding specific public meetings, including:
 - The number and locations of public hearings/informational meetings held;
 - Any handouts distributed at the meetings;
 - The approximate number of persons attending the meetings;
 - The demographics of the attendees; and
 - The demographic profiles of the project areas involved.
9. The numbers and types of assistance provided to other divisions to help with their outreach efforts.
10. Information on coordination with divisions or other entities to address the needs of individuals with limited English proficiency.
11. Information on coordination with divisions to ensure that formal and informal public comments are incorporated into the transportation decision-making process.

12. Data concerning consultant contracts entered into for Project Development Program Area, including the competitive contracting process including selection of consultant.
13. Data and information related to the demographics of relocatees and other beneficiaries of the NDDOT Right-of-Way Section. This includes persons and businesses that receive relocation counseling and who attend informational meetings.
14. Data and information related to the appraisal process, including just compensation offers and supporting documentation.
15. Demographic data on the competitive contracting process including selection of consultant used in the right of way/relocation process. This includes bidders, awardees, and contracts.
16. Efforts made to provide information in appropriate languages and/or number of times interpreters used in the right-of-way process.
17. Title VI complaints received regarding Project Development Program Area.

C.CONSTRUCTION PROGRAM AREA

The Construction Program Area has the primary responsibility for ensuring highway-construction project work and other related construction work and assuring that highway-contracting procedures are executed in accordance with Title VI. The Construction Program Area Title VI Responsibilities include, but are not limited to, assisting the CRD with the following tasks:

- monitoring construction project work, change orders, inspections; and administration and enforcement of contracts.
- Construction project onsite monitoring by the responsible Project Engineer;
- Internal procedures comply with Title VI, including Appendix A and E of the FHWA Standard Assurances are included in all prime contracts/consultant agreements and in all sub-contracts regardless of tier
- Monitor Federal-aid construction contracts and subcontracts to ensure that they contain all required Title VI provisions and attachments;
- Nondiscrimination regarding on-call contracts and prequalification procedures
- Collection of demographic data on all contracts regarding competitive contracting process including selection of consultant bidders/proposers and awardees
- Concerns/barriers for prequalification and licensing, within laws and regulations
- Internal procedures maintain Title VI compliance
- Title VI Complaints; and divisions submit an Annual Report of Goals and Accomplishments.

The following NDDOT divisions and districts may conduct activities under this major program area: Bridge; Construction Services; Design; Districts; Environmental and Transportation Services; Legal; Local Government; Maintenance; Materials and Research; Planning/Asset Management.

Title VI Considerations for Internal Review:

The following items regarding the Construction Program Area will be periodically reviewed by the CRO as part of NDDOT's internal Title VI review process:

1. Data and information regarding mitigation commitments made during the environmental process and progress toward completion of the commitments;
2. Data and information regarding temporary traffic and pedestrian routing during construction, as well as a demographic profile of the project area;
3. Description of your internal procedures that illustrate where and how Title VI compliance is integrated;
4. The number of construction contracts awarded and the and the competitive contracting process including selection of consultant/vendor.
5. The number of professional services awarded and the competitive contracting process including selection of consultant/vendor for all professional services contracts and on-call lists;
6. Access to all contract documents, including change orders and bids/proposals;
7. Title VI complaints received regarding the Construction Program Area process.

D.RESEARCH PROGRAM AREA

The Research Program Area has the primary responsibility for ensuring policies/procedures and practices adhere to Title VI requirements. The Research Program Area Title VI Responsibilities include, but are not limited to, assisting the CRD with the following tasks:

- administration of contracts; selection of consultant/vendor;
- product research;
- Title VI Complaints; and divisions submit an Annual Report of Goals and Accomplishments.

The following NDDOT divisions may conduct activities under this major program area: Bridge; Design; Environmental and Transportation Services; Legal; Materials and Research; Planning/Asset Management.

Title VI Considerations for Internal Review:

The following items regarding the Research Program Area will be periodically reviewed by the CRD as part of NDDOT's Internal Review Process:

1. Data and information collected
2. Description of your internal procedures that illustrate where and how Title VI compliance is integrated within such procedures;
3. Competitive contracting process including selection of consultant/vendor.

4. Title VI complaints received regarding the Research Program Area.

E.CUSTOMER SERVICE PROGRAM AREA

The Customer Service Program Area is responsible for ensuring policies, procedures, and practices adhere to Title VI requirements. The Customer Service Program Area Title VI Responsibilities include, but are not limited to, assisting the CRD with the following tasks:

- audits; administration, review, and/or enforcement of contracts/grants,
- driver license/permits, vehicle titles,
- Motor Carriers procedures, Dealer applications/reviews/investigations;
- public vehicle auctions; and public involvement activities with collection of data;
- Title VI Complaints; and divisions submit an Annual Report of Goals and Accomplishments.

The following NDDOT divisions conduct activities under this major program area: Communications; Drivers License; Executive Office; Financial Management, Legal; Motor Vehicle; Quality Assurance and Internal Review; Safety; State Fleet Services.

Title VI Considerations for Internal Review:

The following items regarding the Customer Service Program Area will be periodically reviewed by the CRD as part of NDDOT's Internal Review Process.

1. The Public Involvement strategies, programmatic and project-based, used by the division. This includes written procedures as well as implementation.
2. The numbers and types of assistance provided to other divisions to help with their outreach efforts.
3. Information regarding any formal or informal comments from the public through public meetings/hearings, how they were recorded and received, and how they were communicated to other divisions.
4. Data concerning consultant/vendor contracts entered into for division activities, including the number of contracts and the competitive contracting process including selection of consultant/vendors.
5. Data and information regarding services requested and/or provided to LEP persons.
6. Efforts made to provide information in appropriate languages and/or number of times interpreters used.
7. Description of your internal procedures that illustrate where and how Title VI compliance is integrated within such procedures;
8. Information on coordination with the divisions to address the needs of individuals with limited English proficiency.

9. The number of professional services awarded and competitive contracting process including selection of consultant/vendors.
10. Number and type of Audit's conducted.
11. Number of vehicle auctions conducted; public involvement activities conducted; accommodations requested/provided.
12. Title VI complaints received regarding the Customer Service Program Area.

F. INTERNAL REVIEW PROCESS

Review Plan Development

The Internal Review Process is designed to reach, at a minimum, the public facing NDDOT federal Program Areas on a three-year cycle. This means that each Program Area will undergo an assessment for compliance with Title VI obligations at least once every three years.

NDDOT maintains a robust, risk-based approach to internal compliance. During the first quarter of each federal fiscal year, the Civil Rights Division Director and the Title VI Program Administrator will meet to discuss potential Program Area Internal Reviews for the current fiscal year.

NDDOT CRD will prioritize and select Program Area(s) for review based on risk factors including, but not limited to:

- The magnitude of the project/program activity impacts on the public;
- The size and complexity of the project/program activity
- The available resources necessary to conduct the review;
- The length of time necessary to conduct the review; and
- Any information available regarding current compliance regarding the project/program activity.
- Complaints
- Changes in protocol/rollout of projects/programs
- Changes in policies or procedures
- Patterns indicating noncompliance
- Any additional factors

CRD will develop a Title VI Review Plan to include:

- a. Program Area(s) to be reviewed:
- b. Review topics;
- c. Review scopes;
- d. Name points of contact in the Program Area Divisions; and
- e. Potential review dates

After drafting the Review Plan, the CRD will submit the Review Plan to the Program Area Divisions to finalize information such as participants and dates.

The final Review Plan will be submitted to FHWA by October 1 of each year as part of NDDOT's Goals and Accomplishments Report.

Review Methodology

The CRD will ensure its reviews are comprehensive and efficient as possible. The CRD's reviews will involve three phases.

1. First, the CRD will conduct a desk audit, which entails a review of all relevant internal policies and procedures. The CRD will create a Request for Information in writing that is communicated to the Program Area Divisions with a reasonable time to respond.
2. Second, the CRD will assess the implementation of those policies and procedures through a random sampling of results on actual projects, project development, or program activities. The CRD will create a written data and information request for the relevant Program Area Divisions to submit to CRD within a reasonable timeframe.
3. Finally, the CRD will create a written report of its findings and potential recommendations for NDDOT. The draft report will be sent to the relevant Program Area Divisions for review. When final, the CRD will submit the report to the NDDOT Director to implement the recommendations. The CRD will ensure that affected Program Area Divisions are given a reasonable amount of time to implement any recommendations. After the CRD is satisfied that its recommendations are complete, the CRD will close the review.

