# DELAWARE DEPARTMENT OF TRANSPORTATION

# TITLE VI PLAN

**September 2014**

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# 1. INTRODUCTION

The mission of the Delaware Department of Transportation (DelDOT) is to provide "Excellence in Transportation. Every trip. Every mode. Every dollar. Everyone." One important way we show our dedication to "everyone" is indicated in our Title VI plan. The purpose of the Title VI Plan is to ensure that no person is denied services or benefits of those services based on race, color, national origin, sex, age, or disability. This document is an operations manual, is intended to communicate how DelDOT implements the Title VI requirements, and will be reviewed/updated at least every three years.

DelDOT established the Civil Rights Office in accordance with Federal requirements (23 CFR 200). The Office oversees the Department's Title VI plan and meets the terms of FHWA implementing guidance as detailed in the *Title VI Nondiscrimination in the Federal-Aid Highway Program Desk Reference*. In keeping with Federal requirements the Civil Rights Administrator has a direct line of communication to the DelDOT Secretary. Functionally, the Civil Rights Administrator reports to the Director of Technology and Support Services. An organizational chart is included in the section titled Organization and Staff Responsibilities.

# 2. BACKGROUND

**Title VI of the Civil Rights Act of 1964**

Title VI of the Civil Rights Act of 1964 provides that no person shall on the grounds of race, color, national origin, sex, age and handicap/disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The Civil Rights Restoration Act of 1987 amended Title VI to specify that entire institutions receiving Federal funds – whether schools and colleges, government entities, or private employers – must comply with Federal civil rights laws, rather than just the particular programs or activities that receive funds.

Nondiscrimination programs require that Federal-aid recipients, sub recipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, whether those programs and activities are federally funded or not. If a unit of a state or local government is extended Federal-aid and distributes such aid to another government entity, all of the operations of the recipient and sub recipients are covered. Corporations, partnerships or other private organizations or sole proprietorships are covered in their entirety if such entity received Federal financial assistance (FHWA Notice N 4720.6 September 2 1992)

Executive Order 12898 of February 11, 1994, authorized federal actions to address Environment Justice in Minority Populations and Low-Income populations. Each Federal agency shall develop an agency-wide environmental justice strategy that identifies and addresses disproportionably high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Each Federal agency shall conduct its programs, policies, and

activities in a manner that ensures that such programs, policies, and activities do not have the effect of excluding person (including populations) from participations in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of race, color, or national origin.

Executive Order 13166 of August 11, 2000, "addresses the application of Title VI's prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency." The policy " clarifies existing Title VI responsibilities. The purpose of this document is to set forth general principles for agencies to apply in developing guidelines for services to individuals with limited English proficiency."

# 3. NONDISCRIMINATION POLICY STATEMENT

## NONDISCRIMINATION POLICY STATEMENT

DelDOT presents the Nondiscrimination Policy Statement endorsed by the Secretary of the Delaware Department of Transportation and shown below to demonstrate its commitment to nondiscrimination and its understanding of responsibilities for the effective implementation of the Title VI Program. Further, DelDOT has signed the FHWA Title VI Assurance document, which can be found in Exhibit A, and will ensure that sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees sign an Assurance document as well.

State of Delaware, Department of Transportation

It is the policy of the Delaware Department of Transportation that no person shall on the grounds of race, color, national origin, sex, age, or handicap/disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program or activity which is administered by the Delaware Department of Transportation, regardless of the funding source, (i.e. State, Federal Highway Administration (FHWA), or Federal Transit Authority (FTA)).

The Secretary of the Delaware Department of Transportation is ultimately responsible for the effective implementation of the Title VI Nondiscrimination Program. The Secretary will not perform the day to day implementation duties. Those duties are delegated to the Civil Rights Administrator, who has been delegated sufficient authority to carry out her or his duties and responsibilities, which include overseeing a committee of Liaisons from each Program Area. Those Liaisons will perform data collection, data analysis, process reviews and reporting related to DelDOT's Title VI program.

Secretary, Delaware Department of Transportation

Date

12/1/14

# 4. ORGANIZATION AND STAFF RESPONSIBILITIES

## OVERVIEW

DelDOT established the Civil Rights Section in accordance with federal guidelines (as noted in 1. Introduction). The Office oversees the Department's Title VI Plan and meeting the terms of FHWA's implementing guidance. In keeping with federal requirements, the Civil Rights Administrator has a direct line of communication to the DelDOT Secretary. Functionally, the Civil Rights Administrator reports to the Director of Technology and Support Services. An organizational chart is included below.

