

North Dakota Department of Transportation

# Title VI and Nondiscrimination/ADA Program

prepared by

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**

Bismarck, North Dakota  
[www.dot.nd.gov](http://www.dot.nd.gov)

**DIRECTOR**

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**CIVIL RIGHTS**

E. Diane Laub, Director

submitted to

**FEDERAL HIGHWAY ADMINISTRATION**

North Dakota Division

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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 and Nondiscrimination Program. The Federal-Aid Highway Act of 1973 added the requirement that there be no discrimination based on sex. Disability was added through Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. Age was subsequently added in 1975 under the Age Discrimination Act.

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, or any other entity receiving funds directly from NDDOT.

NDDOT is required to protect the public interest by developing a Title VI and Nondiscrimination Program for their benefit. Title VI Assurances are the foundation of our commitment to nondiscrimination. This Title VI 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 Nondiscrimination Authorities are listed in Exhibit F.

## II. TITLE VI AND NONDISCRIMINATION POLICY STATEMENT

### NORTH DAKOTA DEPARTMENT OF TRANSPORTATION CIVIL RIGHTS DIVISION

Policy 1-1 Title VI

Original Date: July 11, 2011  
Revised: May 23, 2013

#### TITLE VI AND NONDISCRIMINATION POLICY STATEMENT

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in all federally assisted programs. The Federal-aid Highway Act of 1973 (23 U.S.C. 324) added sex as a protected status in all Federal Highway Administration activities. Title VI was amended by the Civil Rights Restoration Act of 1987 (P.L. 100-259), effective March 22, 1988, which added Section 606, expanding the definition of the terms "programs or activities" to include all of the operations of an educational institution, government entity, or private employer that receives federal funds if any one operation receives federal funds.

The North Dakota Department of Transportation (NDDOT) is a state governmental entity. It is the policy of NDDOT to ensure compliance with Title VI of the Civil Rights Act of 1964 and all related statutes or regulations in all programs and activities.

I, as Director of the North Dakota Department of Transportation, am personally committed to and support taking all steps to ensure that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability, or income status\*, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by NDDOT, its recipients, sub recipients, and contractors.

The NDDOT Civil Rights Division Director is appointed as the Title VI Liaison Officer and is granted the authority to administer and monitor the Title VI and Nondiscrimination Program as promulgated under Title VI of the Civil Rights Act of 1964 and any subsequent legislation. The Title VI Liaison Officer will provide assistance as needed.

Further, I delegate Title VI responsibilities to the Division Directors and District Engineers and charge them with the responsibilities to develop and implement procedures and guidelines to adequately monitor and administer their programs.

NDDOT recognizes the need for and provides Title VI training for NDDOT personnel.

Anyone who believes that he or she has been discriminated against should contact the NDDOT Title VI Liaison Officer at 701-328-2576. TTY users may call Relay North Dakota at 711 or 1-800-366-6888 (toll free).

\*Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability, 29 U.S.C. 794; and low income, E.O. 12898.



\_\_\_\_\_  
Grant Levi, P.E., Director  
North Dakota Department of Transportation

5/23/13

\_\_\_\_\_  
Date

### **III. STANDARD USDOT TITLE VI ASSURANCES**

The North Dakota Department of Transportation has signed and implemented the U.S. Department of Transportation Standard Title VI 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.P.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.P.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, 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 Grant Levi  
Grant Levi, P.E., Director

Dated 5-23-13

**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 (Name of Appropriate Legislative Authority), 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.)

B

**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.)

**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 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, STAFFING, AND RESPONSIBILITIES

### A. Civil Rights Division Director (Title VI Liaison Officer)

The Director of NDDOT established a Civil Rights Division with a Division Director and sufficient staffing to effectively implement civil rights requirements. The Civil Rights Director 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 Civil Rights Director has direct access to the Director of NDDOT. See Exhibit A.

The Civil Rights Division is staffed by a Civil Rights Division Director, three Civil Rights Program Administrators, and an Administrative Assistant. The CRD serves as the focal point for equal opportunity compliance by Divisions and Districts statewide. See Exhibit B.

The Civil Rights Division Director, acting as the Title VI Liaison Officer, provides the CRD with the administrative direction necessary to ensure that NDDOT policies and procedures relating to the Title VI Plan are implemented and that its established goals are appropriately attained.

As the chief civil rights administrator for NDDOT, the Civil Rights Division Director is responsible for the development, implementation, and administration of 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.

The Title VI Liaison Officer is charged with the responsibility for implementing, monitoring, and ensuring NDDOT's compliance with Title VI regulations, including:

1. The Civil Rights Division shall be responsible for coordinating the overall administration of the Title VI and Nondiscrimination Program, plan, and assurances.
2. Develop and coordinate the implementation of NDDOT's Title VI and Nondiscrimination Program. Provide technical assistance, guidance, and advice to all levels of NDDOT management on the Title VI program.
3. Develop and implement procedures for the prompt processing and resolution of Title VI discrimination complaints.
4. Review NDDOT's central office and district procedures and guides as they relate to various program directives, manuals, and other regulations to determine whether Title VI provisions are contained. Where corrections are necessary, the Title VI Liaison Officer will coordinate revisions with the appropriate Division Director or District Engineer.
5. Review findings and recommendations of annual division and district and sub recipient Title VI reviews. Establish procedures and processes to resolve determinations of noncompliance.
6. The Civil Rights Director is fully involved in NDDOT's budget process to ensure that NDDOT has an earmarked budget and appropriation for external civil rights enforcement. The Civil Rights Director has authority over the funds received for salaries, office resources, equipment, and sufficient staff has been appointed for conducting pre-awards, post-awards, complaint inquiries, investigations, outreach, education, technical assistance, and Title VI enforcement.
7. The Title VI Liaison Officer will be responsible for coordination and preparation of the Title VI Program Implementation Plan Update and a Goals and Accomplishment Report

#### **D. 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 Civil Rights Division Director, will be responsible for the program's day-to-day administration. The Title VI Program Administrator works directly with the Title VI Specialists located in each of the divisions and districts and is appointed as the Title VI Specialist for the Civil Rights Division.
2. Day-to-day administration of the Title VI Program will be incorporated in a CRD Procedures Manual that will be updated regularly to incorporate changes.
3. Develop and/or conduct Title VI training programs for Title VI Specialists, NDDOT employees, sub recipients, and stakeholders.
4. Develop and publish other Title VI, Limited English Proficiency (LEP), and Environmental Justice (EJ) information for dissemination to the public, where appropriate.
5. Coordinates, monitors, and updates CTS LanguageLink services available to all NDDOT divisions and districts to provide telephonic interpreters for the public to access NDDOT programs, activities, and services. Also available to consultants in their responsibility to conduct labor compliance interviews.
6. Provide technical assistance and advice on Title VI matters to the Title VI Liaison Officer and Title VI Specialists.
7. Assist Title VI Specialists in developing and implementing monitoring activities deemed necessary for contractors, consultants, suppliers, vendors, lessors, universities, colleges, planning agencies, cities, counties, and other sub recipients of all NDDOT's programs and NDDOT offices.
8. Monitor NDDOT procedures and programs for compliance with Title VI requirements in all program areas.
9. Monitor inclusion of the Appendix A and E of the Title VI Assurances in all applicable construction and non-construction contracts, consultant agreements, etc., and disseminate the clause and instructions for its use to all division and district Title VI Specialists and to all sub recipients.
10. Review NDDOT program directives in coordination with Title VI Specialists to determine if there are Title VI implications and interpret how the directive impacts each program area from a Title VI perspective.
11. Conduct annual reviews of pertinent divisions and districts. Write reports including findings, recommendations, and if necessary, corrective actions taken or planned for each review.
12. Provide guidance in conducting sub recipient reviews to assure their compliance with Title VI, LEP, and EJ requirements.
13. Annually Updating the Title VI and Nondiscrimination Program Implementation Plan for submission to FHWA by October 1.

14. Annually submit a Goals and Accomplishment report to FHWA by October 1.
15. Upon approval by the Federal Highway Administration (FHWA), disseminating the annual update to executive management, all Division Directors and District Engineers, and all Title VI Specialists and to post the annual update on the department's website where the Title VI and Nondiscrimination Program Implementation Plan is posted.
16. Disseminate the annual update to sub recipients (Metropolitan Planning Organizations, consultants, cities, counties, local governments, etc.).

#### **E. Title VI Specialists**

Title VI Specialists in all of the divisions and districts were appointed to assist in the development and implementation of the NDDOT's Title VI responsibilities. The Department's Division Directors, District Engineers, and executive management selected one or more Title VI Specialists for each division and district. The individuals selected have responsibilities in their current positions in the divisions and districts, therefore adequate time is being made available for the individuals to carry out the additional Title VI responsibilities.

Small divisions may share a Title VI Specialist with another division. However, there are certain 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. Divisions must separately prepare for their Review on an annual basis.

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

1. Title VI Specialists will be responsible to prepare and submit annual reports for their division or district program area including Title VI responsibilities, process review reports, sub recipient reviews and reports, goals with annual accomplishments for the past year, and goals for the coming year.
2. Work closely with the NDDOT Title VI Liaison Officer and Title VI Program Administrator to develop and implement policies and procedures to monitor and ensure Title VI compliance in all of NDDOT's programs and activities.
3. Communicate to their respective Division Directors and District Engineers all deficiencies found in the program and promote new concepts to the program.
4. Provide and prepare data, information, and reports as requested by the Title VI Liaison Officer.
5. Receive and report concerns of Title VI issues or complaints to the Title VI Liaison Officer for guidance and/or processing.
6. Include a Title VI clause in all contracts or information distributed or advertised to the public.
7. Collect statistical data necessary to evaluate the effectiveness of compliance with Title VI requirements within their individual division or district and of any sub recipient.
8. Review each division's and district's procedures and guidelines relating to program directives, manuals, and other regulations to determine whether Title VI, LEP, and EJ provisions are included. Where corrections are necessary, make revisions.

9. Determine and prepare data, information, and reports necessary to evaluate compliance with the Title VI, LEP, and EJ requirements in the Division's and District's respective program areas and by sub recipients.
10. Devise and implement monitoring activities deemed necessary for sub recipients.
11. Annually conduct Title VI reviews of sub recipients according to the Review and Selection Procedures.
12. The Title VI Specialist for each division monitors the progress of the Process Reviews for their division and district to ensure timely completion and submission to Civil Rights for the Annual Goals and Accomplishments Report.
13. Review all construction and non-construction related contracts, and consultant agreements to ensure Appendix A and E of the Title VI Assurances are included, where appropriate.
14. Train other division and district staff members in the Title VI, LEP, and EJ requirements.
15. Maintain current Title VI and Title VII/EEO dual posters with complaint forms in divisions/outlying areas and districts/sections including public areas in all NDDOT buildings.

**F. Title VI Program Area Division Directors and District Engineers**

Division Directors and District Engineers responsibilities include the following:

1. Ensure compliance with Title VI requirements in their respective program areas.
2. Maintain knowledge of and adhere to NDDOT's Title VI and Nondiscrimination Program.
3. Assure prompt reporting, processing, and disposition of Title VI issues or complaints in their respective program areas and coordinate with the Title VI Liaison Officer.
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 regulations.

**V. PROGRAM AREA REVIEW PROCEDURES**

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

Program area reviews are conducted annually for all pertinent program areas. Pertinent program areas intersect with Title VI, LEP, or EJ. All of NDDOT Divisions and Districts meet this criterion. There are no pre-grant or post-grant approval reviews for NDDOT Divisions and Districts.

Title VI Specialists are required to schedule their division or district Annual Review

in April of each year. Annual Reviews are conducted during the months of June and July with the Title VI Program Administrator.

Title VI Specialists are required to gather the answers from division and district staff for a set of questions about public access to Title VI information such as the Title VI Complaint Form, Instructions, Title VI Complaint Process, and Americans with Disabilities (ADA) information, etc.; interactions with limited English proficiency (LEP) individuals; coordination with tribal governments; public outreach/involvement including women, minorities, LEP, low-income populations; compliance with ADA; contracts and agreements; and employee Title VI awareness and training; and other related information not included in their Process Reviews.

NDDOT developed a schedule to conduct Process Reviews for all of NDDOT processes within three years. The schedule lists all division's and district's processes and the year of review. The Title VI Specialist monitors the progress of the Process Reviews for their division and district to ensure timely completion and submission to Civil Rights for the Annual Goals and Accomplishments Report.