VI. SUB RECIPIENT REVIEW PROCEDURES

A. FHWA

NDDOT monitors Title VI compliance by conducting sub recipient program reviews. NDDOT has developed a process to conduct Title VI reviews of sub recipients to determine the effectiveness of program activities.

Division and District Title VI Specialists are responsible to conduct Title VI pre-award and post-award compliance reviews of their program area sub recipients. Reviews will be conducted with local governments, Metropolitan Planning Organizations, and other recipients of federal highway funds. MPO's receive FTA funds, too. NDDOT checks the MPO's additional Title VI requirements.

Pre-award compliance reviews require applicants for federal financial assistance to complete a Sub Recipient Audit Checklist. The checklist identifies all the components necessary to develop a Title VI Plan including EEO and ADA requirements. Additionally, the applicant is provided NDDOT's Title VI/Nondiscrimination and ADA Program Requirements, Guidance, and Templates for Sub Recipients handout to assist them in developing their program. The handout instructs and guides the applicant through the process and provides links to NDDOT's Title VI/Nondiscrimination and ADA Program web page where applicants can locate templates and create their program documents. The templates are updated when program requirements or regulations change, so sub recipients can easily update their program documents when notified by NDDOT of required revisions. The Sub Recipient Title VI/Nondiscrimination and ADA Program information is located at <http://www.dot.nd.gov/divisions/civilrights/titlevi-subrecipients.htm> .

Post award compliance reviews require ten percent or a minimum of one sub recipient per division or district to be reviewed annually. All sub recipients with projects during the reporting period are placed in a pool for random selection. A random number generator is used to select the sub

recipients to be reviewed. If a sub recipient is selected in subsequent years, provided no deficiencies were identified in the previous audit, a new sub recipient will be selected for review.

The sub recipients selected for review are sent a letter with the date the review will be conducted. Included with the letter is the Sub Recipient Audit Checklist listing the information required to be made available for the review.

Desk audits and on-site reviews are conducted on the sub recipients selected for review. The objectives of the review are to review all the components of the sub recipient's Title VI Plan to identify areas of discriminatory practices and/or areas of concern that need to be updated or revised. The Title VI Specialists provide Civil Rights Division copies of the review process from the preparation of the list of sub recipients for random selection through any corrective action and the date it is completed.

The Title VI Review Schedule Sub Recipient Report documents the status of the reviews conducted during the reporting period and is included in the annual Goals and Accomplishments Report.

Title VI Specialists report the results of sub recipient reviews in their Annual Report submitted to Civil Rights Division for reporting in the Goals and Accomplishments Report annually.

NDDOT actively pursues the prevention of Title VI deficiencies and violations and takes the necessary steps to ensure compliance with all program requirements, of its sub recipients of federal highway funds. When irregularities occur in the administration of the federal-aid highway program's operation, corrective action will be taken to resolve Title VI issues. If trends or patterns of discrimination are identified, actions will be taken to correct the violations. These may be identified through reoccurring activities, practices, or similar complaints. When conducting Title VI compliance reviews on its sub recipients, NDDOT will define a remedial action with agreement of FHWA to provide to the sub recipient within a period not to exceed 90 days.

B. FHWA Review Selection and Procedures

1. NDDOT sub recipients

- a) All sub recipients will complete a pre-award Sub Recipient Audit Checklist.
- b) Sub recipients shall be randomly selected for review in the year in which the project is constructed. Ten percent of the available pool or a minimum of one review will be conducted in the year the project is constructed. If a sub recipient is selected in subsequent years, provided no deficiencies were identified in the previous audit, a new sub recipient will be selected for review.
- c) If deficiencies are found during the review, the sub recipient shall be reviewed the following year.
- d) Reviews will be conducted by program area Title VI Specialist.
- e) The review procedures for sub recipients are as follows:
 - 1) Send written notice of review date
 - (a) Provide list for production of documents
 - 2) Send Notice of Compliance, or
 - 3) Send Deficiency Notice with corrective actions
 - (a) Including a reasonable time not to exceed 90 days after receipt of deficiency notice, to voluntarily correct deficiencies; and possible sanctions
 - (b) Schedule meeting with recipient within 30 days from receipt of deficiency notice

- (1) Provide technical assistance and guidance to aid the recipient to comply voluntarily.
- f) Failure of recipient to comply within the allotted time frame
 - 1) Notice of Non-compliance identifying specific details of deficiencies
 - 2) NDDOT shall submit to FHWA two copies of the case file and a recommendation that the recipient be found in non-compliance
- g) FHWA shall review the case file for a determination of concurrence or non-concurrence with a recommendation to the NDDOT
- h) Implement FHWA recommendations
- i) Title VI Review Schedules will be maintained documenting the required information as follows:
 - 1) Date Review Notice sent
 - 2) Date Review Conducted
 - 3) Date of Notice of Compliance
 - 4) Date of Notice of Deficiency, if any
 - (a) Date of follow-up review meeting with recipient
 - (b) Date of Notice of Non-compliance
 - 5) Date of Last Review
 - 6) Date of Last Review Notice of Compliance

C. FTA

NDDOT Transit Section monitors Title VI compliance by conducting sub recipient reviews. NDDOT Transit section has developed a process to conduct Title VI reviews of sub recipients to determine the effectiveness of project activities. Transit staff are responsible to conduct reviews of all grant applicant's Title VI programs prior to submittal. The requirements are defined in NDDOT's Transit Grant Application Guidelines and available at the following location:

<http://www.dot.nd.gov/divisions/localgov/transit.htm> .

All approved grant sub recipients during the reporting period are placed in a pool for random selection. A random number generator is used to select the sub recipients to be reviewed. The sub recipients selected for review are notified of the review and the review is initiated in the BlackCat System. Sub recipients will complete the questionnaire and upload it along with the required supporting documentation.

Transit staff will perform a desk audit of the documents submitted by the sub recipient as well as an on-site review. The objectives of the review are to review all the components of the sub recipient's Title VI Plan to identify areas of discriminatory practices and/or areas of concern that need to be updated or revised. The on-site review may be performed virtually, if no significant issues are identified during the desk audit.

Transit staff will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program requirements of its sub recipients receiving FTA funds. When irregularities occur in the administration of Federal Transit programs, corrective action will be taken to resolve Title VI issues. If trends or patterns of discrimination are identified, actions will be taken to correct the violations. These may be identified through reoccurring activities, practices or similar complaints.

When an MPO, who also received FTA funds has been randomly selected for a FHWA program review, Transit Staff will participate in the review to ensure FTA Title VI requirements are being met.

D. FTA Review Selection and Procedures

1. NDDOT sub recipients

- a) All grant applicants must have an approved Title VI Program prior to grant submittal. Initial funding requirements are available in the NDDOT Transit Grant Application Guidelines located at: <http://www.dot.nd.gov/divisions/localgov/transit.htm> .
- b) Sub recipients shall be randomly selected for review. Ten percent of the available pool or a minimum of one review every three years. Compliance reviews may be conducted more often if deficiencies are found or complaints have been reported.
- c) Selected sub recipients will be notified of the review and be required to complete the Title VI Compliance Review questionnaire and submit it through the BlackCat System. Transit Staff will perform a desk audit of their submission and an onsite review will be performed.
- d) If deficiencies are found during the review, the sub recipient may be reviewed the following year.
- e) Reviews will be conducted by Transit staff.
- f) The review procedures for sub recipients are as follows:
 - 1) Transit staff will initiate the review in the BlackCat System. The compliance review questionnaire will be uploaded in Oversight and the sub recipient will be notified by a system generated email that is available for the sub recipient to complete.
 - 2) Sub recipients will complete the questionnaire and upload all required documents in the BlackCat System and submit to Transit staff through Oversight.
 - 3) Transit staff will perform a desk audit and onsite review of sub recipient. The on-site review may be performed virtually, if no significant issues are identified during the desk audit.
 - 4) Transit staff will enter any recommendations or findings into the BlackCat System Oversight. Sub recipients will be notified via the BackCat System of any findings of no deficiency, deficiency, or noncompliance.
 - (a) Findings of no deficiency – No corrective action needed with exception to advisory comments. Advisory comments are recommendations that the recipient undertake activities in a manner more consistent with FTA C 4702.1B.
 - (b) Findings of deficiency – Determinations that the recipient has not complied with one or more of the provisions of FTA C 4702.1B. Sub recipient is expected to take corrective actions in response to findings of deficiency, develop a timeline for corrective actions, and report to Local Government Transit Section on its progress.
 - (c) Findings of noncompliance – Determination that the sub recipient has denied persons the benefits of, excluding them from participation in, or subjecting persons to discrimination on the basis of race, color, or national origin. The sub recipient will be considered noncompliant with Title VI. If noncompliance cannot be corrected informally, the sub recipient may be subject to remedial action or proceedings under Chapter VII of FTA C 4702.1B and the DOT Title VI regulations at 49 CFR Sections 21.13, 21.15, and 21.17.
 - 5) Sub recipients will be provided a timeline to resolve any recommendations or findings and submit their responses and corrective action in the BlackCat System Oversight. When it has been determined that the sub recipient has satisfactorily responded to

findings, the review will be closed in BlackCat System Oversight by Transit staff and the sub recipient will be notified of the closure by a system generated email.