## ORGANIZATION

**Secretary** – The Secretary is the head of DelDOT, a State Transportation Agency, and is responsible to the Governor, the Delaware Legislature, and the Delaware Council on Transportation for ensuring implementation of the Department's Title VI plan. The Secretary provides leadership, guidance, direction, and support for DelDOT's Title VI programs.

**Civil Rights Administrator** – The Civil Rights Administrator is responsible for supervising, reviewing, monitoring, and evaluating the effectiveness of External EEO programs. The Civil Rights Administrator is responsible for managing the Title VI, ADA Title II/Section 504, Disadvantaged Business Enterprise (DBE), Contractor Compliance, On-the-Job-Training (OJT), Supportive Services, Limited English Proficiency (LEP), Historically Black Colleges and Universities (HBCU) and Minority Institutions of Higher Education (MIHE) programs and serves as DelDOT's Title VI Coordinator. The Civil Rights Administrator is also responsible for the daily operation of the Civil Rights Section and acts as a liaison between DelDOT and Federal and state officials regarding external EEO issues.

**Contractor Compliance Officer** – The Contractor Compliance Officer (CCO) is a member of the Civil Rights staff and reports to the Civil Rights Administrator. Responsibilities include monitoring external contracts and agreements to ensure compliance with external Equal Employment Opportunity (EEEO) laws, the On-the-Job-Training (OJT) Program, and DelDOT's Contractor Compliance program. The CCO also conducts external compliance reviews. The CCO has an important role in Title VI monitoring for DelDOT.

**DBE Program Manager** – The DBE Program Manager is responsible for certain External EEO programs, which include: EEO Contractor Compliance, Disadvantaged Business Enterprises, and Training Special Provisions. Responsibilities include reviewing and monitoring all external highway construction projects' Title VI activities, preparing and submitting EEO/contractor compliance review documents and annual assessment updates to FHWA, providing internal and external training on Civil Rights Special Provisions, and advising the department in the area of DBE Program requirements.

**DBE Specialist** – The DBE Specialist reports to the DBE Program Manager and is responsible for assisting DBE firms in all phases of the certification process, for providing technical

guidance and assistance to DBEs related to projects with DelDOT, for monitoring and providing data and documentation related to prompt payment, to conduct investigations of claims made by prime contractors and consultants related to payments and performance, and to represent DelDOT at meetings, outreach events, and conferences.

**ADA Title II Coordinator** –The ADA Title II Coordinator is responsible for communicating and coordinating with the Civil Rights Administrator in all Title II ADA/Section 504 activities. This includes investigating and responding to complaints and implementing and monitoring procedures and practices related to ADA/Section 504. The Title II Coordinator provides program activity information to the Civil Rights Administrator on an ongoing basis.

**EPS Technicians –** EPS Technicians report the ADA Title II Coordinator and are responsible for providing technical assistance to internal and external construction personnel including inspectors. The EPS Technician may also assist the ADA Coordinator during investigations.

**Title VI Coordinator** – The Title VI Coordinator is responsible for implementing, monitoring, and ensuring the department's compliance with Title VI regulations, which includes conducting Title VI reviews, providing training and technical assistance, annual reporting to FHWA regarding accomplishments and goals, investigating and/or referring complaints as deemed appropriate, and assist in correcting Title VI problems or discriminatory practices or policies.

**Title VI Liaison Coordinators** – Each of the FHWA-designated Title VI program areas have a responsibility to identify Liaison Coordinator who will communicate and coordinate with the Civil Rights Administrator in all Title VI, E.O. 12898, and E.O. 13166 activities and who will serve on the Title VI Liaison Coordinator Committee. Liaison Coordinators are selected based on their technical expertise in their program area. The Title VI Liaison Coordinator is responsible for monitoring procedures and practices within his or her respective area(s) of authority to ensure the area's programs are operated fairly, equitably, and in a nondiscriminatory manner in accordance with Title VI, E.O. 12898, and E.O. 13166. The Title VI Liaison Coordinator provides program activity information to the Civil Rights Administrator on an ongoing basis. Each Title VI Liaison Coordinator is located in a division within DelDOT where programs and activities are tied to Federal-aid funds. The divisional program areas include Planning, Public Relations, Transportation Solutions – Project Development (Design and Environmental Planning), Transportation Solutions – Construction, Transportation Solutions – Right-of-Way, Technology and Support Services (Contract Services and Procurement), Maintenance and Operations, and Research.