Process Reviews are conducted by division staff and reduced to writing in the form of a Process Review Report. The report states the purpose of the process, a summary of the steps involved, and a list of the project related products. Project related products must be sampled such as file reviews, public participation documentation, environmental document reviews, contracts and/or subcontracts, etc., and filed with the Process Review Report for future reference. The review of the project related data should reflect if the process is being followed and working effectively or if changes could improve the process. If areas of discriminatory practices or areas of concern are identified, the report must state how the discriminatory practice or concern will be corrected and a date when the revisions will be completed. Additionally, the report will identify the date(s) the review was conducted, name(s) of reviewer(s) who conducted the review, name(s) of person(s) who wrote the process review report and date, and the Division Director's or District Engineer's signature along with the date reviewed and signed.

The Title VI Annual Review is conducted by the Title VI Program Administrator. The Title VI Specialist must submit the answers to the set of questions and process review reports to the Title VI Program Administrator to review ten (10) days prior to the scheduled review. The Program Administrator may request additional information or clarification of the submitted documents.

The reviews are held on-site in the Division or District with the Title VI Specialist. The Division Director or District Engineer may attend and invite other staff as they determine appropriate. The supporting documentation is available for inspection at the on-site review. The set of questions with answers is discussed along with the Process Review Reports and all supporting documentation gathered for the

review. Supporting documentation should substantiate the answers to the set of questions such as notices meeting required timeframes, easy access to Title VI information, processing of complaints within required timelines, etc. There is discussion on other questions and concerns that arise including the effectiveness of program activities.

The Title VI Program Administrator prepares a follow-up report for the Division Director or District Engineer including findings and recommendations. If any areas of discriminatory practices and/or areas of concern are identified, recommendations are stated along with a date to complete corrective action.

The following information describes the location of program functions within NDDOT and identifies responsibilities and processes for the divisions and districts.

#### **A. Audit Services Division**

Audit Services Division addresses Title VI compliance matters relating to the completion of internal and external audit projects.

##### **1. Title VI Responsibilities**

- a) The Audit Services Division's primary responsibilities include performing internal and external audits of operations affecting the NDDOT. Internal audits include reviews of internal department operations, annual reviews of physical inventory of NDDOT fixed assets and inventoried materials, and other special investigations that may be requested by management. External audits include reviews of motor carrier programs; consultant engineers indirect cost rates, railroad and utility projects, contracts or other special reviews that may be requested.

#### **B. Bridge Division**

Bridge Division consists of three sections as follows: preliminary engineering and hydraulics, design, and structural management. These sections work together to fulfill all responsibilities of the Division under the direction of the Office of Project Development. Bridge Division's primary responsibilities include the development of project concept reports, hydraulic reports, and environmental documents; design and preparation of plans for the construction and rehabilitation of bridges and drainage structures on the state and federal highway system; inspection, rating, and inventory of bridges on the city, county, state, and federal system; lighting, signal, and high mast foundation design and plan preparation; design and plan preparation of overhead and dynamic message sign structures; drainage investigations; issuance of drainage permits on the city, county, state, and federal system; updating of the Structural Design section and the Hydraulic Studies and Drainage Design sections of the NDDOT Design Manual; and providing technical guidance to districts and consultants. The preliminary engineering and hydraulics section is the only section within Bridge Division that is involved with the public as it relates to Title VI.

##### **1. Title VI Responsibilities**

The preliminary engineering and hydraulics section encourages participation by EJ, LEP, and ADA related populations for all proposed projects through both environmental documentation and public involvement. Full consideration is given to all persons, regardless of race, color, sex, age, National origin, disability, limited English proficiency, or income status.

- a) DBE Program
  - (1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.
  
- b) Environmental Documentation
  - (1) All federal aid projects require environmental clearance. Environmental documents are used to help obtain this clearance and are addressed through one of three main documents: Environmental Impact Statement (EIS), Categorical Exclusion, or an Environmental Assessment (EA). The type of document used for a project is dependent on the project complexity and potential social, economic, and environmental impacts. The draft project concept report is often the basis for determining the need for environmental documentation and may develop into an EIS or EA upon further study. Based on comments received through solicitation of views and the location of the project, the need and level of public input is determined. Any comments or concerns from all public meetings held are included in the final document. A more detailed description of the NDDOT environmental documentation process is contained within Chapter II, Section 5 of the NDDOT Design Manual.
  
- c) Public Involvement
  - (1) To ensure decisions are made in the best overall public interest, full consideration is given to all possible adverse economic, social, and environmental effects relating to any proposed project. Public involvement begins in the planning phase and ends after the construction phase. It is intended to assist in the understanding of the proposed project. It is also a tool to encourage input and provides the decision-makers valuable information to be considered in the process. The scope of proposed projects are made known to other jurisdictions and government agencies through solicitation of views letters. This provides an opportunity to comment on the proposed project's impacts determined during the environmental documentation process. In addition, public meetings are held to encourage participation by the public. Citizen and technical advisory groups are also established on complex projects to obtain early public as well as expert involvement and input for proposed projects. The public involvement process is described in more detail within Chapter II, Section 4 of the NDDOT Design Manual.

## **C. Civil Rights Division**

The Civil Rights Division is comprised of seven programs as follows: Disadvantaged Business Enterprise (DBE), On-the-Job Training (OJT), DBE/On-the-Job Training Supportive Services, Contractor Compliance, Labor Compliance, Title VII/Internal Equal Employment Opportunity, and Title VI and Nondiscrimination/ADA Programs.

### **1. Title VI Responsibilities**

- a) Title VI and Nondiscrimination Program
  - (1) The Title VI and Nondiscrimination Implementation Plan outlines the Civil Rights staff responsibilities located on pages 12-15.
  
- b) ADA Program
  - (1) The Civil Rights Division implements, monitors, and updates Section 1, General Information, of the NDDOT ADA Transition Plan, available on

the NDDOT website on the "Title VI and Nondiscrimination Program/ADA" webpage at:

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

- (2) Coordinates and monitors all requests from the public for request for reasonable accommodations. The Request for Reasonable Accommodations form (SFN 60135) with instructions is completed and reviewed by Civil Rights; and a determination of reasonable accommodations is made and provided to persons with disabilities or needing language assistance.
- (3) Updates, monitors, and coordinates the Deaf and Hearing Impaired Interpreter Services contract that is available to all NDDOT divisions and districts to provide interpreters for the public to access NDDOT programs, activities, and services.

c) Workplace Investigation Program

- (1) Workplace Investigation Process is set out in NDDOT Policy Number 20.2 Human Resources Division. This policy applies to employees, applicants, and customers covered under Title VI who had filed grievances or complaints with the NDDOT. Potential or alleged discrimination issues should be immediately brought to the attention of the CRD Director. Other issues involving employees should be immediately brought to the attention of the HRD Director. Guidelines for Conducting a Workplace Investigation have been developed and are monitored and updated by the Civil Rights Division.
- (2) Workplace Investigation Team Selection Process has been developed and includes NDDOT current and retired employees from several different divisions and districts. The program desires to maintain team membership between 20 to 25 members broadly spread throughout the department.

d) Disadvantaged Business Enterprise Program

- (1) DBE Program Plan outlines and governs the processes, certifications, eligibility reviews, and, construction contract tracking to assure access to highway contracting opportunities for minorities and women-owned businesses.
- (2) DBE Program Revisions annual updates and revisions to include any changes in federal law and Department practices.

- (3) DBE Goal Setting Methodology Process- tri-annual process that establishes the Department's DBE goal to assure access to highway contracting opportunities for minorities and women-owned businesses.
  - (4) Training External Civil Rights Manual Update and Training – annual training for project engineers and Department personnel to assure appropriate oversight of DBE and OJT Programs, activities and services.
- e) On-The-Job Training
- (1) Training Goals – setting goals for the number of minority and females to develop skills and be trained in highway construction trades.
  - (2) Trainee Position assignments - based on project dollars, contractors are assigned trainee positions for the purpose of training minorities and females in highway construction trades.
- f) Supportive Services
- (1) Report on Supportive Services Accomplishments (DBE)
    - (a) Updates, monitors, and coordinates the DBE Supportive Services contracts to provide assistance to minorities and women owned business enterprises to access NDDOT programs, activities, and services. the reports are sent to FHWA only.
  - (2) Report on Supportive Services (OJT)
    - (a) Updates, monitors, and coordinates the OJT Supportive Services contracts to provide assistance to minorities and women owned business enterprises to access NDDOT programs, activities, and services. The reports are sent to FHWA only.
  - (3) Training
    - (a) Provides Title VI training to supportive services contractors.
- g) Contractor Compliance
- (1) Federal-aid Highway Construction Contractors EEO Report (FHWA 1391-1392)
    - (a) Any prime contractor or subcontractor with a federal-aid contract of \$10,000 or more must complete and submit one FHWA 1391 form with its company-wide employment data for a weeklong period in July annually to the NDDOT. A letter is sent out with instructions

and the form to contractors, consultants and District employees three weeks prior to the reporting period. Forms are collected and the data is extracted and compiled into the FHWA 1392 form. Once the 1392 is completed it is signed by the Civil Rights Director and the Office of Operations Director and sent to Federal Highway Administration along with a written letter explaining the data in comparison to the most recent census data available. The forms are a requirement of Federal Highway Administration for any state transportation department that receives federal funding.

## (2) Contract Compliance Review and Appeal

- (a) Each summer, the Department is responsible for 10-12 contractors for EEO/AA purposes. This involves doing a review of EEO policies, Affirmative Action plans, workforce utilization, and participation in OJT/DBE programs. To extent that Title VII is implicated when a member of the public applies for a job on a federal-aid project, Title VII is implicated in Contractor Compliance reviews. The hiring decisions on these projects are reviewed to determine if discrimination on the basis of sex or race has occurred. These are the only protected classes authorized for review in the CCR program. Further, we review the contractor's companywide workforce and applicant flow information to determine whether applicable EEO and AA laws and regulations have been followed. In 2014, we found 10 contractors in compliance and 1 out of compliance with 1 review pending.

Responsibilities are as follows: The Civil Rights Coordinator responsible for the CCR program is responsible for choosing contractors to be reviewed. The initial slot of candidates is reviewed by the Assistant District Engineers in order to determine if the project is ripe for review in the proper time frame (i.e. peak employment with at least 3 payrolls). The Project Engineer conducts EEO and labor compliance interviews with employees on the job site. Any complaints the employees might have are addressed to CRD. The Civil Rights Coordinator conducts a desk audit of payrolls and other materials and the Assistant District Engineer (ADE), Project Engineer, contractor EEO officer and other interested individuals attend an Exit Conference where concerns are covered.

## (3) Contractor Compliance Plan

- (a) The Civil Rights Administrator for the Contractor Compliance Program generally puts forth the Contractor Compliance Plan. This past year, this involved major rewrites of the procedures followed

by contractors to determine workforce utilization and analysis. It also involves setting forth procedures for the Compliance reviews generally. The Administrator also published the Department's Recruitment Tool Kit, which is a guide to minority and female recruitment in the state of North Dakota.

(4) Training

- (a) External Civil Rights (ECR) training contains a section on Contractor Compliance and is provided to NDDOT staff, consultants, cities, and counties annually.

h) Labor Compliance

(1) Davis-Bacon Complaint Process

- (a) The Civil Rights Division is responsible for taking Davis-Bacon complaints, through the Civil Rights Administrator responsible for labor compliance. The District offices typically are responsible for conducting an investigation of the complaint. The Department must make a determination whether the complaint has merit after an investigation. An aggrieved party may appeal to the United States Department of Labor.

(2) Labor Compliance US DOL Wage Rates

- (a) The United States Department of Labor periodically publishes the North Dakota Highway Wage Decision (ND02). After it is published, the Civil Rights Administrator makes changes to the posted wage decision on the Department website and notifies necessary parties for upcoming bid openings.

(3) Training

- (a) The Department publishes the Davis-Bacon Wage and Payroll Requirements Handbook each year to assist contractors in completing Certified Payroll on federal-aid contracts. The Civil Rights Administrator for Labor Compliance is responsible for taking calls and questions from the public and district staff concerning Davis-Bacon requirements.