g) Maintain Title VI Review log documenting the required information as follows:

- 1) Date Review Notice sent
- 2) Date Review Conducted
- 3) Date of Notice of Compliance
- 4) Date of Notice of Deficiency, if any
 - (a) Date of follow-up review meeting with sub recipient
 - (b) Date of Notice of Non-Compliance
- 5) Date of Last Review
- 6) Date of Last Review Notice of Compliance

VII. DATA COLLECTION

A. NDDOT Public Participation Survey

Data collection ensures that transportation programs, services, activities, 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. Timely and accurate data allows for better decision-making and provides support to the decisions made. Statistical data is collected on race, color, national origin, sex, age, disability, language most frequently spoken at home, public assistance recipient, how you heard about the event, date, city, county, division/district, Project Control Number (PCN), negotiation or relocation, consultant name, MPO, Transit Agency, and sub recipient status.

Each of the Title VI program areas, as appropriate, will maintain data to be incorporated in the FHWA Title VI Annual Goals and Accomplishments Report. The data gathering process will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of the Title VI/Nondiscrimination and ADA Program Implementation Plan.

Divisions and Districts collect and utilize data from many sources including the U.S. Census, State Agencies, Local Governments, religious organizations, Federal Agencies, non-profit organizations, and consultants, etc.

The Planning/Asset Management and Programming Divisions utilize data in the early stages of highway development to ensure the long-range plans have considered the impacts to the people and the state of North Dakota. Environmental and Transportation Services and Design Divisions ensure highway projects utilize data as they go through a rigorous process considering the demographic and environmental impacts to the project area. The project data is compiled into several documents identifying the impacts and must go through an approval process. The divisions and districts involved in the physical construction of the highway projects continue to consider the relevant data to ensure the public continue to be involved in the highway construction decision making process.

Data is collected and utilized in developing and implementing the Limited English Proficiency Plan. The data sources, identified populations, and program specifics are stated in the LEP Plan. See Exhibit G.

NDDOT developed a major data collection tool; the Public Participation Survey is used to gather demographic data on the participants at public meetings/hearings. The intent is to gather a

sufficient pool of data to determine whether the NDDOT is reaching all population groups and receiving input in the transportation decision making process.

The public and advocacy groups are informed about the Public Meetings according to the Public Involvement Process found in the NDDOT Design Manual at the following link:
<http://www.dot.nd.gov/manuals/design/designmanual/Chapter%202.pdf>

NDDOT division and consultant staff disseminate the voluntary NDDOT Public Participation Survey (SFN 60149) to all public meeting/hearing participants.

The surveys are scanned into a data base and displayed on a spread sheet or directly entered on a spreadsheet. The data for each category is transferred onto a data table report. U.S. Census Bureau, American Fact Finder data files are collected at the city level, if available, county level, or service area for the other meetings/hearings. Some North Dakota city and county populations are too small for census reporting. The data of the participants is compared to the U.S. Census data for the project area to help identify underserved populations in each category.

A Public Participation Survey Updated Analysis will be conducted when the 2020 U.S. Census information is available and thereafter when there is a significant change in the data reported or when projects identify significant impacts to the public during the FHWA funded projects. The updated analysis will be provided during Program Area Reviews or in the Goals and Accomplishments report located at <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm> .

A Public Participation Survey Analysis will be conducted on the data reported for FTA funded programs to update Title VI information for FTA programs.

The Public Participation Survey is located on NDDOT Title VI/Nondiscrimination and ADA Program web page under Title VI Forms at <http://www.dot.nd.gov/forms/sfn60149.pdf> . The survey instructions and codes are located on the Title VI/Nondiscrimination and ADA Program web page at <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm> .

VIII. TRAINING

A. Civil Rights Staff and Other NDDOT Employees

Title VI Specialists Training

The Title VI Program Administrator conducts one hour of Title VI training, quarterly, for the Title VI Specialists. The Title VI training schedules are reported to FHWA in the annual Goals and Accomplishments report.

New Specialists Training

The Title VI Program Administrator provides six hours of Title VI training for newly appointed Title VI Specialists through two methods. Training includes four hours of independent study and 1-2 hours instruction in person dependent on the Title VI Specialist's knowledge of Title VI. The independent study program is available online in NDDOT's Electronic Learning Management program (ELM). New specialists register for the training online and completion is automatically recorded in ELM. The online training is presented in text and audio for the participant. The training materials are on NDDOT's internal web site and include a training program syllabus clearly describing the requirements of each section to be completed including a question and answer session at the end of the training. The training covers Title VI, related nondiscrimination statutes, and ADA/Section 504. The Title VI training schedules are reported to FHWA in the annual Goals and Accomplishments report.

Employees Annual Training

The Civil Rights Division will offer a minimum of one hour of Title VI training to all of NDDOT employees annually. This training may be offered on more than one day to accommodate work schedules.

The Title VI Specialists may conduct annual Title VI training for division and district staff within their areas. The Title VI Specialist may choose to provide Title VI Training to their division or district employees using training materials from previous trainings. The Title VI Program Administrator has previous trainings, presentations, and other materials available. There is a good source of training materials located on NDDOT's internal webpage, MYDOT, under the Title VI/Nondiscrimination and ADA Program. Some divisions and districts must remain staffed during business hours, so group training is not feasible. Each NDDOT employee is required to complete a minimum of one hour of annual Title VI training.

New Employees Training

Title VI Specialists in each division and district are responsible to monitor the completion of Title VI training for new employees. NDDOT has new employee Title VI Training available online in ELM. New employees register for the training online and completion is automatically recorded in ELM. The online training is presented in text and audio for the participant. This online training is one hour and includes an independent study of viewing Title VI, ADA, and LEP videos and may be followed by a brief discussion of the materials with the Title VI Specialist. Additional question and answer time is provided as needed.

Other Employees Training

External Civil Rights training includes a segment on the Title VI/Nondiscrimination and ADA Program and is provided to NDDOT staff, consultants, cities, and counties.

The training provides information on the Title VI/Nondiscrimination and ADA Program and its application to program operations, identification of Title VI issues, and processing of complaints. Scheduled training events may be recorded documenting the training topic, date, time, hours, location, and participants.

B. Sub Recipients and Stakeholders

NDDOT developed a Title VI/Nondiscrimination and ADA Program Training Resources web page that is accessible from the Title VI/Nondiscrimination and ADA Program web page located under Resources at <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>. An assortment of audiovisual and text materials are available on the topics of Title VI, ADA/Section 504; LEP, and Environmental Justice.

NDDOT developed a web page for FHWA funded sub recipients to access information and templates regarding the federal financial assistance approval process and to develop their Title VI/Nondiscrimination and ADA Programs. The Sub Recipient Title VI/Nondiscrimination and ADA Program web page is located at <http://www.dot.nd.gov/divisions/civilrights/titlevi-subrecipients.htm>

NDDOT provides guidance and one-on-one training to applicants for FHWA federal financial assistance and sub recipients in developing and updating their Title VI Program as requested or needed.

External Civil Rights training includes a segment on Title VI and is provided to consultants, cities, and counties.

Training and technical assistance is provided to FTA sub recipients through speakers at quarterly meetings, Dakota Transit Association conferences, information provided on the National Rural

Transit Assistance Program (RTAP), and templates provided on the Transit Operator Portal and in BlackCat System.