**Directors, Managers, and Supervisors** – Managers and supervisors in each division are responsible for familiarizing themselves with the requirements of Title VI, Executive Order 12898, Executive Order 13166, and for complying with the department's Title VI Program. They are responsible to promptly report issues or complaints concerning Title VI and related statutes to the Civil Rights Coordinator. They are also responsible for assisting the Title VI Liaison Coordinators in their efforts to implement all requirements, internally and externally, and in coordinating with the Civil Rights Section any proposed changes to DelDOT operating procedures, instructional memoranda, policies, and manuals, etc. that relate to Title VI.

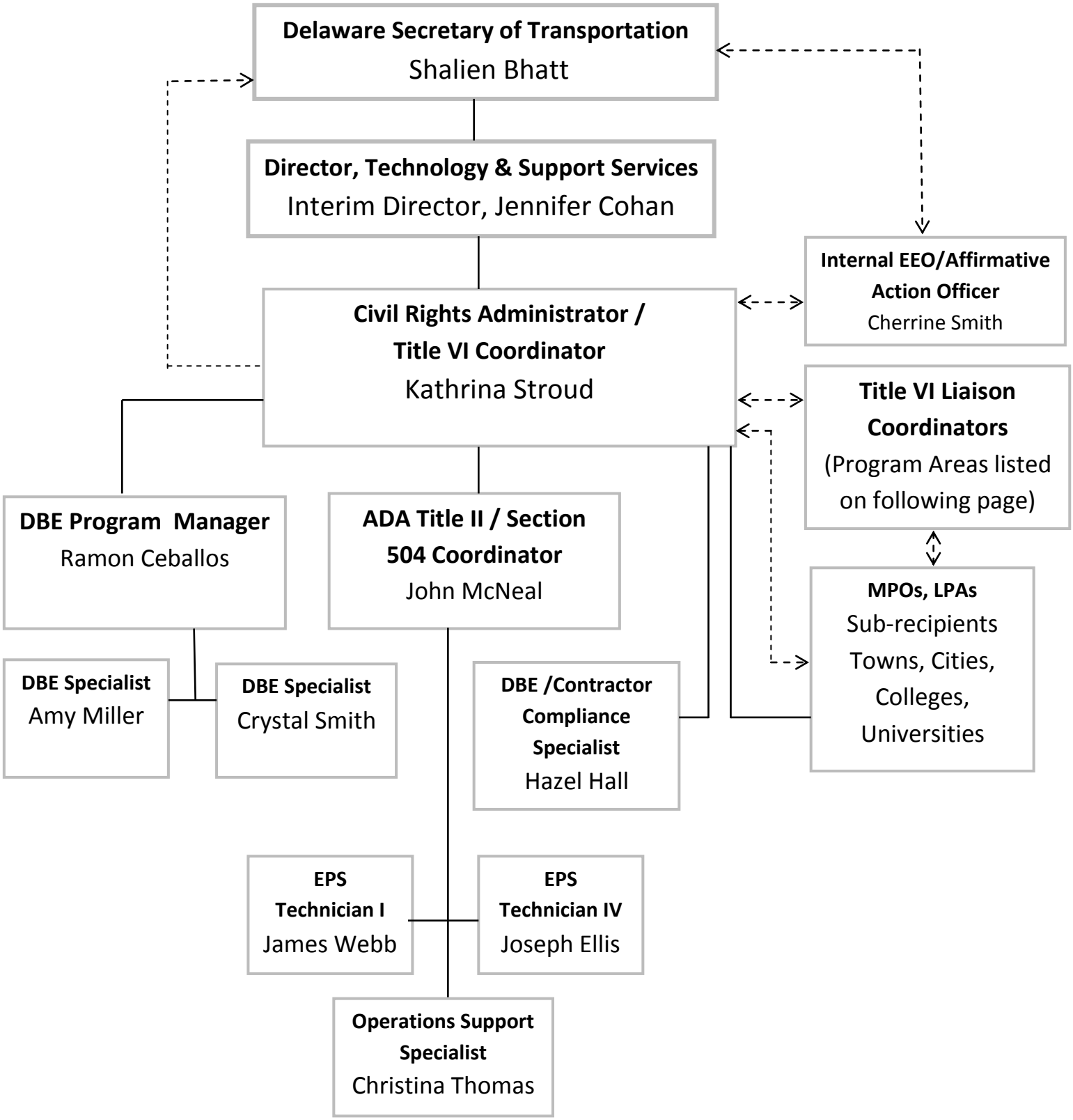
**Title VI Liaison Coordinator Committee** – The purpose of the Committee is to facilitate compliance with Title VI Nondiscrimination laws and assurances. An interdisciplinary team