- (a) External Civil Rights (ECR) training contains a section on Labor Compliance and is provided to NDDOT staff and consultants, cities, and counties annually.

i) Title VII Internal EEO

- (1) State Internal EEO Affirmative Action Plan-employment statistical data
  - (a) To the extent that job applicants are covered by Title VI, there are Title VI concerns in the Department's EEO/Affirmative Action Plan. The Plan covers both internal and external EEO and EEO by sub recipients, so is comprehensive in nature.
  - (b) The Human Resource Division generates applicant flow and other data. The Civil Rights Administrator in charge of Title VII program reviews and interprets data.
- (2) Title VII Internal EEO-Adverse Impact
  - (a) Human Resources Division is responsible for forwarding data on adverse impact in hiring, terminations, promotions and training to the Civil Rights Division. This data is reviewed and a determination is made by the Civil Rights Division whether adverse impact has occurred.
- (3) Title VII Internal EEO-Hiring Goals
  - (a) The Civil Rights Division is responsible for conducting a market availability analysis from available US Census data and comparing this information to internal utilization figures. If underutilization is noted, the Department is responsible for setting hiring goals. These goals are set by the Civil Rights Division, and are approved by Executive management. After approval, the Human Resource Division is responsible for posting hiring goals for each job announcement and for recruitment of candidates. The Human Resource Division is responsible for reporting hiring decision to the Civil Rights Division whenever a qualified applicant covered by a hiring goal is not chosen.
- (4) Title VII Internal EEO-Plan Approval
  - (a) The Plan is prepared by the Civil Rights Administrator and forwarded to the Director of the Civil Rights Division. Once the Director approves of the Plan, it is forwarded to FHWA. It is approved by FHWA, with or without changes. After any changes are incorporated, an approval letter is received by the Civil Rights Division, and the hiring goals are published to hiring managers and executive office. At this point, the entire plan is posted to the NDDOT website, so that it is available to members of the general public.

(5) Training

- (a) ECR training contains a section on Title VII Internal EEO and is provided to NDDOT staff, consultants, cities, and counties annually.

**D. Communications Division**

The Communications Division is responsible for disseminating information to NDDOT stakeholders- primarily to the public; to local governments, civic groups and other legislative bodies; and to NDDOT employees.

**1. Title VI Responsibilities**

- a) DBE Program
- (1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.
- b) NDDOT informs the public about public meetings and public hearings; submits letters to the editor and newspaper columns; coordinates appearances on local TV, radio talk shows, and media interviews; writes articles on NDDOT's internal Web site; submits ads and notices in newspapers; prepares presentations to various civic and local government groups; sends news releases on key issues and events of public interest; drafts speeches; and produces videos. Additionally, the Communications Division has a Facebook page which allows for another avenue to disseminate information out to the public.
- c) Communications creates and maintains relationships with media across the state. With this type of relationship, NDDOT is better able to communicate both ongoing and time-sensitive messages to the public through the media including use of the Advocacy Distribution List.
- d) The multi-media section develops videos for public hearings, public meetings, employee orientations, and other presentations including incorporating language accommodations on request.

**E. Construction Services Division**

The Construction Services Division administers construction contracts. The division is responsible for highway construction bid openings, contracts, bonds, and contract payments. The division provides services in contractor pre-qualifications, construction scheduling, project staffing, engineering reviews, contractor claims, construction records, DBE program, and other various services. The division also provides technical support for the Construction Automated Records System (CARS) and updates road construction conditions map that affect the traveling public during the construction season on NDDOT's external website.

**1. Title VI Responsibilities**

- a) Disadvantaged Business Enterprise (DBE) Program
- (1) The Construction Services Division reviewed many apparent low bidders bid differentials, as part of the good faith efforts process, after multiple bid openings. This type of review occurs on projects with Race-Conscious goals, where the goal has not been met. A Construction Services Division staff member serves on the DBE Participation Review Committee which makes recommendations to the Agency Director to award or not to award, on all federally funded projects with a race conscious goal that has not been met.

- (2) Construction Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual renewal, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.
- b) Project Advertising
- (1) The Construction Services Division complied with the North Dakota Century Code, Section 24-02-17, that requires bids for construction work or improvement that exceeds \$20,000, be advertised once by publication at least three weeks prior to the date of the bid opening. There were no requests for reasonable accommodations during this reporting period.
- c) Notice to Bidders
- (1) The division sent out electronic "Notice to Bidders" to inform contractors, subcontractors, suppliers, and other interested parties as to the time, location, and projects to be bid for all bid openings. The Bidders Proposal includes Appendix A and E of the Title VI Assurances.
- d) Addendums
- (1) The division was faced with many revisions and clarifications during this reporting period. This information was posted to the NDDOT website prior to the bid openings. A prebid question and answer forum is developed/available on an as needed basis.
- e) Prequalification
- (1) Contractors must be prequalified to bid on NDDOT projects. The division publishes the list of pre-qualified contractors annually on the website. Contact information is available to those needing accommodations. Prequalification is open to all.
- f) Bid Opening Process
- (1) Bidding procedures for federally-assisted highway construction projects are conducted in a nondiscriminatory manner and are in compliance with the Civil Rights Act of 1964. The NDDOT receives bids through an electronic online system. All of the bid results are then posted on the NDDOT website after the bid openings. Additionally, the NDDOT prints and distributes the bid results to those attending the bid opening in person.
- g) Award of Contract
- (1) The award of contracts, if made, will be to the lowest responsible bidder whose proposal complies with the requirements specified. The awards will be made within 30 days after the bid opening, unless an extension is agreed upon by both parties. All good faith efforts and DBE participation, are reviewed prior to award for both Race-Neutral and Race-Conscious projects.
- h) Subcontracts
- (1) Contractors participating in highway construction contracts for NDDOT may not discriminate in their selection and retention of subcontractors. Required Title VI Contract Provisions (U. S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21) are incorporated in all federal-aid contracts by the insertion of the U. S. Department of Transportation Form FHWA 1273.
- (2) The contractor shall not subcontract more than seventy percent of the work on any project. The contractor shall not transfer, convey, or otherwise dispose of his or her right, title, or interest therein to any other person, firm, or corporation without the written

consent of the NDDOT in accordance with the NDDOT Standard Specifications for Road and Bridge Construction, Section 104.

(3) The Title VI responsibilities contained in the contract are also attached and made a part of all subcontracts. This attachment is designed to further the provision of equal employment opportunity and nondiscrimination to all persons without regard to their race, color, sex, age, national origin, disability, limited English proficiency, or income status, and to promote the full realization of equal opportunity through a positive, continuous program.

i) Records

(1) The division is responsible for all initial highway project record administration. Project related records are maintained by the division and are stored in the NDDOT's document management system FileNet.

j) Engineering Special Forces (Pool)

(1) The division is responsible for administration of the "pool." This includes the recruitment and retention of entry level engineers and engineering technicians that provide support to the engineering divisions and districts. The division works closely with the Human Resources Division on recruitment, selection, and hiring rules and regulations.

## **F. Design Division**

The Design Division's primary responsibilities are to develop environmental documents, hold public meetings and public involvement, design plans and specifications for construction projects on the state and federal highway system; and obtain federal approval; coordinate and conduct all aerial photographs and surveys; coordinate utility relocations; prepare right-of-way plats; maintain the Computer Assisted Drafting and Design (CADD) Program; write and update the Design Manual and Standard Drawings, and the ADA Transition Plan for NDDOT public right-of-way.

### **1. Title VI Responsibilities**

a) DBE Estimates

(1) Calculate the amount of work possible on construction projects related to DBE participation. This information is forwarded to the Civil Rights Division for DBE goal setting on projects.

b) DBE Program

(1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.

c) ADA Accessibility

(1) The Americans with Disabilities Act (ADA) of 1990 is a civil rights statute that prohibits discrimination against people with disabilities. Designing and constructing pedestrian facilities within the public right-of-way that are not usable by people with disabilities may constitute discrimination.

d) ADA Transition Plan

(1) ADA accessibility items within the Public Rights of Way are described within the NDDOT ADA Transition Plan, available on the NDDOT website on the "Title VI and Nondiscrimination Program/ADA" webpage at: <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm> The Design Division implements,

monitors and updates Section 2 – “Public Rights of Way” of the NDDOT ADA Transition Plan.

e) Environmental Justice

(1) Environmental justice is a primary element of the environmental documentation process. There are three fundamental environmental justice principles:

- (a) 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.
- (b) To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- (c) To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

(2) Environmental concerns are addressed through one of three main documents: Environmental Impact Statement, Categorical Exclusion, or an Environmental Assessment. The type of document used for a project is dependent on the project complexity and expected social, economic, and environmental impacts. A more detailed description of the NDDOT environmental documentation process is contained within Chapter II, Section 2 “Environmental Documentation” of the NDDOT Design Manual.

- (a) The NDDOT environmental documentation process contains environmental justice measures such as public involvement/meetings, social impacts, economic impacts, and low-income and minority living areas impacts.
- (b) NDDOT reviews alternatives within the environmental document to ascertain the effects and impacts on minority groups and low-income neighborhoods.
- (c) The normal procedures begin with land-use studies, social and economic studies, public hearing reactions, environmental statements, and associated feedback. The areas affected are given opportunities to learn and comment on possible alternatives. Minority groups are given consideration during environmental studies by land-use studies, right-of-way investigations, and social and economic studies. Also, meetings are arranged with civic groups, local officials, and individuals who are concerned or involved.
- (d) If low income and/or minority living areas are potentially impacted from any alternate identified in the environmental document, further investigation to the impacts within the environmental document may include:
  - (1) The approximate number of persons by race and families affected by each alternative.
  - (2) The social and economic character of the area through which alternatives pass includes levels of income, whether the area is commercial, residential, or rural, and the approximate number of minority owners of businesses and residences in the area.
  - (3) The racial character of the people employed in the area affected by each alternative.

- (4) Racial and ethnic data may be used to identify possible problem areas and adverse impacts such as relocation difficulties, possible changes in minority income capabilities, mobility, or community cohesion. Assistance for the above-mentioned problems is available through relocation assistance procedures.
- (5) Input from minority groups for planning goals and need.
- (6) Other impacts contained in NDDOT environmental documents include, but are not limited to:
  - Land Use
  - Prime and Unique Farmlands
  - Social
  - Relocations
  - Economic
  - Considerations Relating to Pedestrians and Bicyclists
  - Air Quality
  - Noise
  - Water Quality
  - Wetlands
  - Water Body Modification, Wildlife and Invasive Plant Species
  - Floodplain
  - State Scenic Rivers
  - Threatened and Endangered Species
  - Cultural Resources
  - Hazardous Waste
  - Visual
  - Energy
  - Trees
  - Temporary Construction - The following items should be discussed:
    - Work Zone Traffic Control
    - Project Phasing
    - Detours and Alternate Routes
    - Air, Noise, and/or Water Quality Impacts
    - Adjacent Construction Projects
  - Low Income and Minority Living Areas
  - Section 4(f), 6(f) involvement

f) Public Involvement

- (1) A public meeting is any meeting which the public is encouraged to attend. The meeting will include information about the proposed project as well as time for the public to voice concerns or ask questions. A few types of public meetings are Public Information Meetings, Public Input Meetings, and Public Hearings. A more detailed description of the NDDOT public involvement process is contained within Chapter II, Section 3 “Public Involvement” of the NDDOT Design Manual.
- (2) NDDOT ensures all persons are entitled to participate in public meetings. This is done by advertising the meetings in papers circulated in the area affected by the project or study. Also, news releases are issued to local radio and television stations for coverage in the affected areas. Every effort is made to provide reasonable accommodations when requested if possible. The advertisements list contact persons for reasonable accommodation requests.

- (3) In instances where Indian lands are involved, notices of the public meetings are sent to the Tribal Councils.
- (4) Following public meetings, incoming comments are analyzed and consideration is given to all problems.
  - (a) Public meetings are held in locations reasonably convenient for minority and low income living areas participation. If distances are a factor, the meetings may be held in more than one location.
  - (b) The building in which the public meeting is held in shall be readily accessible to and usable by individuals with disabilities.
  - (c) Avoid holding meetings on Saturday, Sunday, or Wednesday nights, or to avoid conflicts with religious activities
  - (d) Public meetings are advertised in local newspapers and on radio and television stations for coverage in the affected areas. Information may also be sent, by direct mail, to individuals affected.
  - (e) Minorities are invited to attend public meetings through direct mailings to individuals, their organizations, and councils.
  - (f) Questions and objections are analyzed and consideration is given to problems on an equal basis, regardless of race, color, sex, age, national origin, disability, limited English proficiency, or income status.
  - (g) Information regarding relocation assistance requirements is discussed at public meetings.
  - (h) Every effort is made to provide reasonable accommodations when requested if possible. The advertisements lists contact person for reasonable accommodation requests.
  - (i) Sufficient time is allotted to reasonably answer questions of persons attending the public meetings, and the personnel conducting the meeting shall stay for the entire time of the meeting.
  - (j) A public involvement report is prepared by the environmental document author.