IX. EXTERNAL COMPLAINTS OF DISCRIMINATION

A. External Complaints of Discrimination Form

NDDOT developed an External Complaints of Discrimination form for persons who believe they have been discriminated against to file a complaint. NDDOT follows the FHWA's and FTA's Title VI and related statutes, and ADA/Section 504 complaint procedures that provides prompt investigations and dispositions of complaints originating under funding by FHWA or FTA including their regulations or guidance. The External Complaints of Discrimination, (SFN 51795) English and (SFN 51795S) Spanish, identifies complaints based on Title VI of the Civil Rights Act of 1964 (race, color, national origin) or Other Nondiscrimination Statutes/Executive Orders (sex, age, disability, or limited English proficiency). NDDOT has an investigation team that is trained in conducting investigations when delegated by FHWA or as required by FTA to investigate complaints. See Exhibit C.

The processing of External Complaints of Discrimination requests the complainant to complete the Complainant Consent/Release form with a Notice About Investigatory Uses of Personal Information (SFN 60741) prior to an investigation of the complaint. A denial of consent can impede an investigation. The form is found in Exhibit D.

All complaints are recorded for FHWA and FTA on a separate External Complaints of Discrimination Log (SFN 59892) found in Exhibit E. The FTA External Complaints of Discrimination filed during FY2018-FY2020 is located at Exhibit L. FTA sub recipients are required to submit the Transit Title VI – List of Investigations, Lawsuits, and Complaints (SFN 60805) found in Exhibit F, annually to the NDDOT Transit Section.

Additional information on filing and processing External Complaints of Discrimination can be found in Exhibit C. A list of Agencies Authorized to Receive and Process Complaints is included in the External Complaints of Discrimination form in Exhibit C.

X. DISSEMINATION OF TITLE VI INFORMATION

A. Public Involvement

NDDOT disseminates the Title VI/Nondiscrimination and ADA Program internally, via Intranet, to NDDOT employees and externally, via Internet, to sub recipients, contractors, beneficiaries, advocacy groups, and the general public as well as in other formats as requested.

Several documents included in the Title VI/Nondiscrimination and ADA Program are posted on NDDOT's website separately for easy access including the NDDOT Title VI/Nondiscrimination and ADA Policy Statement in English and Spanish, USDOT Standard Title VI/Non-Discrimination Assurances, External Complaints of Discrimination in English and Spanish, Requests For Reasonable Accommodation, and Limited English Proficiency Plan. NDDOT's Title VI/Nondiscrimination and ADA Program web page is at the following location:
<http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

Additionally, NDDOT posts the Title VI/Nondiscrimination and ADA Policy Statement (English and Spanish), External Complaints of Discrimination form/instructions (English and Spanish), and the List of Available Languages Over the Phone in all public areas of NDDOT buildings and offices.

NDDOT's Drivers License Division public areas has displays of published study guides for the Motorcycle Operators Manual in English, Noncommercial Drivers License Manual in English and

Spanish, and the Commercial Drivers License Manual in English. The manuals contain information to request accommodations for disabilities and language assistance and the languages available for each test. The manuals also contain a nondiscrimination statement. The division's webpage provides English auditory versions of these three manuals.

NDDOT publishes other Title VI information including announcements of hearings, meetings, [virtual events](#), and other activities in minority media and in local newspapers having a general circulation in the vicinity of proposed projects. The public and advocacy groups are informed about meetings, hearings, and other activities, programs, and services according to the Public Involvement Process located in the NDDOT Design Manual, Chapter II, Section 3. The process provides notice from early planning to final plans. The Public Involvement Process is located at <http://www.dot.nd.gov/manuals/design/designmanual/Chapter%202.pdf>

NDDOT Transit Section will attend, when possible, public meetings held by NDDOT relating to transit issues. Transit providers who serve the area where meetings are held may be required to attend to answer any questions the public may have. Emphasis will be placed on notifying limited English proficient, minority, and low-income populations by Solicitation of Views (SOV) letters targeting advocacy groups that service these populations.

Additional notifications to the public may include posting of fliers or brochures at local libraries, community centers, local businesses, local government offices, and places of worship.

XI. LIMITED ENGLISH PROFICIENCY (LEP)

A. Limited English Proficiency Plan

Limited English Proficiency is a term used to describe individuals who are not proficient in the English language. According to the U.S. Census, North Dakota is home to a small number of individuals who are not proficient in the English language. Executive Order 13166, Improving Access to Services for Persons With Limited English Proficiency, August 2000, is directed at implementation of protections afforded by Title VI of the Civil Rights Act of 1964.

NDDOT provides free telephonic interpreter services in over 240 languages for call-in or walk-in customers, and encounters with the public who are limited English proficient for consultants to conduct Equal Employment Opportunity employee interviews on job sites.

LEP individuals may request language assistance through NDDOT's Request For Reasonable Accommodations form. See Exhibit I.

NDDOT is committed to providing LEP individuals meaningful access to NDDOT programs, activities, and services through the development and implementation of NDDOT's Limited English Proficiency Plan. NDDOT's Limited English Proficiency Plan was updated in 2016 and will be updated when the 2020 U.S. Census is completed. See Exhibit G.

XII. REVIEW OF NDDOT DIRECTIVES

A. Directives

Pursuant to federal regulations, all NDDOT directives, policies, procedures, and operational guidelines provided to contractors, sub recipients, and internal programs are reviewed as necessary to ensure the required Title VI provisions, state law, and related requirements are included, where applicable by assigned division and district staff.

XIII. EXHIBITS

The following pages include 12 Exhibits. They are identified as Exhibit A through Exhibit L.

NDDOT Organization Chart
February 2020

To electronically access, click on or go to the following link:

<http://www.dot.nd.gov/divisions/exec/docs/nddot.pdf>

Figure 1- NDDOT - Organization Chart – February 2020

NDDOT Civil Rights Division Organizational Chart
September 2020

Figure 2 - NDDOT - Civil Rights Division Organizational Chart – September 2020

External Complaints of Discrimination Form
North Dakota Department of Transportation, Civil Rights Division
SFN 51795 (03-2020)

To electronically access SFN 51795, click on or go to the following:

<http://www.dot.nd.gov/forms/SFN51795.pdf>

Figure 3- NDDOT - External Complaints of Discrimination form (SFN 51795), page 1

Figure 4 - NDDOT – External Complaints of Discrimination form (SFN 51795), page 2

Figure 5 - NDDOT – External Complaints of Discrimination form (SFN 51795), page 3

Complainant Consent/Release and Notice About Investigatory Uses of Personal Information

**COMPLAINANT CONSENT/RELEASE
(EXTERNAL COMPLAINTS OF DISCRIMINATION)**

North Dakota Department of Transportation, Civil Rights
SFN 60741 (5-2016)

Name			
Mailing Address	City	State	ZIP Code
Complaint Number(s) if known:			

Please read the information below, check the appropriate box, and sign this form.

I have read the Notice About Investigatory Uses of Personal Information by the North Dakota Department of Transportation (NDDOT). As a complainant, I understand that in the course of an investigation it may become necessary for NDDOT to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of NDDOT to honor requests under the Freedom of Information Act and North Dakota Century Code 44-04-18. I understand that it may be necessary for NDDOT to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by NDDOT's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by NDDOT.

CONSENT/RELEASE

<p><input type="checkbox"/> CONSENT - I have read and understand the above information and authorize NDDOT to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the NDDOT to receive material and information about me pertinent to the investigation of my complaint. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.</p> <p><input type="checkbox"/> CONSENT- The respondent named in this complaint may receive a copy of my complaint upon request.</p> <p><input type="checkbox"/> CONSENT DENIED - I have read and understand the above information and do not want NDDOT to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.</p>	
Signature	Date

Figure 6 – NDDOT - Complainant Consent/Release form (SFN 60741), page 1.

**NOTICE ABOUT INVESTIGATORY
USES OF PERSONAL INFORMATION
(External Complaints of Discrimination)**

Enclosure 2
SFN 60741
Page 2 of 2

NOTICE OF COMPLAINANT/INTERVIEWEE RIGHTS AND PRIVILEGES

Complainants and individuals who cooperate in an investigation, proceeding or hearing conducted by North Dakota Department of Transportation (NDDOT) are afforded certain rights and protections. This brief description will provide you with an overview of these rights and protections.

- A respondent may not force its employees to be represented by the respondent's counsel nor may it intimidate, threaten, coerce or discriminate against any employee who refuses to reveal to the respondent the content of an interview. An employee does, however, have the right to representation during an interview with NDDOT. The representative may be the respondent's counsel, the employee's private counsel, or anyone else the interviewee authorizes to be present.