(committee) approach to Title VI compliance has been established to provide an opportunity for Liaison Coordinators to work together to develop procedures related to Title VI compliance, to eliminate duplication of efforts, and to share information and ideas. The Committee is comprised of Title VI Liaison Coordinators from each program area, and includes areas of internal and external monitoring. Committee responsibilities include:

- Providing support, coordination, input and information on the processes, procedures and operations of respective areas of representation
- Providing input and guidance to effectively assist to resolve areas and issues of concern
- Liaison Coordinators will gather and report data to the Civil Rights Administrator for annual work plan and accomplishment report

Responsibilities of the Committee will be reviewed and updated as needed.

## 5. CIVIL RIGHTS SECTION ORGANIZATION CHART



**Title VI Liaison Coordinator Areas of Responsibility**

Internal Programs –

- Construction
- Contract Services/Procurement
- Planning
- Project Development
    - Design
    - Environmental
- Public Relations
- Right-Of-Way (Real Estate)
- Research

External (Subrecipient) Programs –

- Local Public Agencies
- Metropolitan Planning Organizations
- Colleges and Universities

Note: Title VI Liaison Coordinators, MPOs, LPAs, Subrecipients, Towns, Cities, Colleges and Universities are shown on the organizational chart for Title VI purposes only.

## 6. COMPLAINT DISPOSITION PROCEDURES

Discrimination under DelDOT's Title VI program is defined as an act, intentional or unintentional, through which a person or group of persons, has been subjected to unequal treatment or impact under any program or activity receiving Federal financial assistance based on race, color, national origin, disability, sex, age, or gender identity.

An individual or group that believes they have been subjected to discrimination by DelDOT or by one of DelDOT's subrecipients based on their race, color, national origin, sex, age, disability or gender identity may file a complaint.

Click here to view the complaint procedure or go to: http://regulations.delaware.gov/AdminCode/title2/2000/2500/2501. (Note: this procedure is located on the official website for the State of Delaware.)

## 7. PROCESS TO IDENTIFY/ELIMINATE DISCRIMINATION

DelDOT will identify and eliminate trends or patterns in discrimination by continuous monitoring and evaluation of activities and programs and through annual self-assessment of the Title VI Program. Through these means, weaknesses and patterns of discrimination will be identified and written plans to address issues and including corrective measures will be developed and implemented.

Also, each Program Liaison Coordinator is/will be responsible for reporting to the Civil Rights Administrator (CRA) any identified or potential areas of weakness or discrimination. Again, a written plan including corrective action will be developed and implemented. CRA will conduct periodic reviews of DelDOT Program Areas, and subrecipients and can conduct a review at the request of FHWA.

To further enhance the ability to identify and eliminate patterns of discrimination DelDOT will ensure that staff, subrecipients, and beneficiaries are educated and informed regarding Title VI roles and responsibilities on an ongoing basis. The Title VI Coordinator will provide technical assistance as requested or as deemed necessary.

## 8. PROCESS TO RESOLVE DEFICIENCIES IDENTIFIED (Compliance and Enforcement Procedures)

Communication with FHWA staff relating to Title VI should be regular and ongoing. For DelDOT, in most instances, information is communicated through the FHWA Delaware Division, Office of Civil Rights. As noted in 23 CFR 200.11, DelDOT must respond voluntarily to FHWA regarding deficiencies in a reasonable timeframe, not to exceed 90 days. If the Delaware Department of Transportation is notified by formal report of a deficiency, the following steps shall be implemented.