## **G. Drivers License Division**

The Drivers License Division represents one-half of NDDOT's front-counter services where a driver's permit, license, renewal, or identification card can be obtained. The division maintains and processes driving records and crash reports, and collects reinstatement fees for suspension-related driving behavior. In addition to the Central Office located in Bismarck, the division provides service at twenty-seven fully automated drivers license sites for customer convenience. The sites are visited by more than a quarter of the state's population each year. The Drivers License Division is comprised of three sections: the Licensing Section, Driver Record Services Section, and Administrative Support Section.

### **1. Title VI Responsibilities**

Title VI Responsibilities are related to the testing and issuance of commercial and non-commercial driver permits, licenses, and renewals; identification cards, driving records, and reinstatement requirements.

(a) The Licensing Section

- (1) Implements the federal hazardous materials requirements of the USA PATRIOT Act and the commercial driver license requirements of the Commercial Motor Vehicle Safety Act and the Motor Carrier Safety Improvement Act.
- (2) Implements identity, testing, and licensing requirements according to state statute.

(b) The Driver Records Services Section

- (1) Works with law enforcement, the court system, insurance companies, and employers pertaining to conviction and crash report data.
- (2) Assists the general public in matters regarding driving records, suspensions, insurance information, reinstatement requirements, and driving privileges.

(c) The Administrative Support Section

- (1) Responsible for telephone coverage to handle incoming calls from the general public, courts, law enforcement, and staff.
- (2) Responsible for opening the mail, receipting, scanning documents, routing, preparing written correspondence, vouchers, and depositing daily receipts.

## **H. Environmental and Transportation Services Division**

The Environmental and Transportation Services Division provides support and allied services necessary to carry out the project development activities within North Dakota Department of Transportation (NDDOT). Activities are coordinated with road or structures design units to assure that projects are designed in a timely and cost effective manner while maintaining appropriate sensitivity to environmental and cultural concerns and assuring that affected property owners are treated fairly in conformance with applicable state and federal laws and all applicable rules.

The Environmental and Transportation Services Division is made up of 5 sections; Environmental, Cultural Resources, Right-of-Way, Consultant Administrative Services (CAS), and Technical Services. All sections are responsible for ensuring nondiscrimination based on race, color, national origin, sex, age, disability, limited English proficiency, or income status.

### **1. Title VI Responsibilities**

a) DBE Program

- (1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.

b) Environmental Section

- (1) The Environmental Section is responsible for ensuring nondiscrimination when reviewing, preparing, writing, and applying for permits, wetland delineations, wetland mitigations, and Environmental Assessments (EA), Environmental Impact Statements (EIS) and Project Concept Reports (PCR).

c) Cultural Resources Section

- (1) The Cultural Resources Section is responsible for ensuring nondiscrimination when reviewing, preparing, and writing for cultural resource compliance, completing archaeological studies, and Tribal consultation.
- d) Right-of-Way Section
- (1) The Right-of-Way Section is responsible for ensuring nondiscrimination when reviewing, preparing, conducting, and writing for appraisals, appraisal review, relocation, property management, right-of-way acquisition and payments, and mailboxes.
    - (a) Real Estate Appraisers
      - (1) The section seeks, on a continuing basis, qualified minority and female fee appraisers.
      - (2) Through contact with professional appraisal societies, the section maintains a listing of qualified fee appraisers.
      - (3) The section assures, on a continuing basis that selections for fee appraisers are made non discriminately, giving consideration to the following on the complexity of work to be undertaken and skills necessary to provide such services; the individual's experience in appraising the type of property involved; the availability of the appraiser to complete the assignment in the time allowed; and the location and conditions pertinent to the project.
      - (4) The section assures that standards and practices are uniformly applied to all undertakings.
    - (b) Negotiations
      - (1) Title VI assurance is made that everyone is treated equally and has received the amount of the approved valuation for the property. When necessary, because of language barriers, age, or other factors, a representative, interpreter, relative, or friend are used to aid the property owner in understanding NDDOT's proposed action.
    - (c) Relocation Assistance and Advisory Services
      - (1) Documentation is maintained of all relocation assistance activities showing no disparities in interviews to assure nondiscrimination in providing relocation assistance.
      - (2) Relocation services are provided by employees who are able to communicate with the relocatee. When necessary, because of language barriers, age, or other factors, a representative, interpreter, relative, or friend are used to aid the property owner in understanding NDDOT's proposed action.
- e) Consultant Administrative Services (CAS) Section
- (1) The CAS Section is responsible for acquiring consultants and ensuring nondiscrimination when reviewing, administering, preparing, and writing on non-construction contracts for preliminary and construction engineering, research, environmental and archaeological, and right-of-way services.
  - (2) This section utilizes the list of certified Disadvantaged Business Enterprises (DBE) for consultants, provided by the Civil Rights Division.

(3) Non-construction contracts developed by CAS Section are reviewed by Legal Division to ensure Appendix A and E of the Title VI Assurances are included.

f) Technical Services Section

(1) The Technical Services Section is responsible for maintaining and developing standard specifications, supplemental specifications, and special provisions for road and bridge construction, and developing and negotiating Tribal Employment Rights Ordinance (TERO) agreements for all NDDOT projects located on or near Indian Reservations, and with the Specifications Committee.

(2) The section provides each newly certified DBE a courtesy copy of the Standard Specifications for Road and Bridge Construction, Volumes 1 and 2.

(3) The section is also NDDOT's liaison with Tribal governments on TERO issues. The section develops and negotiates agreements with TERO offices for all NDDOT projects located on or near Indian Reservations.

**I. Financial Management Division**

The Financial Management Division is responsible for NDDOT's accounting, fiscal reporting functions, budgeting, payroll, procurement, revenue forecasting, central supply, cash management, and the disposal of highway equipment and materials.

**1. Title VI Responsibilities**

a) DBE Program

(1) Two Financial Management Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conducts oral interviews, and make recommendations to the Agency Director.

(2) A Financial Management Division staff member serves on the DBE Participation Review Committee which makes recommendations to the Agency Director to award or not to award, on all federally funded projects.

b) Procurement

(1) The procurement section is responsible for all non-exempt procurement activities. Some divisions and districts have received specific delegated authority. Delegation varies between the divisions and districts dependent upon need and employee training levels. Authority is specific and unique to the certified individual within the division or district. Authority is not universal. The division and district delegated authority is documented and monitored by the Procurement Liaison.

The majority of purchases the Procurement section makes are state funded. When federal funding is involved, the known guidelines for that funding are followed. The Procurement Section currently includes non-discrimination statements in every formal procurement document.

(2) Affirmative Action in bid document. The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of individuals with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.

- (3) Assistance to Bidders with a Disability in bid document. Bidders with a disability that need an accommodation must contact the Procurement Officer prior to the deadline for receipt of bids so that reasonable accommodations can be made.
- (4) Compliance with Laws, Nondiscrimination and Affirmative Action in bid document. The contractor must, in performance of work under this contract, fully comply with all applicable federal, state or local laws, rules, regulations and policies, including those relating to nondiscrimination, affirmative action, accessibility and civil rights including Title VI of the Civil Rights Act of 1964. The contractor agrees to file all required reports on time, to make required payroll deductions, and to pay all taxes and premiums owed on time, including sales and use taxes and unemployment compensation and workers' compensation premiums. The contractor shall have and keep current at all times during the term of this contract all licenses and permits required by law.
- (5) Assistance to Offerors with a Disability in Request For Proposal (RFP) and Bid documents. Offerors with a disability that need an accommodation should contact the procurement officer prior to the deadline for receipt of proposals so that reasonable accommodation can be made. (This advisory is also in the pre-proposal conference and Best & Final sections.)
- (6) Offeror's Certification in RFP and Bid documents. By signature on the proposal, an offeror certifies that it complies with: the laws of the State of North Dakota;
- Appendix A and E of the Title VI Assurances;
  - North Dakota Administrative Code;
  - All applicable local, state, and federal laws, code, and regulations;
  - The applicable portion of the Federal Civil Rights Act of 1964;
  - The Equal Employment Opportunity Act and the regulations issued by the federal government;
  - The Americans with Disabilities Act of 1990 and the regulations issued by the federal government;
  - All terms, conditions, and requirements set forth in this RFP or Bid;
  - A condition that the proposal submitted was independently arrived at, without collusion;
  - A condition that the offer will remain open and valid for the period indicated in this solicitation; and
  - A condition that the firm and any individuals working on the contract do not have a possible conflict of interest (e.g. employed by the State of North Dakota).

If any offeror fails to comply with the provisions stated in this paragraph, the State reserves the right to reject the proposal, terminate the contract, or consider the contractor in default.

- (7) Incorporates Appendix A and E of the Title VI Assurances into all sealed bids and proposals.

## **J. Human Resources Division**

The Human Resources Division provides the following services for the department: recruitment and selection, employment records, performance management, workforce development, staffing and salary plans, payroll and benefits, position classifications and essential functions, employment law compliance, workplace investigations, wellness programs, personnel policies, employee recognition programs, and general information to public by telephone or in person.

## 1. Title VI Responsibilities

The Title VI and Nondiscrimination Policy Statement poster is located in the Human Resources Division and on a bulletin board right outside of Human Resources Division office.

Human Resources Division follows department-wide policies and procedures in place for all non-engineering contracts and request for proposals.

### a) Recruitment

- (1) The Department of Transportation advertises vacancies internally and externally at the same time and candidates are considered together. Advertisements go to DOT web site, Job Service web site, and state of ND web site; major ND newspapers are also used.
- (2) Career Fairs are attended throughout the state to keep NDDOT visible as a potential employer for full time and summer employment.
- (3) Scholarships are offered in the fields of civil engineering, civil technology, and construction engineering. Minorities and females are encouraged to apply and are given preference when awarding.

### b) Limited English Proficiency (LEP)

- (1) Human Resources Division will follow procedures put in place as directed by department management regarding LEP.

### c) Training

- (1) Training is provided for employees of the NDDOT on a wide variety of subjects. The type of training is identified by need from Division Directors and District Engineers, management, and employees.
- (2) Established contract procedures are followed.
- (3) Information on NDDOT participants, by race and sex, is determined for each training session and is reported on an adverse impact analysis report each year.
- (4) Transportation and Civil Engineering (TRAC) is a hands-on math and science curriculum designed around transportation focused projects that are intended to introduce and interest students (7-12 grades) in civil engineering and transportation professions. The program is available without regard to gender or ethnicity; however, it targets minorities and females.

### d) Americans with Disabilities Act (ADA)

- (1) Federal and state laws are followed.

### e) DBE Program

- (1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.

## K. Information Technology Division

Title VI compliance matters relating to technology-related activities, including the biennial Information Technology Plan; information systems maintenance, design, development, and project management; network and PC support; telecommunications; radio communications; Internet and

Intranet Web development, including e-business applications; information processing, technology training, records management; photography; printing; mailing; and building security.

#### **1. Title VI Responsibilities**

- a) The division staff is responsible for the continued maintenance and enhancement of over 200 business applications and the development of new applications needed to support state and federal requirements and NDDOT's objectives including Internet and Intranet web development, such as e-business applications including CARS and Map Sales.
- b) The division supports computer hardware and connectivity in eight district offices, 68 section offices, construction field offices, and 28 drivers license testing sites by providing support to resolve problems.
- c) Services provided directly to divisions and districts include bulk typing, mail list management and envelope and label printing, bulk printing and mailing and photography – both aerial and personal shots, and training on new and updated software. Records Management requirements are researched and developed and the Central Office building security policies are implemented.
- d) NDDOT performs monthly accessibility testing of websites that it manages and funds. Any items developed for the websites by the NDDOT are tested prior to release.
- e) ADA accessibility items within communications are described within the NDDOT ADA Transition Plan, available on the NDDOT website on the "Title VI and Nondiscrimination Program/ADA" webpage at: <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm> The Information Technology Division implements, monitors and updates Section 4 – "Communications" of the NDDOT ADA Transition Plan.
- f) DBE Program
  - (1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.

#### **L. Legal Division**

The Legal Division provides legal services and advice to NDDOT in all areas, with emphasis on pre-litigation issues; drivers license administration matters; contract development, negotiation, drafting, and administration assistance; review of non-construction and construction-related contract documents; risk management; legislation; and administrative rulemaking.

##### **1. Title VI Responsibilities**

- a) Provide the department with legal advice, as necessary and appropriate, in matters relating to Title VI.

#### **M. Local Government Division**

The Local Government Division administers, coordinates, and allocates funds for county, urban, Transportation Alternatives Program, Metropolitan Planning Organizations (MPO), and transit state and federal-aid programs and projects. The division also provides a liaison between Federal Transit Administration (FTA), FHWA, county and city officials, and NDDOT divisions and districts during project development; assists local entities in preparing their projects for the bid openings; and coordinates the Emergency Relief Program on a statewide basis on behalf of NDDOT.