- The laws and regulations which govern NDDOT's compliance and enforcement authority provide that no respondent or other person shall intimidate, threaten, coerce or discriminate against any individual because he/she has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing conducted under NDDOT's jurisdiction, or has asserted rights protected by statutes NDDOT enforces.

- Information obtained from the complainant or other individuals which is maintained in NDDOT's investigative files may be exempt from disclosure under the Privacy Act, the Freedom of Information Act (FOIA), or North Dakota Century Code (NDCC) 44-04-18 if release of such information would constitute an unwarranted invasion of personal privacy.

The law governing personal information submitted to any State agency, including the NDDOT is NDCC 44-04-18.

NDCC 44-04-18 protects individuals from misuse of personal information held by the NDDOT. The law applies to records that are kept and that can be located by the individual's name or social security number or other personal identification system. Persons who submit information to the state should know that:

- NDDOT is required to investigate complaints of discrimination on the basis of race, color, national origin, sex, disability, age, and, in some instances, religion against respondents of Federal financial assistance. NDDOT also is authorized to conduct reviews of federally funded respondents to assess their compliance with civil rights laws.

- Information that NDDOT collects is analyzed by authorized personnel within the agency. This information may include personnel records or other personal information. NDDOT staff may need to reveal certain information to persons outside the agency in the course of verifying facts or gathering new facts to develop a basis for making a civil rights compliance determination. Such details could include the physical condition or age of a complainant. NDDOT also may be required to reveal certain information to any individual who requests it under the provisions of NDCC 44-04-18. (See below)

- Personal information will be used only for the specific purpose for which it was submitted, that is, for authorized civil rights compliance and enforcement activities. Except in the instances defined by NDCC Chapter 44-04, NDDOT will not release the information to any other agency or individual unless the person who supplied the information submits a written consent. One of these exceptions is when release is required under NDCC 44-04-18. (See below)

- No law requires a complainant to give personal information to NDDOT, and no sanctions will be imposed on complainants or other individuals who deny NDDOT's request. However, if NDDOT fails to obtain information needed to investigate allegations of discrimination, it may be necessary to close the investigation.

- NDCC 44-04-18 permits certain types of systems of records to be exempt from some of its requirements, including the access provisions. It is the policy of NDDOT to exercise authority to exempt systems of records only in compelling cases. NDDOT may deny a complainant access to the files compiled during the agency investigation of his or her civil rights complaint against a respondent of Federal financial assistance. Complaint files are exempt in order to aid negotiations between respondents and NDDOT in resolving civil rights issues and to encourage respondents to furnish information essential to the investigation.

- NDDOT does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against a respondent that violates the laws, or unless such information is required to be disclosed under NDCC 44-04-18. NDDOT will keep the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under NDCC 44-04-18 or otherwise required by law.

NDCC 44-04-18 gives the public access to certain files and records of the state of North Dakota. Individuals can obtain items from many categories of records of the state--not just materials that apply to them personally. NDDOT must honor requests under NDCC 44-04-18, with some exceptions. NDDOT generally is not required to release documents during an investigation or enforcement proceedings if the release could have an adverse effect on the ability of the agency to do its job.

Also, a state agency may refuse a request for records compiled for law enforcement purposes if their release could be an "unwarranted invasion of privacy" of an individual. Requests for other records, such as personnel and medical files, may be denied where the disclosure would be a "clearly unwarranted invasion of privacy."

External Complaints of Discrimination Log
North Dakota Department of Transportation, Civil Rights
SFN 59892 (10-2019)

Figure 8 – NDDOT - External Complaints of Discrimination Log (SFN 59892), page 1

Transit Title VI – List of Investigations, Lawsuits, and Complaints
North Dakota Department of Transportation, Local Government
SFN 60805 (3-2015)

To electronically access SFN 60805, click on or go to the following link:

<http://www.dot.nd.gov/forms/sfn60805.pdf>

TRANSIT TITLE VI - LIST OF INVESTIGATIONS, LAWSUITS, AND COMPLAINTS

North Dakota Department of Transportation, Local Government Division
 SFN60805 (03-2015)

Name of Transit Provider/Agency

All recipients shall prepare and maintain a list of any of the following that allege discrimination on the basis of race, color, or national origin:

- Active investigations conducted by Federal Transit Administration (FTA) and entities other than FTA;
- Lawsuits; and
- Complaints naming the recipient.

Providers must submit form upon receipt of notification of complaint and annually upon request by the NDDOT Transit Section. Please attach additional documentation as needed. If you have not had any investigations, lawsuits, or complaints, please enter "None" in each category on the annual report.

	DATE (MM/DD/YYYY)	SUMMARY OF ALLEGATION(S) (include basis of complaint: race, color or national origin)	CURRENT STATUS	ACTION(S) TAKEN/FINAL FINDINGS
INVESTIGATIONS	1.			
	2.			
	3.			
	4.			

LAWSUITS	1.			
	2.			
	3.			
	4.			

COMPLAINTS	1.			
	2.			
	3.			
	4.			

Name (Type or Print)	
Signature	Date

Figure 9 – NDDOT Transit Title VI – List of Investigations, Lawsuits, and Complaints (SFN 60805), page 1

NDDOT Limited English Proficiency Plan

To electronically access, click on or go to the following:

<http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

NDDOT Limited English Proficiency Plan

October 2016

INTRODUCTION

This *Limited English Proficiency Plan* has been prepared to address the North Dakota Department of Transportation's (NDDOT) responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with Limited English Proficiency language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

Executive Order 13166, titled ***Improving Access to Services for Persons with Limited English Proficiency***, indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination. It directs each agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including all NDDOT.

Plan Summary

The NDDOT has developed this **Limited English Proficiency Plan** to help identify reasonable steps for providing language assistance to individuals with Limited English Proficiency (LEP) who wish to access services provided. As defined Executive Order 13166, LEP individuals are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP individuals that assistance is available.

In order to prepare this plan, the NDDOT used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP persons served or encountered in the eligible service population.
2. The frequency with which LEP individuals come in contact with the program, activity, or services.
3. The nature and importance of the program, activity, or service provided by the program.
4. The resources available to the recipient and costs.

MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

1. The Number or proportion of LEP served or encountered in the eligible service population.

The North Dakota Department of Transportation is a state agency with a statewide service area. NDDOT has 20 divisions and eight districts. NDDOT has district offices in 8 defined service areas throughout North Dakota. Services may be provided statewide or by district.

All previous contacts with LEP persons were identified by language along with the type of service provided for the reporting period, October 1, 2014 through September 30, 2015. The following contacts occurred.

In-person contacts:

- Drivers License testing at 8 major offices, offered in 11 languages- Arabic, Spanish, Somali, Russian, Vietnamese, Turkish, Swahili, Nepali, Serbo-Croatian, French, and Chinese
- Administrative Hearings for drivers license related issues- Spanish
- Motor Vehicle walk-in customers licensing/titling, motor carrier services, mobility placards- Spanish

Telephonic Interpreter Services:

- Drivers License- call-in/walk-in communication with LEP persons; questions, scheduling, drivers license renewals- Spanish; Somali; Arabic; Nepali; Kirundi (Rundi); Albanian; Chinese; Farsi; Kinyarwanda; Swahili; Bosnian.

- Motor Vehicle Division- call-in/walk-in communication with LEP persons; questions, licensing/titling, motor carrier services, mobility placards- Spanish
- Legal Division- drivers license hearings interpreter is accessed by telephone- Spanish

NDDOT attempted to identify LEP minority populations that are eligible beneficiaries that may be underserved because of existing language barriers. The following data was identified.

- Drivers License Tests were offered and taken at all major offices.
- All 11 languages for the Written Knowledge Test were available and utilized across the state.
- All requested languages were interpreted, except one.
- One request for a German telephonic interpreter was not completed. Issue corrected with service provider access and staff training.

Additional data on LEP populations was obtained from sources such as: census, school systems, religious organization, community organizations, community agencies, and state and local governments.