- The Civil Rights Administrator must determine what program area(s) are deficient and communicate the deficiency to the respective Title VI Liaison Coordinator, as well as the Title VI Compliance Committee.
- The Civil Rights Administrator and Title VI Liaison Coordinator from the effected program must determine the cause of the deficiency, and draft a Corrective Action Plan (CAP) to address the deficiency, which must include an implementation plan.
- Technical Assistance from the Civil Rights federal offices such as FHWA's Civil Rights District Office, may be requested to assist in resolution of deficiencies. The plan will be reviewed by the DelDOT Title VI Liaison Committee, and approved by the Director of Technology and Support Services, and endorsed by the Office of the Secretary.
- Responses to deficiencies (CAPs) must be formally documented and forwarded to FHWA for review and approval.
- The Title VI Program Area Liaison Coordinator will monitor and report to the Civil Rights Administrator at least quarterly on the status of the deficiency. Any deficiency will be reported in the next annual review period, even if the deficiency is resolved. Once an annual reporting period has passed, and the deficiency no longer exists, the Civil Rights Administrator will issue a memorandum to the Program Area Liaison Coordinator stating the deficiency has been cleared and is no longer a separate issue to be reported quarterly.

The following CFR guidelines are applicable to the process for resolving deficiencies:
23 CFR 200 (Applicable guidelines only).
Section 200.9 State highway agency responsibilities

(a) state assurances in accordance with Title VI of the Civil Rights Act of 1964
(3) The State highway agency shall take affirmative action to correct any deficiencies found by the FHWA within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with State-signed assurances and required guidelines. The head of the State highway agency shall be held responsible for implementing Title VI requirements.
Section 200.9 (b) State actions.
(15) Establishing procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary, all within a period not to exceed 90 days.
**Sec. 200.11 Procedures for processing Title VI reviews**
(c) Recipients placed in a deficiency status shall be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies.
(d) The Division Administrator shall seek the cooperation of the recipient in correcting deficiencies found during the review. The FHWA officials shall also provide the technical assistance and guidance needed to aid the recipient to comply voluntarily.

## 9. INTERNAL MONITORING AND REVIEW PROGRAM

While DelDOT's Civil Rights Administrator, serving as the Department's Title VI Coordinator, is responsible for administering and evaluating the effectiveness of the Title VI program, the Title VI Liaison Coordinators in each functional area are critical to the effective implementation of a functional Title VI program. The Liaison Coordinators have the expertise to understand fully how Title VI applies to their particular discipline and to effectively monitor actions to those requirements.

Across the Department, the Title VI Liaison Coordinators share responsibility for monitoring procedures and practices to ensure that programs are operated fairly, equitably, and in a nondiscriminatory manner. Title VI Liaison Coordinators are also responsible for assisting the Civil Rights Administrator with reporting and compliance review by providing information and documentation as requested that pertains to their particular program areas. The following sections of this document outline in detail the responsibilities of Title VI Liaison Coordinators and Civil Rights personnel based on functional areas within DelDOT.

## 10. INTERNAL MONITORING & REVIEW CONSTRUCTION

The Title VI Liaison Coordinators for Construction Administration are responsible for assuring that highway contracts and procedures comply with Title VI. The Civil Rights Administrator works with both Construction Administration and the Civil Rights Section's Contractor Compliance Officer (CCO) for the external program areas. The CCO monitors contractor compliance, the Disadvantaged Business Enterprise Program, and Training Special Provisions.

**Compliance Monitoring - Title VI Liaison Coordinators**

- Ensure monitoring of DelDOT Construction Groups to ensure that subcontracts contain the appropriate Title VI contract provisions including Appendix A of the *FHWA Standard Assurances for Title VI and Other Nondiscrimination Statutes and Regulations;*
- Administer and enforce the terms of the construction contract in a nondiscriminatory manner;
- Oversee the monitoring of construction project work to ensure compliance with contract plans, specifications, and civil rights special provisions;
- Ensure that policies and procedures for monitoring construction activity are applied in a nondiscriminatory manner.
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination);
- Report Title VI goals for the upcoming period annually to the Civil Rights Administrator.

**Compliance Monitoring – Contractor Compliance Officer / DBE Program Manager**

- Monitor construction accomplishments and problem areas;
- Develop procedures to incorporate the appropriate Training Special Provisions into all prime and subcontractor contracts;
- Ensure that all provisions of the DBE Program Plan are being implemented with respect to Federal-aid construction contracting and subcontracting;
- Ensure the appropriate level of DBE participation on Federal-aid highway construction projects;
- Identify areas of concern or any barriers to equal participation by female and minority firms on construction projects (i.e. bonding, cash flow, etc.);
- Establish procedures to review and monitor contractors and subcontractors for compliance with Title VI and with contract special provisions
- Review corrective action plans prepared by contractors when areas of deficiency with regard to Title VI/EEO requirements are identified;
- Monitor Commercially Useful Function reviews performed by DBE staff;
- Monitor prompt payment provisions for compliance;
- Report in the annual Title VI Assurances Update, Part 1, on any construction contract procedure complaints with potential Title VI implications;
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination);
- Report Title VI goals for the upcoming period annually to the Civil Rights Administrator.