##### **1. Title VI Responsibilities**

- a) Title VI responsibilities in the Local Government Division are:
- 1) The reviewing of sub recipients at the county, urban, and MPO level.
  - 2) Ensure public involvement for local projects is carried as required by our operational guidelines.
  - 3) Ensure Appendix A and E of the Title VI Assurances is included in all applicable contracts related to Local Government.
  - 4) Calculate the amount of work possible on construction projects related to DBE participation on local projects (this information is forwarded to the Civil Rights Division for DBE goal setting on projects).
  - 5) Title VI requirements related to the Transit federal-aid program are reported directly to FTA.
  - 6) Continue with annual compliance reviews on all transit providers.
  - 7) ADA accessibility items within Transit are described within the NDDOT ADA Transition Plan, available on the NDDOT website on the "Title VI and Nondiscrimination Program/ADA" webpage at <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm> The Local Government Division implements, monitors and updates Section 5 – "Transit" of the NDDOT ADA Transition Plan.
  - 8) DBE Program
    - (a) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.

## **N. Maintenance Division**

The Maintenance Division is responsible for NDDOT's implementing of capital improvements of property and facilities; static traffic control devices; safety, and health; budgeting for maintenance operations, capital improvements, and equipment; maintenance specifications; the pavement preservation program; Roadway Weather Information Systems (RWIS); Intelligent Transportation Systems (ITS); load restriction and road condition reports; 511 Traveler information system; living snow fence program; trucking issues; aircraft pool; master equipment operator testing; non-project related right-of-way activities; and emergency response/incident management.

### **1. Title VI Responsibilities**

- a) Static Traffic Control Devices
  - (1) The division develops detailed sign layouts for the districts including internationally recognized symbol signs.
  - (2) Administers the Tourism Signing Advisory Committee (TSAC) program, which includes an application process, recommendations, and formal agreement.
- b) Facilities Management
  - (1) Responsible for facilities management activities that include: capital improvements of NDDOT property and facilities, coordination of construction administration, budget, and visitor center/rest area operations. Provides assistance to districts in the maintenance

and repair of NDDOT property, facilities, and visitor center/rest area operations to maintain ADA accessibility.

- (2) ADA accessibility items within the Building and Related Site Elements are described within the NDDOT ADA Transition Plan, available on the NDDOT website on the “Title VI and Nondiscrimination Program/ADA” webpage at: <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>. The Maintenance Division implements, monitors and updates Section 3 – “Building and Related Site Elements” of the NDDOT ADA Transition Plan.

c) DBE Program

- (1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.

**O. Materials and Research Division**

The Material and Research Division is responsible for all bituminous testing, locating and analyzing new aggregate sources, collecting and analyzing soil samples, testing laboratory, and NDDOT’s pavement design and research programs.

**1. Title VI Responsibilities**

a) Gravel Prospecting

- (1) Locates and analyzes new aggregate sources. Negotiates gravel pit option agreements with private landowners. These sources are chosen strictly on location, quality, and quantity of the material.

b) Pavement Design And Research

- (1) Materials and Research contracts research with ND University System. The university is selected based on qualification.
- (2) Evaluate potential research using the Research Advisory Committee. Research is selected based on management need.

c) Testing Laboratory

- (1) Assists in the administration of the Technician Certification Program. This program provides training for NDDOT, contractors, and consultant personnel.

**P. Motor Vehicle Division**

The Motor Vehicle Division administers all programs relating to the titling and registration of vehicles. The division regulates motor vehicle dealers, interstate motor carriers, mobility-impaired parking privileges, and intrastate household goods carriers. The division serves the public at a central office, thirteen privatized branch offices located throughout the state, and seven county treasurer offices. Branch offices located within the same building as NDDOT’s drivers license testing sites are in Dickinson, Minot, Grafton, and Jamestown.

**1. Title VI Responsibilities**

- a) To provide registration and title services of vehicles.
- b) Regulation of motor vehicle dealers, interstate motor carriers, and intrastate household goods carriers.
- c) Issuance of mobility-impaired parking privileges.

- d) To provide access to services in person, by mail, by fax, by email, and through the Internet.
- e) Five of the branch offices also provide partial registration services to interstate motor carriers, who no longer need to conduct their transactions at the central office.
- f) Dealer enforcement inspectors meet with each new motor vehicle and used motor vehicle dealers each year, via regularly scheduled inspections.

This effort, plus increased enforcement efforts from division staff, ensures dealer compliance and dealer relations. Language assistance is provided for all North Dakota Dealers. At present, we have several dealers who speak foreign languages.

- g) Provide Title VI training and technical assistance for all motor vehicle branch office staff. All branch office locations have access to telephonic interpreter services.

## **Q. Planning/Asset Management Division**

The Planning/Asset Management Division receives federal highway planning and research funds (SPR funds) to conduct a variety of rural and urban highway planning activities. Other activities performed include mapping and cartography, highway-rail grade crossings and signal programs, rail freight assistance programs, roadway data gathering (traffic counts and inventories), traffic operations, and the production of study reports and statistics.

### **1. Title VI Responsibilities**

- a) The major Planning/Asset Management activities relating to the Title VI requirements are the production of the Statewide Transportation Plan (TransAction III), the administration of Transportation Planning Studies, and the management of various contracts.

#### Statewide Transportation Plan

- (1) The Statewide Transportation Plan is developed approximately every five years. The plan provides broad strategic direction for collaborative transportation efforts across all modes, the public and private sectors, and governmental jurisdictions. The plan identifies the state's mission, vision, goals and initiatives, and strategies for achieving a statewide transportation system.
  - (a) An advisory group made up of state agencies, local government representatives, shippers, freight haulers, business leaders, Tribal representatives, and others is formed to make recommendations to the NDDOT Agency Director for plan components. Meetings are conducted throughout the state to gather input from both transportation stakeholders and the public on ideas for improving our transportation system. Inputs from the advisory group, stakeholders, and the public culminate in developing the plan's strategic initiatives. These initiatives provide direction for improving the state's transportation system. The Agency Director ultimately recommends the plan to the Governor for final approval.
  - (b) Protected groups may be identified using the North Dakota State Data Center and the state demographer. If protected groups are involved, these groups are notified through personal contacts in the given area using the department's advocacy distribution list. The advocacy distribution list will be used to disseminate information about public meetings or hearings held in the affected area or throughout the state. This advocacy distribution list includes, but is not limited to, contacts such as social service agencies, advocacy groups, and transportation service agencies throughout the state. News media is also utilized through advertisements and news releases giving pertinent information concerning transportation planning matters.

(2) Transportation Planning Studies

- (a) Transportation Planning Studies are done on a “by request” basis. These studies are typically conducted on roadways or corridors. Proposed transportation plans, including alternative location studies, are reviewed by the project manager to determine if protected groups (minority, low income, female, individuals with disabilities, and the elderly) are involved; and if so, those protected groups are identified as such.
- (b) If applicable and appropriate, public meetings are held in areas where protected groups reside in the affected community as part of the transportation planning study. This allows discussion of the transportation planning activities or plan and receipt of input from low income populations, minorities, females, persons with Limited English Proficiency, and persons with disabilities for the further developing and processing of the activities or plan. Efforts are made to set the time and location of such meetings to be accommodating to those who might attend and to be appropriate with the proper phasing of the study activities.
- (c) If protected groups are involved, these groups are identified and notified through personal contacts in the given area using the department’s advocacy distribution list.

(3) Consultant Agreements and Contracts

- (a) Due to limited staff and time constraints, the division hires planning and engineering consultants on an as-needed basis to conduct various transportation studies ranging from spot location studies to development of long-range, statewide transportation plans.
- (b) The consultant administrative services (CAS) section of NDDOT’s Environmental & Transportation Services Division maintains a list of consultants who are providing, or who might provide in the future, planning studies and services for NDDOT. The division supplements this list, depending on the type of expertise they are looking for.
- (c) The Title VI Liaison Officer attempts to identify minority, female, and socially-economically disadvantaged-owned firms, and firms with significant minority and female employment, for inclusion on that list.
- (d) Procedures for selecting consultants have been established and are set forth in NDDOT’s Consultant Administration Services Manual.
- (e) The Title VI requirements are incorporated in all agreements associated with transportation planning activities and studies.

b) DBE Program

- (1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.

**R. Programming Division**

The Programming Division receives federal highway programming and research funds (SPR funds) to conduct a variety of rural and urban highway programs. Other activities performed include traffic operations, preparation for bid openings, authorization of federal funds, and the production of scoping reports.

## 1. Title VI Responsibilities

- a) The major programming activities relating to the Title VI requirements are the production of the Statewide Transportation Improvement Program (STIP) and the creation of Cost Participation & Maintenance agreements.

### Statewide Transportation Improvement Program (STIP)

- (1) Each year, NDDOT prepares the STIP which is a four-year program of transportation improvements using federal highway and transit funds. Improvements include state and county highways, urban streets, roadway safety features, pedestrian facilities, and busing programs. During the draft phase of the STIP, the public is given an opportunity to view the document and provide comment by letter, email, or using the NDDOT website.

- (a) The programming section uses the department's advocacy distribution list to disseminate information about the STIP's public comment process throughout the state.

- b) DBE Program

- (1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.

## S. Safety Division

The Safety Division is tasked with advancing roadway safety.

The Data Analysis Section is responsible for the collection, maintenance and analysis of crash data and ancillary data sources pertinent to roadway safety. The section conducts a variety of crash data analysis and is responsible to develop the annual *Crash Summary* which includes a comprehensive analysis of the traffic safety problems in the state.

The division's Traffic Safety Office (TSO) administers programs that address unsafe driver and occupant behavior. Program areas include impaired driving, seat belt use, child passenger safety awareness, distracted driving, speed, motorcycle safety education, alcohol awareness activities (especially among the state's youth), and other areas as identified through data.

Grants are provided to local law enforcement agencies, community-based organizations, health care organizations, state agencies, and/or other entities to support statewide traffic safety programs.

### 1. Title VI Responsibilities

- a) Title VI responsibilities for the Safety Division includes compliance matters related to crash reporting.
- b) Administration of all National Highway Traffic Safety Administration (NHTSA) federal grant dollars.
- c) The development of the state's Highway Safety Plan, the Strategic Highway Safety Plan, and associated projects within the plans.

## T. State Fleet Services Division

The State Fleet Services Division is responsible for managing, operating, maintaining, purchasing, and disposing of the state's licensed motor vehicles. The number of vehicles in the state fleet

varies throughout the year from a low of approximately 3,300 to a peak of approximately 3,500, which is based on need, summer programs, and purchasing/disposal patterns. In addition, the division conducts National Safety Council defensive driving training for state employees that use the fleet, manages all insurance programs and the alcohol and controlled substance testing program for all state agency and ND University System Commercial Drivers License (CDL) drivers.

## 1. Title VI Responsibilities

### a) Purchasing

(1) The division uses the guidelines as set forth by the Office of Management and Budget State Purchasing Office for the procurement of all new vehicles to ensure a fair process of vendor award.

### b) Disposal

(1) North Dakota Century Code requires that all surplus equipment be sold by public auction. Therefore the division conducts several surplus vehicle auctions each year that are open to the public. The auctions are advertised on the NDDOT and NDGOV website, every county newspaper, several freely distributed shoppers throughout the state, farming magazines both in print and online, and through radio advertising. The Communications Division assists state fleet to ensure that as many people as possible are reached to give them the opportunity to come and purchase a surplus vehicle. The auctions are held at the Bismarck and Fargo districts and are ADA accessible.

### c) Transportation Needs for State Agencies/Universities

(1) The division provides vehicles for the transportation needs of all state agencies and universities. State Fleet keeps several ADA equipped vehicles in the inventory for checkout and/or permanent assignment and informs all of the government agencies and universities to request vehicles as needed so that all special transportation needs are met where possible.

### d) Defensive Driving Training

(1) The division conducts the National Safety Council defensive driving training for all state employees that use fleet vehicles. The training is held in ADA accessible facilities throughout the state. Reasonable accommodations are made upon request.

### (2) Alcohol and Drug Testing for CDL Drivers

(a) The division contracts with a private testing company to manage the alcohol and drug testing program for all state agency drivers requiring a CDL driver's license according to the guidelines as outlined and required in the CFR Part §382.305 Random testing. The contract is with Global Safety Network who administers all testing and random computer generated draws.