NDDOT consulted additional data sources:

U.S. Census for North Dakota

- 2010-2014 American Community Survey 5 Year Estimates
 - The NDDOT staff reviewed the 2010-2014 American Community Survey 5-Year Estimates for North Dakota and determined that 35,684 individuals, in North Dakota [5.4% of the population] speak a language other than English. Of those 7,720 individuals have limited English proficiency; that is; they speak English less than “very well” or “not at all.” This is only 1.2% of the overall population in North Dakota.
 - Individuals with Limited English Proficiency that are greater in number than 5% of the language group are: Spanish, French, French Creole, Portuguese or Portuguese Creole, Serbo-Croatian, German, Greek, Russian, Polish, Chinese, Arabic, Hebrew, Japanese, Korean, Thai, Vietnamese, Tagalog, Persian, Gujarati, Hindi, Urdu, Navajo, Scandinavian, Other Native North American Languages, Other Slavic Languages, Other Indic Languages, Other Indo-European Languages, Other Asian Languages, Other Pacific Island Languages, and African languages, and Other and unspecified languages.

These groups reside throughout the state and most groups are small in number. Table B16001.

- Detailed Languages Spoken At Home and Ability to Speak English - Table 35, 2009-2013 Release Date October 2015
 - Scandinavian: consists of 4 languages (2 undisclosed); Norwegian and Swedish
 - Other Native North American Languages: consists of 20 languages (14 undisclosed); Okanogan, Hidatsa, Mandan, Dakota, Arikara, American Indian
 - Other Slavic Languages: consists of 5 languages (3 undisclosed); Ukrainian and Czech
 - Other Indic Languages: consists of 6 languages (5 undisclosed); Nepali
 - Other Indo-European Languages: consists of 7 languages (6 undisclosed); Romanian
 - Other Asian Languages: consists of 6 languages (4 undisclosed); Telugu and Turkish
 - Other Pacific Island Languages: consists of 7 languages (5 undisclosed); Indonesian and Malay

- African languages: consists of 9 languages (2 undisclosed); Amharic, Cushite (Somali), Sudanic, Swahili, Bantu (group of 250 languages/dialects), Mande, (group of 3) Kru, Ibo, Yoruba
- Other and unspecified languages: consists of 4 languages (2 undisclosed); Finnish and Syriac
- Characteristics of People by Language Spoken at Home – Table S1603
 - Educational Attainment: 24.3% of 5,785 individuals who speak Spanish or Spanish Creole have less than a high school education. Other languages data were too few to report.

North Dakota Department of Public Instruction (NDDPI) - Reports the English Language Learner languages.

- In 2014, NDDPI reported 3,770 ELL students in 73 schools.
 - 26% Spanish or 980 students
 - 11% Somali or 415 students
 - 10% Nepali or 377 students
 - 35% Other
- The North Dakota State Assessment for Grades 3-8 and 11 for the School Year 2013-2014 showed:
 - Of 1,967 LEP students, 67.7% were not proficient in Reading
 - Of 2,091 LEP students, 59.5% were not proficient in Mathematics

Lutheran Social Services of North Dakota (LSSND)

- LSSND is a religious organization that is appointed as the U.S. agency for resettlement of refugees in North Dakota.
 - Resettled 377 in 2015
 - Resettled 590 in 2014

2. The frequency with which LEP individuals come in contact with the program, activity, or service.

NDDOT identified the frequency with which NDDOT division and district staff have or should have contact with LEP individuals from different language groups seeking assistance. Spanish speaking individuals are the most frequently encountered LEP language group.

Drivers License Division

- Written Knowledge Tests were administered in 11 foreign languages at 8 major offices as indicated in the chart below. There was a total of 2,922 tests administered. A breakdown of the 8 major offices is provided on the table below.

Noncommercial (Class D) Foreign Language Tests October 1, 2014 thru September 30, 2015											
Office	Arabic	Spanish	Somali	Russian	Vietnamese	Turkish	Swahili	Nepali	Serbo-Croatian	French	Chinese
Bismarck	33	267	28	38	4	1	11	1	6	54	22
Devils Lake	13	23		27					1	2	11
Dickinson		17		6		2	3		1	40	3
Fargo	130	138	510	46	19	16	67	51	5	32	37
Grand Forks	41	30	455	9	10			31	6	3	57
Jamestown	1	17	18	32			2		1	5	
Minot	1	167	8	13	2	6	4		5	14	1
Williston	19	215		2	1	9	2		5	61	4
Note: These are the number of tests administered. Some individuals attempt the test more than one time.											
Totals:	238	874	1019	173	36	34	89	83	30	211	135

- Telephonic interpreter service was used for 104 walk-in and/or call-in customers during the past 12 month reporting period of October 1, 2014 through September 30, 2015.
- Contacts ranged from 2 per month to 14 per month.
- Contacts by language were as follows: 73 Spanish; 14 Somali; 6 Arabic; 3 Nepali; 2 Kirundi (Rundi); 1 Albanian; 1 Chinese; 1 Farsi; 1 Kinyarwanda; 1 Swahili; 1 Bosnian.

Motor Vehicle Division

- Telephonic interpreter services were used for 16 call-in/walk-in customers during the past 12 month reporting period.
- Contacts ranged from 0-3 during each of 11 months, and 1 month had 7 contacts during 2014-2015 for Spanish speaking customers.

Legal

- Telephonic interpreter services were used for two Administrative Hearings for driver license related issues for Spanish speaking individuals, one in April of 2015 and the other in July of 2015.

3. The nature and importance of services provided by the NDDOT to the LEP population.

NDDOT determined the importance of its services for the LEP population in North Dakota by reviewing and considering the following factors including the identification of vital documents.

Identification of Vital Documents

- A document will be considered vital if it contains information that is critical for obtaining the federal services and/or benefits, or is required by law.
- Examples:
 - o Applications
 - o Consent and complaint forms,
 - o Notices of rights and disciplinary action
 - o Notices advising LEP persons of the availability of free language assistance
 - o Written tests that assess competency for a particular license, job, or skill for which English competency is not required
 - o Letters or notices that require a response from the beneficiary or client
 - o Larger documents, translation of vital information contained within the document will suffice and need not be translated in its entirety.
 - o Outreach docs: difficult to determine if vital- lack of awareness may effectively deny LEP persons access. It's important to continually survey/assess the needs of eligible service population to determine what outreach materials are critical to translate.

NDDOT provides a Request for Reasonable Accommodations form for individuals to request services for oral or written translations as determined by the Four-Factor Analysis or defined by Safe Harbor requirements. Safe Harbor applies to written translations only.

Vital documents will be translated when a significant number of percentage of the population eligible to be served, or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively.

If the English language version is posted on NDDOT website, the translation will be posted on the website.

NDDOT considered the importance of immediate and long-term effects of a delay in written translations. Most services have several days to weeks allowed for comment or completion.

Failure to provide written translation under these cited circumstances does not mean that the recipient is in noncompliance; rather, it provides a starting point for recipients to consider in relation to the Four Factors.

Immediate oral telephonic interpreter services are provided free.

4. The resources available to the recipient and costs.

Telephonic Interpreter Services

NDDOT has joined the State of North Dakota WSCA contract for telephonic interpreter services that is available to all state and local governments.

- NDDOT set up a WSCA agreement with the two telephone based interpreter services to provide immediate interpreter services at no cost to LEP individuals statewide.
- The new WSCA contract started in June of 2015 and is \$0.57 to \$0.62 per minute dependent on which provider is accessed. 130 telephonic service calls made; 1,513.30 total minutes used in 2014-2015 for a total cost of approximately \$950.00.
- In person interpreters- Courts List- rate varies per interpreter, approximately \$40.00 per hour; none were used this past year.

Written Translation

NDDOT has identified and contacted several written translation service providers.

NDDOT procured the written translation of the Noncommercial Drivers License Manual from English into Spanish at a cost of \$3,017.60 which took about 30 days to complete.

Drivers License Division has translated nine tests into other languages. Two additional languages were translated this past year. The current cost to translate the drivers test into another language is approximately \$15,000 per language.

Prioritize the needs so that language services are targeted where most needed because of the nature and importance of the activity.

Resource and cost issues can be reduced: NDDOT's vital documents are uniform throughout the department due to being a statewide agency. NDDOT prepares templates of relevant documents for sub recipients to use in the development of their Title VI plans. The translation of sub recipient templates will be minimal cost if they are nearly identical to NDDOT's documents.

Using qualified translators and interpreters to ensure that docs need not be fixed later and that inaccurate interpretations do not cause delay other costs NDDOT has access to qualified translators through several companies. When revisions occur, it is most likely due to legislative changes which cannot be predetermined. NDDOT's telephonic interpreter service was thoroughly tested in the WSCA procurement process and has qualified interpreters.