### e) DBE Program

(1) Several Environmental and Transportation Services Division staff members serve on the DBE Unified Certification Board which reviews applicants for initial certification, annual recertification, removal of eligibility, withdrawal requests, expansion of services, joint ventures, review third party challenges, conduct oral interviews, and make recommendations to the Agency Director.

## U. District Offices

NDDOT operates eight District Offices located across the state. The districts have continuous contact with the public through various duties and responsibilities. Press releases are issued by the NDDOT and district staff are contacted to provide additional information. The districts also partner with cities and counties to work together on transportation issues. In addition, the districts

completed yearly inventories of billboards and signs and also works with the public on encroachments, driveway permits, utility permits, the Adopt-a-Highway program, and noxious weed program, and dealing with other right-of-way issues.

**Bismarck District**

The Bismarck District is located in the south central part of the state and is responsible for 2,800 lane miles of roadway.

**Devils Lake District**

The Devils Lake District is located in the north central part of the state and is responsible for 2,304 lane miles of roadway.

**Dickinson District**

The Dickinson District is located in the southwestern part of the state and is responsible for 1,978 lane miles of roadway.

**Fargo District**

The Fargo District is located in the southeast corner of the state and is responsible for 1,853 lane miles of roadway.

**Grand Forks District**

The Grand Forks District is located in the northeast part of the state and is responsible for 1,981 lane miles of roadway.

**Minot District**

The Minot District is located in the northwestern part of the state and is responsible for over 2,300 lane miles of roadway.

**Valley City District**

The Valley City District is located in the south central part of the state and is responsible for 1,965 lane miles of roadway.

**Williston District**

The Williston District is located in the northwestern part of the state and is responsible for 1,900 lane miles of roadway.

**1. Title VI Responsibilities**

- a) District administration staff will provide Title VI support for all maintenance and construction activities. The District administration staff will review cost participation agreements for ADAAG compliance.
- b) District maintenance staff provides the public with winter snow removal according to the Snow Plow Route Priorities.
- c) District construction staff administers state and federal aid highway construction contracts for reconstruction and rehabilitation of major roadways and bridges ensuring standard specifications are met, work is completed correctly and timely, employees are classified and paid properly, payments are made, necessary forms are filed, etc. The staff also monitors Disadvantaged Business Enterprise (DBE) participation at the project level, which includes contractor compliance with the DBE Program and Prompt Payment and Retainage Contract Special Provisions.

- d) The Fort Berthold Indian Reservation is partially located within the Dickinson, Minot, and Williston District borders. Construction staffs assure that requirements of TERO Special Provisions are followed for compliance.
- e) The Spirit Lake and Turtle Mountain Indian Reservations are located within the Devils Lake District borders. Construction staff assures that requirements of TERO Special Provisions are followed for compliance.
- f) The Standing Rock Indian Reservation is partially located within the Bismarck and Dickinson District borders. Construction staffs assure that requirements of TERO Special Provisions are followed for compliance.

## **VI. SPECIAL EMPHASIS PROGRAM AREAS**

All NDDOT divisions and districts are on the Annual Review Schedule. NDDOT will utilize the annual review process to identify trends or patterns of discrimination in program areas. If any program areas are identified with trends or patterns of discrimination, the program area will be identified as a special emphasis program area. The Annual Review Process provides for identification, corrective action, continued monitoring, and to determine the effectiveness of program area activities at all levels.

## **VII. SUB RECIPIENT REVIEW PROCEDURES**

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.

Pre-award compliance reviews require applicants for federal financial assistance to complete a Sub Recipient 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 and Nondiscrimination 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 and Nondiscrimination Program/ADA web page where applicants can locate templates and create their Title VI program documents. The templates are updated as 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 Information is located at <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

Post award compliance reviews require ten percent or a minimum of one sub recipient per division or district must 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.

The sub recipients selected for review are sent a letter with the date the review will be conducted. Included with the letter is the Pre-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 Title VI 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.

#### **A. Review Selection and Procedures**

##### **1. NDDOT sub recipients**

- a) All sub recipients will complete a pre-award 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.
- c) If deficiencies are found during the review, the sub recipient shall be reviewed the following year.
- d) 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
- j) Date of Last Review
- k) Date of Last Review Notice of Compliance

## **VIII. 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 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, and sub recipient status.

Each of the Title VI program areas, as appropriate, will maintain data to be incorporated in the 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 Program Implementation Plan

NDDOT developed a Public Participation Survey 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/chapter2/DM-2-03\\_tag.pdf](http://www.dot.nd.gov/manuals/design/designmanual/chapter2/DM-2-03_tag.pdf)

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

The survey is used at other events as follows:

Financial Management Bid Openings

Training events as appropriate

The surveys are scanned into a data base and displayed on a spread sheet. The data for each category is transferred onto a report. U.S. Census Bureau, American Fact Finder data files were collected at the city level, if available, and at county level for the other meeting/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.

The Public Participation Survey is included in the Title VI Goals and Accomplishments Report and located on NDDOT Title VI and Nondiscrimination 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 and Nondiscrimination Program web page at

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

## **IX. TRAINING**

### **A. Civil Rights Staff and Other NDDOT Employees**

The Title VI Program Administrator conducts one hour of Title VI training, quarterly, for the Title VI Specialists.

The Title VI Program Administrator provides nine hours of Title VI training for newly appointed Title VI Specialists. Training includes one hour instruction in person followed by three hours of independent study; and one-half hour instruction in person followed by four hours of independent study, and concluding with one-half hour instruction in person. The training materials include CDs/DVDs and handouts and a training program syllabus clearly describing the requirements of each section to be completed including questions to answer and submit midway and at the end of the training. The training covers Title VI, LEP, ADA and Section 504, assistive technology, transit systems, public involvement, and Environmental Justice.

The Title VI Specialists may conduct Title VI training for division and district staff within their areas. Some divisions must remain staffed during business hours, so group training is not feasible. Each NDDOT employee will receive a minimum of one hour of Title VI training per year.

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.

Title VI Specialists in each division and district are responsible to conduct Title VI training for new employees. A new Employee Title VI Training Syllabus and Checklist is available to assist the Title VI Specialist in fulfilling this responsibility. This available training is an independent study of viewing two 40 minute videos and 15 minute discussion with the Title VI Specialist. Additional question and answer time is provided as needed. 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 recorded CDs/DVDs of previous trainings, presentations, and other materials available. The materials on MYDOT under the Title VI and Nondiscrimination Program are a good source of training materials, also. Title VI Training records for all NDDOT employees are stored in NDDOT training database.

External Civil Rights training includes a segment on Title VI and is provide to NDDOT engineers and technicians.

The training provides comprehensive information on Title VI and related nondiscrimination provisions, its application to program operations, identification of Title VI issues, and resolution of complaints. Scheduled training events are recorded documenting the training topic, date, time, hours, location, and participants. The Title VI training schedules are reported in the Annual Goals and Accomplishments Report.

#### B. NDDOT Sub Recipients and Stakeholders

Sub recipients and stakeholders can access Title VI training the Public Funds for Public Benefit video on Upper Great Plains Transportation Institute, Transportation Learning

Network, or FHWA websites, and other training materials through the NDDOT website.

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

NDDOT provides guidance and one-on-one training to applicants for 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.

## **X. TITLE VI COMPLAINT PROCESS**

### **A. Scope of Title VI Complaints**

The scope of Title VI covers all external NDDOT activities. Adverse impacts resulting in Title VI complaints can arise from many sources, including advertising, bidding, and contracts.

Complaints can originate from individuals or firms alleging inability to bid upon or obtain a contract with NDDOT for the furnishing of goods and/or services. Examples include advertising for bid proposals; prequalification or qualification; bid proposals and awards; selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc., or the allocation of funding (FTA).

Complaints can originate as a result of project impacts on individuals or groups. For example, social and economic, traffic, noise, air quality, access, accidents, and failure to maintain facilities.

### **B. Formal Title VI Complaint Procedure**

NDDOT's Title VI Policy, as outlined in its Title VI and Nondiscrimination Program, assures that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability, or income status\*, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by NDDOT, its recipients, sub recipients, and contractors. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on income status.

NDDOT uses the following detailed, internal procedures for prompt processing of all Title VI complaints received directly by any of its divisions or districts having responsibilities under Title VI. These procedures include but are not limited to:

1. Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with the North Dakota Department of Transportation Title VI Liaison Officer. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of NDDOT's programs for it to be considered and processed as an allegation of a discriminatory practice.

2. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. NDDOT's Title VI Complaint Form (SFN 51795) must be used.
3. The complaint may also be filed with the U.S. Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE (S-33), Washington, D.C. 20590. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of the U. S. Department of Transportation.
4. Upon receipt of a Title VI complaint, the Title VI Liaison Officer immediately advises the NDDOT Director of the complaint. The Director confers with the appropriate NDDOT Deputy Director, appropriate NDDOT Office Director, and the Title VI Liaison Officer to determine a course of action. Possible courses of action may include but are not limited to:
  - a) Title VI complaints filed against NDDOT are referred to the Federal Highway Administration (FHWA) Division Office for processing.
  - b) Title VI complaints filed against NDDOT recipients and sub recipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed by NDDOT in accordance with the FHWA approved complaint procedures as required under 23 Code of Federal Regulations Part 200.
  - c) A copy of the complaint, together with a copy of NDDOT's report of the investigation and recommendations, are forwarded to the FHWA Division Office within 60 days of the date the complaint was received by NDDOT.
  - d) The FHWA Headquarters Office of Civil Rights makes the final agency decision.
5. The NDDOT Director reviews and determines the appropriate action regarding every complaint. NDDOT will recommend, to the FHWA Division Office, not to proceed with or continue a complaint investigation if:
  - a) The complaint is, on its face, without merit.
  - b) The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions.
  - c) The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.
6. If an investigation is to be initiated, the NDDOT Director designates a specific NDDOT Deputy Director to whom the investigation team will report in order to facilitate communication with the Director. The Deputy Director and NDDOT Office Director confer with the Title VI Liaison Officer and NDDOT Legal Counsel to establish guidelines for the investigation team. The Title VI Liaison Officer is instructed to appoint a team leader and an on-call team member to conduct the investigation. The team leader appraises the Deputy Director of the team's progress throughout the investigation.
7. The team leader determines the timeframe in which the investigation should be completed based on the date the complaint was filed. The entire investigation process, including the submission of the report of the investigation and recommendations to the FHWA Division Office, is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by NDDOT.

8. The Title VI Liaison Officer acknowledges receipt of the allegation(s) within ten (10) working days. The complainant is notified of the proposed action to be taken to process the allegation(s). The notification letter contains:
  - a) The basis for the complaint.
  - b) A brief statement of the allegation(s) over which NDDOT has jurisdiction.
  - c) A brief statement of NDDOT's jurisdiction over the recipient to investigate the complaint; and
  - d) An indication of when the parties will be contacted.
  - e) Depending on the nature of the complaint, the complaint will be referred to the following for final decision:
    - (1) Federal Highway Administration (FHWA)
    - (2) U.S. Department of Justice (USDOJ)
9. The Title VI Liaison Officer also notifies the FHWA Division Office within ten (10) calendar days of receipt of the allegations. The following information is included in the notification to FHWA:
  - a) Name, address, and phone number of the complainant.
  - b) Name(s) and address(es) of persons alleged to have been involved in the act.
  - c) Basis of alleged discrimination (i.e., race, color, national origin, sex, age, disability, or income status\*).
  - d) Date of alleged discriminatory act(s).
  - e) Date complaint was received by NDDOT.
  - f) A brief statement concerning the nature of the complaint.
  - g) Other agencies (federal, state, or local) with which the complaint has been filed.
  - h) An explanation of the actions NDDOT proposes to take to resolve the issues raised in the complaint.
10. The investigation team leader notifies the Division Director or District Engineer of the Division or District in which the problem occurred that a complaint has been received. The team leader identifies the members of the investigation team and accepts relevant comments from the Division Director or District Engineer.
11. The investigation team conducts an in-depth, personal interview with the complainant(s). Information gathered in this interview includes: identification of each complainant by race, color, national origin, sex, age, disability, or income status\*; name of the complainant; a complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint; the date the complaint was filed; and any other pertinent information the investigation team feels is relevant to the complaint. The interviews are recorded either on audio tape or by a team member taking notes. The team arranges for

the complainant to read, make necessary changes to, and sign the interview transcripts or interview notes.

12. Following the interviews, the team leader develops a report of the investigation and recommendations based on the facts. The report contains the investigation team's findings, conclusions concerning each issue raised in the complaint, and recommendations for corrective action. The report is completed with the coordination and consultation of NDDOT's General Counsel. The report is the last document prepared as part of the investigation. Any other actions taken as a result of the investigation team's findings and conclusions are the responsibility of NDDOT management.
13. The complainant receives a letter from the NDDOT Director detailing the findings and any recommendations for corrective action to be taken based on the facts. All issues in the complaint are addressed. The complainant is informed that the final determination is made by the FHWA Headquarters Office of Civil Rights.
14. The NDDOT Director forwards the report of the investigation and recommendations to the FHWA Division Office. Included with the report is a copy of the complaint, copies of all documentation pertaining to the complaint, the date the complaint was filed, the date the investigation was completed, and any other pertinent information.
15. The FHWA Headquarters Office of Civil Rights makes the final agency decision.

#### C. Informal Title VI Complaint Procedure

1. Title VI complaints may be resolved by informal means. When informal means are used, the complainant is informed of his or her right to file a formal written complaint.
2. Such informal attempts and their results are summarized by the Director-Engineer of the division or district in which the problem occurred, or by their respective Title VI Specialist, and are forwarded to the Title VI Liaison Officer.
3. Any complaint received in writing is considered to be a formal complaint and is handled under the formal complaint procedure outlined above.
4. The Title VI Liaison Officer periodically informs the FHWA Division Office of the status of all complaints.
5. When a complaint has been directly filed with another federal or state agency, the Title VI Liaison Officer is to be informed by the agency where the complaint has been filed and is to coordinate any action needed by NDDOT to resolve the complaint.

\* Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability, 29 U.S.C. 794; and low income, E.O. 12898.

See Exhibit C and D.

## XI. DISSEMINATION OF TITLE VI INFORMATION

### A. Public Involvement

NDDOT disseminates the Title VI and Nondiscrimination Program internally, via Intranet, to NDDOT employees and externally, via Internet, to sub recipients, contractors, beneficiaries, and the general public as well as in other formats as requested. Public dissemination of other Title VI information

will include posting the Title VI and Nondiscrimination Policy Statement in NDDOT buildings and publishing announcements of hearings, meetings, and other activities in minority media and in local newspapers having a general circulation in the vicinity of proposed projects. NDDOT's Public Involvement Process is located in the NDDOT Design Manual, Chapter II, Section 3 at [http://www.dot.nd.gov/manuals/design/designmanual/chapter2/DM-2-03\\_tag.pdf](http://www.dot.nd.gov/manuals/design/designmanual/chapter2/DM-2-03_tag.pdf)

NDDOT has written a Non-Construction Public Participation Plan manual for use by divisions and districts for non-construction programs and activities. It is pending a review by Division Directors and District Engineers and the approval process by Executive Management. It will be posted internally for NDDOT staff.

## **XII. 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 US 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 has a contract with a telephonic interpreter services. All NDDOT offices statewide have access to the telephonic interpreter service for immediate access to interpreters in over 240 languages and dialects. Materials were developed with step-by-step instructions to access the service along with instructions on how to work with an interpreter.

NDDOT Civil Rights Division will assess requests for written translation of documents based on the possible impacts and known LEP population.

NDDOT is committed to affording individuals affected by a NDDOT activity(s) with meaningful access to programs and services through the development and implementation of NDDOT's Limited English Proficiency Plan. NDDOT reviews the Four-Factor Analysis annually and updates the frequency with which LEP individuals come in contact with NDDOT services. See Exhibit E.

## **XIII. ENVIRONMENTAL JUSTICE (EJ)**

### **A. Environmental Justice**

A 1994 Presidential Executive Order directed every federal agency to make environmental justice part of its mission by identifying and addressing the effects of all programs, policies, and activities on "minority populations and low-income populations." In order to comply with this order, NDDOT must appropriately address the concerns of individuals potentially affected by our activities. Those individuals must appropriately be involved in the development of projects that fit harmoniously within their communities without sacrificing safety or mobility. The NDDOT environmental documentation process contains environmental justice measures such as public involvement/meetings, social impacts, economic impacts, and low-income and minority living areas impacts. NDDOT's "Environmental Documentation" process which

includes this requirement is located in the NDDOT Design Manual, Chapter II, Section 2 at [http://www.dot.nd.gov/manuals/design/designmanual/chapter2/dm-2-02\\_tag.pdf](http://www.dot.nd.gov/manuals/design/designmanual/chapter2/dm-2-02_tag.pdf)

NDDOT is collecting minority (race) and low-income population data in addition to the other nondiscrimination population data on the NDDOT Public Participation Survey. The survey requests voluntary disclosure of the five protected races and low-income data by identifying as a recipient of public assistance.

The NDDOT Title VI Complaint form includes the EJ population categories.

#### **XIV. REVIEW OF NDDOT DIRECTIVES**

##### **A. Operational Guidelines**

All NDDOT directives, policies, procedures, and operational guidelines provided to contractors, sub recipients, and internal programs are reviewed annually to ensure the required Title VI provisions, state law, and related requirements are included, where applicable, by the Title VI Specialist appointed to that specific program area.

Title VI Liaison: Review NDDOT's central office and district procedures and guides as they relate to various program directives, manuals, and other regulations to determine whether Title VI provisions are contained. Where corrections are necessary, the Title VI Liaison Officer will coordinate revisions with the appropriate Division Director or District Engineer.

Title VI Program Administrator: Review NDDOT program directives in coordination with Title VI Specialists to determine if there are Title VI implications and interpret how the directive impacts each program area from a Title VI perspective.

Title VI Specialists: Review each division's and district's procedures and guidelines relating to program directives, manuals, and other regulations to determine whether Title VI, LEP, and EJ provisions are included. Where corrections are necessary, make revisions.

**NDDOT Organization Chart**

August 1, 2014

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

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

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
ORGANIZATION CHART  
August 1, 2014**

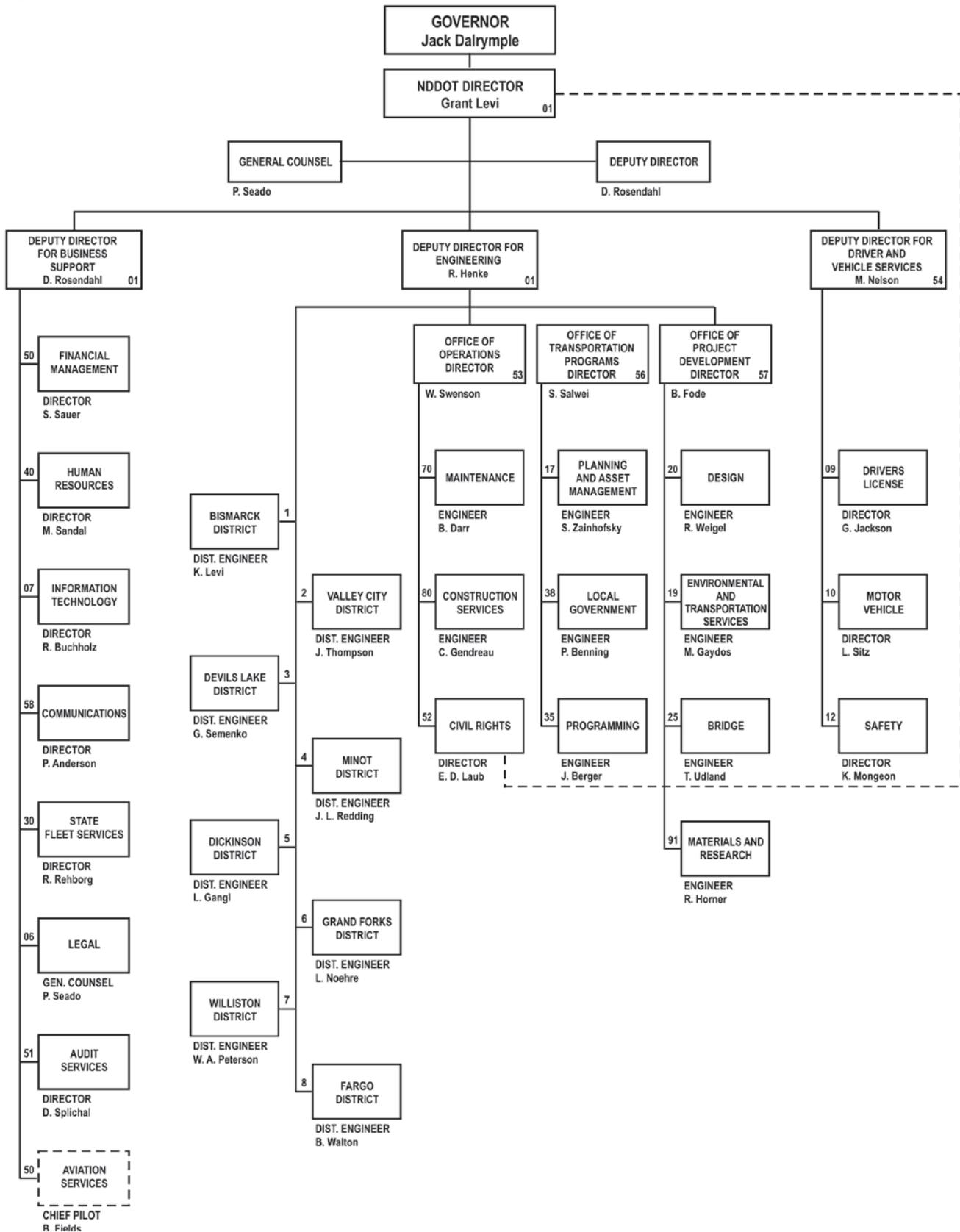


Figure 1-NDDOT - Organization Chart – August 1, 2014

NDDOT Civil Rights Division Organizational Chart

**CIVIL RIGHTS DIVISION  
ORGANIZATIONAL CHART  
October 2013**

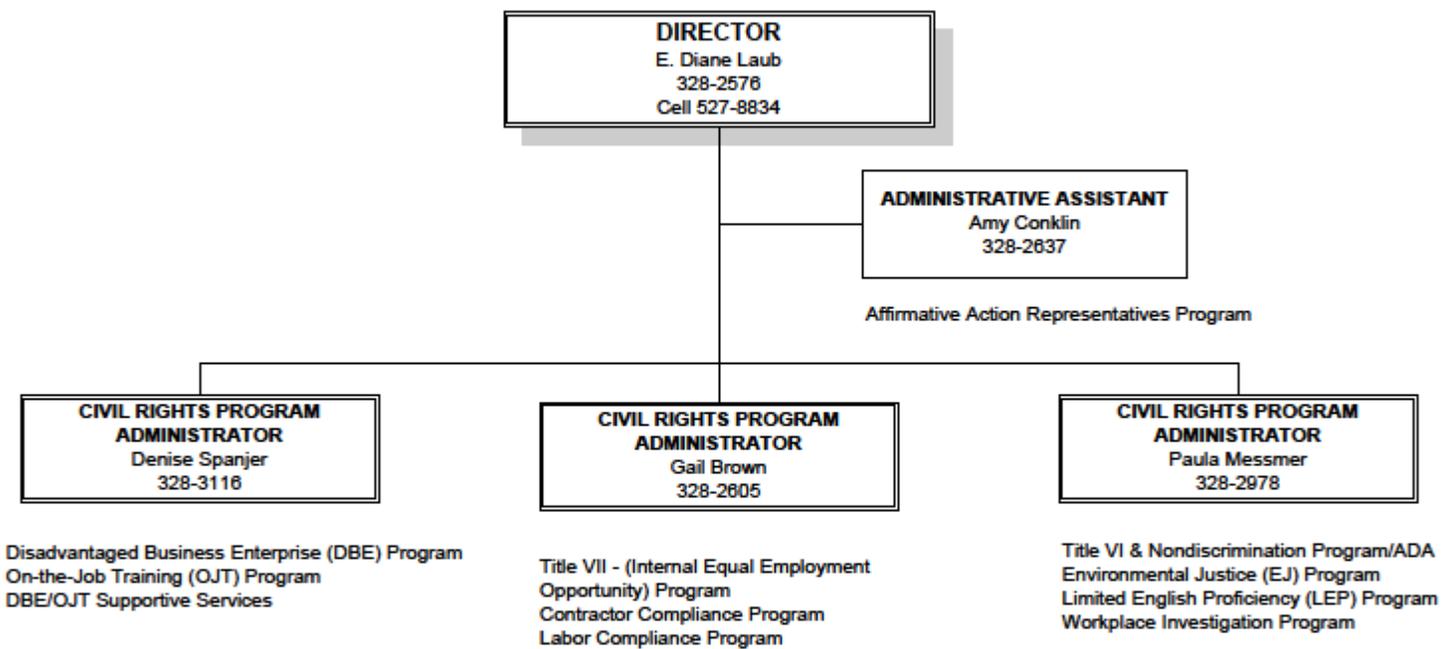


Figure 2- NDDOT - Civil Rights Division Organizational Chart - October 2013

**Title VI Complaint Form and Instructions**

North Dakota Department of Transportation, Civil Rights Division

SFN 51795 (Rev. 11-2014)

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

[www.dot.nd.gov/forms/sfn51795.pdf](http://www.dot.nd.gov/forms/sfn51795.pdf)

**TITLE VI COMPLAINT FORM**

North Dakota Department of Transportation, Civil Rights Division  
SFN 51795 (Rev. 11-2014)

For instructions see page 2

**PART I - COMPLAINANT INFORMATION** (Print all items legibly.)

Name		Telephone
Mailing Address		Email Address
City	State	Zip Code

**PART II - CAUSE OF DISCRIMINATION BASED ON** (Check appropriate box[es].)

- Race     Color     National Origin  
 Sex     Age     Disability     Income Status

**PART III - THE PARTICULARS ARE** (Include names, dates, places, and incidents involved in the complaint.)  
(If additional space is needed, attach extra sheet[s].)