NDDOT has many significantly large documents. Written translation of NDDOT large documents can range from translation of an entire document to translation of a short description of the document.

LANGUAGE ASSISTANCE

A person who does not speak English as their primary language or who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to NDDOT services.

Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

After applying the four-factor analysis, NDDOT has examined the following language assistance options and identified which methods will provide NDDOT with an effective LEP Plan. Spanish speaking individuals are most frequently encountered by NDDOT.

Selecting Language Assistance Services

Oral Language Services

Using telephone interpreter lines offer prompt interpreting assistance in many different languages

- WSCA contract procured for multiple state DOTs resulted in two competent service providers able to interpret transportation technical or legal terms.
 - 240+ languages
 - Includes all languages encountered by NDDOT for past 3 years
 - Both WSCA contract service providers have additional services available for video teleconferencing and written translation.
- Contracting for Interpreters
 - The North Dakota Courts has an interpreters list available for independent contractors.
- Use of family members, friends, other customers/passengers as interpreters
 - NDDOT allows at the request of LEP individual, if they are not willing to speak with an interpreter provided by NDDOT.
 - In rare emergency situations, NDDOT may allow.

Written Language Services - Translation of Documents

A “safe harbor” provision regarding the translations of documents is provided by the Department of Justice. The DOJ suggests providing written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. The safe harbor provision applies to the translation of written documents only.

Written translations would not be effective or useful for people with low literacy in their language. The literacy level should be determined.

For ‘vital’ Department documents, if there are fewer than 50 persons in a language group (that reaches five percent of the population of persons eligible to be served or likely to be affected or encountered), the Department does not translate ‘vital’ written materials but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

- Identification of Vital Documents
 - A document will be considered vital if it contains information that is critical for obtaining the federal services and/or benefits, or is required by law.
 - Examples:
 - Applications
 - Consent and complaint forms,
 - Notices of rights and disciplinary action
 - Notices advising LEP persons of the availability of free language assistance
 - Written tests that assess competency for a particular license, job, or skill for which English competency is not required
 - Letters or notices that require a response from the beneficiary or client
 - Larger documents, translation of vital information contained within the document will suffice and need not be translated in its entirety.
 - Outreach docs: difficult to determine if vital- lack of awareness may effectively deny LEP persons access. It’s important to continually survey/assess the needs of eligible service population to determine what outreach materials are critical to translate.

Failure to provide written translation under these cited circumstances does not mean that the recipient is in noncompliance; rather, it provides a starting point for recipients to consider in relation to the Four Factors.

LANGUAGE ASSISTANCE MEASURES

NDDOT employees will inform all LEP individual attempting to access services that the Department provides free interpreter services upon request for their interactions with the department.

When NDDOT receives a request or identifies a need for services, NDDOT will make every effort to provide the services in a timely manner. NDDOT will pay for interpreter services and translation of vital documents as necessary.

- Request For Reasonable Accommodations form is available to request oral interpretation and written translation services.
- The public is notified of LEP services via Press Releases, newspaper ads, and advocacy groups, notices in division/district manual, posters, drivers license study guides, Environmental Justice Brochure.
- Drivers License tests are available in 11 languages.
- Auditory drivers license study guides for those who understand English but are unable to read English.
- Spanish translation of the Noncommercial Drivers License study guide.
- NDDOT's website has a "Contact" webpage for "Language Interpreter Services" with a contact person and telephone number.
- To ensure competency of interpreter services, NDDOT joined a WSCA contract where competency was thoroughly checked, verified, and tested for competency.
- NDDOT checked references to verify translation services providers to ensure competent services.

STAFF TRAINING

Training includes how to obtain language assistance service and communication with interpreters and translators.

- Annual training is provided to all NDDOT employees
 - Information to know their obligations to provide meaningful access to information and services for LEP persons.
 - Information on NDDOT LEP policies and procedures
 - Description of language assistance services offered to the public.
 - Primary division/district contacts to assist LEP individuals.
 - Division/district process for External Complaints of Discrimination
- Additional training is provided to employees in public contact positions who may receive telephone calls from or provide in-person services to LEP individuals as follows:
 - Instructions to work effectively with telephone interpreters.
 - Instructions for working with an in-person interpreter
 - Instructions for transferring calls with LEP individuals on the telephone line
 - Use of two telephonic interpreter language lists
 - Use of "I Speak" cards for in-person LEP individuals. It is located at:
<http://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/ISpeakCards.pdf>
 - Access for two telephonic interpreter service providers
 - Documentation of language assistance requests.
 - Reporting of poor quality services by interpreter
- Training is provided for assigned employees for specific services
 - Request for Reasonable Accommodations
 - Instructions for processing requests
 - Accessing assistive technology
 - Follow-up on quality of services

MONITORING

Monitoring and Updating the LEP Plan - The NDDOT will update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when data from the 2020 U.S. Census is available, or when it is clear that higher concentrations of LEP individuals are present in North Dakota. Updates will include the following:

- The number of encountered LEP persons, by language who received language assistance services annually.
- The frequency of encounters with LEP persons
- The current/primary language of LEP populations in the service area.
- Whether the need for translation services has changed.
- Whether local language assistance programs have been effective.
- Whether the NDDOT's financial resources are sufficient to fund language assistance resources needed.
- Determine whether the NDDOT fully complies with the goals of this LEP Plan.
- Determine the number and type of complaints received concerning the needs of LEP individuals.
- Whether staff are knowledgeable about department LEP procedures.

DISSEMINATION OF THE NDDOT LEP PLAN

- Post NDDOT's LEP Plan to their website.
- Send electronic notification of the LEP Plan to advocacy groups, local governments, sub recipients, consultants, and other stakeholders via email lists.
- Display free language assistance posters in all NDDOT building's public areas.
- State on agendas, public notices, brochures, fliers, ads that a Request For Accommodation is available to request oral and written translation of documents from NDDOT.
- Post signs in public areas of Transit facilities and in transit vehicles notifying LEP individuals of the LEP Plan and how to access free language services.
- Post on the transit provider's websites, the LEP Plan and how to access free language services.

Title VI and Related Nondiscrimination Authorities

A. Nondiscrimination Statutes

- **Title VI of the Civil Rights Act of 1964**, 42 U.S.C. 2000d, provides: No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- **Section 504 of the Rehabilitation Act of 1973**, 42 U.S.C. 794, et seq., provides: No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.
- **Age Discrimination Act of 1975**, 42 U.S.C. 6101, provides: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- **Federal Aid Highway Act of 1973**, 23 U.S.C. 324, provides: No person shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Title or carried on under this Title.
- **The Civil Rights Restoration Act of 1987**, P.L. 100-209, provides: Clarification of the original intent of Congress in Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. The Act restores the broad, institution-wide scope and coverage of the nondiscrimination statutes to include all programs and activities of Federal-aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not.
- **Title II of the Americans with Disabilities Act of 1990**, 42 U.S.C. 12131, et seq., provides: No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or local government.

B. Regulations

- 23 Code of Federal Regulations (CFR) 1.36, Compliance with Federal Laws and Regulations
- 23 CFR 200, Title VI Program and Related Statutes-Implementation and Review Procedures
- 28 CFR 35, Nondiscrimination on the Basis of Disability in State and Local Government Services
- 28 CFR 36, Nondiscrimination on the Basis of Disability in Public Accommodations and in Commercial Facilities
- 28 CFR 42, Subpart C, Implementing Title VI of the Civil Rights Act of 1964
- 28 CFR 50.3, USDOJ's Guidelines Enforcement of Title VI of the Civil Rights Act of 1964
- 49 CFR 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964
- 49 CFR 27, Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance
- 49 CFR 28, Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation (DOT)
- 49 CFR 53, Federal Transit Laws

C. Executive Orders (E.O.)

- E.O. 12250, Leadership and Coordination of Nondiscrimination Laws
- E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- E.O. 13166, Improving Access to Services for Persons with Limited English Proficiency

D. Directives

- DOT Order 1000.18, Implementation of the DOT Title VI Program
- DOT Order 1050.2A, Standard Title VI/Non-Discrimination Assurances
- FHWA Notice 4720.6, Impacts of the Civil Rights Restoration Act (CRRRA) on FHWA Programs
- DOT Order 5610.2(a), Actions to Address Environmental Justice and Minority Populations and Low-income Populations