**PART IV - REMEDY SOUGHT** (State the specific remedy sought to resolve the issue[s].)

**PART V - VERIFICATION**

Complainant's Signature \_\_\_\_\_ Date \_\_\_\_\_

## NDDOT INSTRUCTIONS

### General

1. Under Title VI of the Civil Rights Act of 1964 and the related statutes and regulations, no person or group(s) of persons shall, on the grounds of race, color, national origin, sex, age, disability, or income status\*, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the North Dakota Department of Transportation. Any person or group(s) of persons who feel they have been discriminated against may file a complaint.
2. Instructions provided within this form are not meant to be all inclusive. Complainants are responsible for all procedural requirements.
3. Complainants **must** include all required information and **must** meet all time frames as defined in the NDDOT Title VI Complaint Procedure.
4. Legible copies of all available pertinent documentation should be attached to this form.
5. All inquiries on how to complete this form should be directed to the Civil Rights Division, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, ND 58505-0700, Telephone (701) 328-2576, TTY users 711 or (800)366-6888 (toll free).

### Part I

Complete all information in this section.

### Part II

Check all boxes that apply indicating the basis for the complaint. The discrimination **must** be based on at least one of the listed categories.

### Part III

State the specific complaint in a manner that clearly identifies the issues upon which the complaint is based.

### Part IV

State the minimum remedy acceptable for resolution of this complaint.

### Part V

Sign and date this section to verify the information contained in Parts I through IV.

### Title VI Complaints are filed according to the Title VI Complaint Process.

\*Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability, 29 U.S.C. 794; and low income, E.O. 12898.

**NDDOT Title VI Complaint Log**  
North Dakota Department of Transportation  
SFN 59882 (Rev. 12-2013)

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

<http://www.dot.nd.gov/forms/sfn59892.pdf>

**TITLE VI COMPLAINT LOG**

North Dakota Department of Transportation, Civil Right Division  
 SFN 59892 (Rev. 12-2013)

Reporting Year
----------------

Name						
Address					State	Zip Code
<b>Status of Complainant:</b>						
Race	Color	National Origin	Sex	Age	Disability	Income Status
Nature of Complaint (If you need more space please attach additional sheets)						
Recipient (Processor of Complaint)						
Date Filed		Date Investigation Completed		Date of Disposition		
Disposition (If you need more space please attach additional sheets)						

Name						
Address					State	Zip Code
<b>Status of Complainant:</b>						
Race	Color	National Origin	Sex	Age	Disability	Income Status
Nature of Complaint (If you need more space please attach additional sheets)						
Recipient (Processor of Complaint)						
Date Filed		Date Investigation Completed		Date of Disposition		
Disposition (If you need more space please attach additional sheets)						

Figure 5- NDDOT- Title VI Complaint Log (SFN 59892), page 1

Name							
Address						State	Zip Code
<b>Status of Complainant:</b>							
Race	Color	National Origin	Sex	Age	Disability	Income Status	
Nature of Complaint (If you need more space please attach additional sheets)							
Recipient (Processor of Complaint)							
Date Filed			Date Investigation Completed			Date of Disposition	
Disposition (If you need more space please attach additional sheets)							

Name							
Address						State	Zip Code
<b>Status of Complainant:</b>							
Race	Color	National Origin	Sex	Age	Disability	Income Status	
Nature of Complaint (If you need more space please attach additional sheets)							
Recipient (Processor of Complaint)							
Date Filed			Date Investigation Completed			Date of Disposition	
Disposition (If you need more space please attach additional sheets)							

Figure 6- NDDOT – Title VI Complaint Log (SFN 59892), page 2

**NDDOT Limited English Proficiency Plan**

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

<http://www.dot.nd.gov/divisions/civilrights/docs/titlevi/Limited%20English%20Proficiency%20Plan%20-%20October%202014.pdf>

# **Limited English Proficiency Plan**

October 2014

## 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 individuals in the service area who may be served by the NDDOT.
  2. The frequency with which LEP individuals come in contact with NDDOT services.
  3. The nature and importance of services provided by the NDDOT to the LEP population.
  4. The interpretation services available to the NDDOT and overall cost to provide LEP assistance.
- A summary of the results of the four-factor analysis is in the following section.

## MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

### **1. The number or proportion of LEP individuals in the service area who may be served or are likely to require NDDOT's services.**

The NDDOT staff reviewed the 2007-2011 American Community Survey 5-Year Estimates for North Dakota and determined that 33,158 individuals, in North Dakota [5.3% of the population] speak a language other than English. Of those 9,137 individuals have limited English proficiency; that is; they speak English less than "very well" or "not at all." This is only 1.46% of the overall population in North Dakota. In North Dakota, of those individuals with Limited English Proficiency, 0.30% speaks German, 0.25% speaks Spanish, 0.16% speaks African languages, 0.13% speaks Chinese, 0.10% speaks Serbo-Croatian, 0.06% speaks Japanese, 0.06% speaks Vietnamese, 0.05% speaks Russian, 0.05% speaks Scandinavian, 0.04% speaks Arabic, 0.03% speaks French (Patois, Cajun), 0.03% speaks other Native North American languages, 0.03% speaks Tagalog, 0.02% speaks other Asian Languages, 0.02% speaks other Indic languages, 0.02% speaks Korean, 0.02% speaks other Pacific Island languages, 0.02% speaks other Slavic languages, 0.02% speaks Polish, 0.01% speaks other Indo-European languages, 0.01% speaks other and unspecified languages, 0.007% speaks Gujarati, and 0.004% speaks French Creole, 0.004% speaks Mon-Khmer, Cambodian, 0.004% speaks Persian, 0.004% Portuguese or Portuguese Creole, 0.003% Hungarian, 0.003% speaks Italian, 0.003% speaks

Laotian, 0.003% speaks Thai, 0.003% speaks Urdu, 0.001% speaks Hebrew, 0.002% speaks Greek, 0.001% speaks Hindi, 0.001% speaks Yiddish. NDDOT has contracted with a telephone based interpreter service that provides immediate interpreter services.

## **2. The frequency with which LEP individuals come in contact with NDDOT services.**

The NDDOT staff reviewed the frequency with which NDDOT division and district staff have, or could have, contact with LEP individuals. This includes documenting phone inquiries or office visits. NDDOT utilizes a telephonic interpreter service for requests for oral interpretation. NDDOT Drivers License Division received requests for the translation of the Rules of the Road Study Guide and Rules of the Road Knowledge Test in other languages. NDDOT will assess the requests. The Drivers License Division previously received requests for drivers tests to be offered in other languages and obtained translations. The Rules of the Road test is offered in nine foreign languages at the eight major offices. Of the total number of tests administered, 2.29 % was Spanish, 1.62% Somali, 1.19% Arabic, 0.28% Nepali, 0.21% Russian, 0.16% Swahili, 0.07% Vietnamese, 0.07% Serbo-Croatian, 0.04% Turkish. Drivers License Division provided telephone based language interpreter services for Arabic, Bosnian, Burmese, Cambodian, Cantonese, Khmer, Korean, Kurdish, Somali, Spanish, and Swahili speaking individuals 32 times. The Legal Division provided language interpreter services two times for Russian and Spanish speaking individuals. Motor Vehicle division provided telephone based language interpreter services for French, Somali, Spanish, Nepali, and Vietnamese speaking individuals 39 times. The other division and district staff have had very little to no contact with LEP individuals.

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

There is no large geographic concentration of any type of LEP individuals in the North Dakota. The overwhelming majority of the population, 94.7%, speaks only English. As a result, there are only a few social, service, or professional and leadership organizations within North Dakota that focus on outreach to LEP individuals. The NDDOT Drivers License Division staff is most likely to encounter LEP individuals through testing sites, office visits, telephone conversations, and drivers license notifications. Motor Vehicle Division staff are most likely to encounter LEP individuals through vehicle licensing sites at NDDOT Central Office and outlying Branch Offices, telephone conversations, and motor vehicle licensing notifications. NDDOT considered the importance of immediate and long-term effects of a delay in written translations. All services have several days to weeks allowed for comment or completion. Immediate oral interpretation is provided. Written translation is considered within a reasonable timeframe.

## **4. The resources available to the NDDOT and overall cost to provide LEP assistance.**

The NDDOT reviewed its available resources that could be used for providing LEP assistance for oral interpretation and written translation. NDDOT has contracted with a telephone based interpreter service to provide immediate interpreter services at no cost to LEP individuals. NDDOT has identified and contacted written translation service providers. NDDOT provides notice to the public of the availability to request accommodations for language assistance. All requests for translation are considered based on the possible impacts and known LEP population.

## **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.

How the NDDOT staff may identify an LEP person who needs language assistance:

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge.
- All NDDOT division and district staff will be provided with language lists to assist in identifying the language interpretation needed.
- All NDDOT staff who has encountered LEP will be informally surveyed periodically on their experience concerning any contacts with LEP individuals during the previous year.
- When the NDDOT sponsors an informational meeting or event, a staff person may greet participants as they arrive. By informally engaging participants in conversation it is possible to gauge each attendee's ability to speak and understand English. Although translation may not be able to be provided at the event it will help identify the need for future events.

### **Language Assistance Measures**

Although there are a very low percentage of LEP individuals in the State of North Dakota, that is, individuals who speak English less than "very well" or "not at all", NDDOT will strive to offer the following measures:

1. The NDDOT staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating in English.
2. The following resources will be available to accommodate LEP individuals:
  - Language interpretation will be accessed for most languages through a telephone interpretation service.

## **STAFF TRAINING**

The following training is provided to all staff:

- Information on the Title VI Policy and LEP responsibilities.
- Description of language assistance services offered to the public.
- Use of the language lists.
- Documentation of language assistance requests.
- Title VI Complaint Process.

## **TRANSLATION OF DOCUMENTS**

NDDOT has an outreach process. NDDOT has a Request For Accommodation procedure that refers all requests to Civil Rights for processing. NDDOT has translation services available. NDDOT places a notice of accommodation in public ads, meeting notices, flyers, and agendas. NDDOT considers requests as follows:

- NDDOT Civil Rights Division will assess requests for translation of documents based on the possible impacts and known LEP population.

## **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 documented LEP person contacts encountered annually.
- How the needs of LEP individuals have been addressed.
- Determination of the current LEP population in the service area.
- Determination as to whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine 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 whether complaints have been received concerning the agency's failure to meet the needs of LEP individuals.

## **DISSEMINATION OF THE NDDOT LEP PLAN**

- Post signs at NDDOT division and district offices notifying LEP individuals of the LEP Plan and how to access language services.
- State on agendas and public notices that a Request For Accommodation is available to request documents in various languages at NDDOT division and district offices.
- Post on NDDOT's website the LEP Plan and how to access language services.
- NDDOT's website has a "Contact Us" webpage with a contact person and telephone number for "Language Interpreter Service" assistance.

**Title VI and Nondiscrimination Authorities**

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
2. Federal-Aid Highway Act of 1973 (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
3. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
5. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. §12101 *et seq.*), (prohibits discrimination on the basis of disability);
6. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §4601;
7. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321;
8. 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
9. 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
10. 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
11. 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
12. 23 C.F.R. Part 200 (FHWA’s Title VI/Nondiscrimination Regulation);
13. 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
14. 28 C.F.R. Part 50.3 (DOJ Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964).

## 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. 23C.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.  
23C.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.