E. Other References

- USDOJ's Title VI Legal Manual
- USDOJ's Investigation Procedures Manual for the Investigation and Resolution of Complaints Alleging Violations of Title VI and Other Nondiscrimination Statutes
- Americans with Disabilities Act Accessibility Guidelines (ADA Handbook Appendix B)
- Revised Draft Public Rights-of-Way Accessibility Guidelines (PROWAG) (2005)
- FHWA's Memorandum Clarification of FHWA's Oversight Role in Accessibility, Dated September 12, 2006

Request For Reasonable Accommodations
North Dakota Department of Transportation, Civil Rights
SFN 60135 (2-2016)

To electronically access SFN 60135, click on or go to the following:

<http://www.dot.nd.gov/forms/sfn60135.pdf>

REQUEST FOR REASONABLE ACCOMMODATIONS

North Dakota Department of Transportation, Civil Rights
 SFN 60135 (2-2016)

	Date
--	------

PART I

Name		Telephone Number	
Street/Mailing Address		City	State ZIP Code
Preferred Method of Contact <input type="checkbox"/> Day Phone <input type="checkbox"/> Email <input type="checkbox"/> USPS		Email Address	
Type of Event: <input type="checkbox"/> Public Meeting/Public Hearing <input type="checkbox"/> Training <input type="checkbox"/> Other (specify) _____			
Date of Event	and/or	Date Needed	Location of Event

PART II: LIMITED ENGLISH PROFICIENCY (LEP)

<input type="checkbox"/> Yes <input type="checkbox"/> No Do you need language assistance for LEP?	
Language Assistance _____	
<input type="checkbox"/> Oral Interpretation (specify language)	_____
<input type="checkbox"/> Written Translation (specify language)	_____
Name of Documents	

PART III: AMERICANS WITH DISABILITIES ACT (ADA)

<input type="checkbox"/> Yes <input type="checkbox"/> No Do you need an accommodation for a disability?	
Types of Accommodation	
<input type="checkbox"/> Interpreter for deaf (specify ASL, tactile, etc.)	_____
<input type="checkbox"/> Assistive Listening device (specify)	_____
<input type="checkbox"/> Physical location accessible for persons with a physical mobility impairment.	
<input type="checkbox"/> Other (specify)	_____
Nature of Disability (Medical documentation may be requested)	
<input type="checkbox"/> Physical Mobility Impairment (specify)	_____
<input type="checkbox"/> Speech Impairment (specify)	_____
<input type="checkbox"/> Visual impairment (specify)	_____
<input type="checkbox"/> Hearing Impairment (specify)	_____
<input type="checkbox"/> Other (specify)	_____
Alternative Format (Indicate first, second, third choice if possible.)	Date Needed
<input type="checkbox"/> Braille	_____
<input type="checkbox"/> Large Print (font point size) _____	<input type="checkbox"/> Audio Recording -MP3 _____
<input type="checkbox"/> Other (specify) _____	<input type="checkbox"/> CD/Flash Drive _____
Name of Documents	
For Office Use Only The accommodation request is:	
<input type="checkbox"/> Granted as requested <input type="checkbox"/> Granted with change - see additional information <input type="checkbox"/> Denied - see additional information	

Figure 10 – NDDOT - Request for Reasonable Accommodations (SFN 60135), page 1

NDDOT INSTRUCTIONS

General:

1. Requests for Reasonable Accommodations can be made by completing this form. If you prefer to complete this form electronically, go to the North Dakota Department of Transportation website at <http://www.dot.nd.gov/forms/sfn60135.pdf>
2. You may submit the completed form as follows:
Save the completed form to your computer, click on the email link and attach your completed form. Email to: civilrights@nd.gov

Mail to: NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CIVIL RIGHTS DIVISION
608 EAST BOULEVARD AVENUE
BISMARCK ND 58505-0700

3. If you need assistance to complete the Request for Reasonable Accommodations form, please contact Paula Messmer, Civil Rights Division, NDDOT at (701-328-2978) or civilrights@nd.gov. TTY users may use Relay North Dakota at 711 or 1-800-366-6888.
4. Appropriate provisions will be considered when the Department is notified at least 10 days prior to the meeting date or 15 days prior to the date the written comments or grant applications are due.
 - Requests should be made as soon as possible
 - Converting printed material may take several weeks.
5. The Civil Rights Division will contact you to discuss your request.

PART I

Complete all information in this section.

PART II: Limited English Proficiency (LEP)

Check all boxes that apply to the type of language assistance that you are requesting.

PART III: Americans with Disabilities Act (ADA)

Check all boxes that apply to the accommodation(s) that you are requesting.

Definition of Terms

AASHTO -- American Association of State Highway Transportation Officials

Administrative Program Area - Identifies program areas that are required to have Title VI reviews according to an FHWA approved review schedule. 23 C.F.R. 200.9(b)5

Adverse Effects - The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to:

- Bodily impairment, infirmity, illness or death;
- Air, noise, and water pollution and soil contamination;
- Destruction or disruption of man-made or natural resources;
- Destruction or diminution of aesthetic values;
- Destruction or disruption of community cohesion or a community's economic vitality;
- Destruction or disruption of the availability of public and private facilities and services;
- Vibration;
- Adverse employment effects;
- Displacement of persons, businesses, farms, or nonprofit organizations;
- Increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and
- The denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.

Advocacy Distribution List - A mailing list of agencies, organizations, and individuals that provide services to underserved populations including individuals or groups of persons with limited English proficiency, disabilities, low-income, or minorities.

Affirmative Action - A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.

Beneficiary - Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocates, impacted citizens, communities, etc.

Citizen Participation -- An open process in which the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

Compliance - That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.

Discrimination - That act (or action), whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, national origin, or sex has been otherwise subjected to unequal treatment under any program or activity receiving federal assistance from the Federal Highway Administration under title 23 U.S.C.

Disproportionately High and Adverse Effect - An adverse effect that is

- Predominately borne by a minority population and/or a low-income population, or;

- Will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population.

Environmental Justice --Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

FHWA further affirms three fundamental environmental justice principles:

1. *To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.*
2. *To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.*
3. *To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.*

Federal Assistance - Includes:

1. Grants and loans of Federal funds;
2. The grant or donation of Federal property and interests in property, the detail of Federal personnel, the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and;
3. Any Federal agreement, arrangement, or other contract, which has, as one of its purposes, the provision of assistance.

Low Income - A person whose median household income is at or below the U.S. Department of Health and Human Services poverty guidelines.

Low Income Population - Any readily identifiable group of low-income persons (a person whose median household income is at or below the Department of Health and Human Services poverty guidelines) who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy or activity.

Minority - Means a person who is:

Black or African American - A person having origins in any of the black racial groups of Africa.

Hispanic or Latino - A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Asian - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.

American Indian and Alaskan Native - A person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition.

Native Hawaiian or Other Pacific Islander - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Minority Population - Any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant

workers or Native Americans) who will be similarly affected by a proposed DOT program, policy or activity.

Persons - Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: "White not of Hispanic origin", "Black not of Hispanic origin", "Hispanic or Latino", "Asian", "Native Hawaiian or Other Pacific Islander", "American Indian or Alaskan Native." Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

Program - Includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Recipient - Any State, City, County, political subdivision or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual to whom Federal assistance is extended, either directly or through another recipient (sub-recipient), for any program. Recipient includes any successor, assignee, or transferee thereof.

Special Emphasis Program Areas - Identifies major program areas that are required to have annual Title VI reviews to determine the effectiveness of program area activities at all levels. 23 C.F.R. 200.9(a)4(b)6

Title VI Program - The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI requirements and regulations shall not be limited to only Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, national origin, or sex in programs receiving Federal financial assistance of the type subject to Title VI itself. These Federal statutes are:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C §§ 2000d - 2000d-7)
2. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C 4601-4655)
3. Title VIII of the Civil Rights Act of 1968, amended 1974 (42 U.S.C 3601-3619)
4. 23 U.S.C § 109h
5. 23 U.S.C § 324
6. Subsequent Federal-Aid Highway Acts and related statutes.

North Dakota Minority by County Map

Distribution of FTA Funds by Agency 2018-2020

North Dakota Public Transit Projects Contact List (as of 6/19/20)

Distribution of Federal and State Transit Funds by Agency 2018-2020

Figure 12- NDDOT -Transit - Identifies counties with minority populations, distribution by counties, and a list of providers with counties served, pages 62-66.

FTA - External Complaints of Discrimination Log

Figure 13- NDDOT -Transit – FTA External Complaints of Discrimination Log (SFN 59892) FY2018-FY2020, page 1