**Annual Review – Civil Rights Administrator**

- The Civil Rights Section will review and report annually the Title VI activities of the Construction Sections. The following items may be considered during a review and will be reported to the FHWA in DelDOT's annual Title VI Assurance Update:
- Composition of the Construction section workforce by position title, race, and gender;
- Number of construction contracts awarded and the dollar amount of the award;
- Number of female and minority firms utilized and the dollar amount of the award;

- Number of contractors defaulting on contracts;
- Number of DBE contractors or subcontractors defaulting on contracts;
- Status of any Title VI construction complaints received during the reporting period;
- Any significant activities accomplished by the Title VI Liaison Coordinator or CCO during the review period;
- Any significant actions planned for the ensuing year.

## 11. INTERNAL MONITORING & REVIEW CONTRACT SERVICES/ PROCUREMENT

The Title VI Liaison Coordinator for Contract Administration has a primary responsibility for assuring that advertisements for construction contracts are executed in accordance with Title VI and incorporating the required Federal-aid contract provisions and assurances in bid documents. The Liaison Coordinator also has responsibility for assuring requests for proposals for professional service agreements incorporate required Federal-aid provisions and assurances. The Civil Rights Administrator coordinates external program areas with Contract Administration during the procurement process. Proposals are reviewed for compliance with the DBE Program Good Faith Effort requirements stipulated in 49 CFR Section 26.53. The CCO monitors contractor compliance, the Disadvantaged Business Enterprise Program, and Training Special Provisions.

**Compliance Monitoring - Title VI Liaison Coordinator Contract Administration**

Title VI responsibilities and duties for Contract Administration for contracts and professional services (consultant services) are to ensure that the required Federal-aid obligations (including *FHWA Standard Assurances for Title VI and Other Nondiscrimination Statutes and Regulations*) are incorporated in Requests for Proposals when Federal-aid is used to fund the projects. Prime Consultants are informed that Expression of Interest submittals will be considered non-responsive if their submitted expression of interest does not contain the required Federal-aid assurances. All consultants' Expression of Interest submittals are also reviewed for their intent to use disadvantaged business enterprise sub-consultants on Federal-aid consultant projects. Consultant firms are required to comply with the Disadvantaged Business Enterprise Program requirements as stipulated in 49 CFR Part 26.13(b); 26.29; and 26.37(b).

Title 29 Del. Cc. 69; Section 6962 (d)(7) requires that all state agencies awarding contracts financed with state funds include Equality of Employment Opportunity language. Every state public works contract advertised by the Department incorporates the Equality of Employment Opportunity contract clauses required by Delaware Code.

- The Delaware Department of Transportation complies with the advertising requirements set forth in Title 29 of the Delaware Code as follows:
- Competitively bid contracts – Section 6923(b)

- Competitively Sealed Proposals – Section 6924(b)
- Public Works Contracts – 6962(b)
- Professional Service Selection – Section 6981(b)

Advertisements include notification of DBE contract/proposal goal when prescribed. The Department confirms satisfactory compliance with DBE Good Faith Effort Requirements as stipulated in 49 CFR Part 26.53. The Delaware Department of Transportation does not require pre-qualification of a contractor, consultant or consultant entity to register. The Department requires registration. Pre-qualification is only done for selected projects. Appropriate licensing is required of all contractors and consultants. The apparent lowest responsible and responsive bidder's bid proposal is evaluated, awarded and executed as outlined in Title 29 of the Delaware Code Annotated Chapter 69, Section 6962(d)(13). In addition, the proposal is reviewed for compliance with the requirements of FHWA Form – 1273 and for compliance with 49 CFR Part 26.

Like all other Title VI Liaison Coordinators, the Contract Administration Liaison Coordinator will report accomplishments and goals related to Title VI annually to the Civil Rights Administrator.

**Compliance Monitoring – Contractor Compliance Officer / DBE Program Manager**

- Monitoring to ensure that contracts and agreements contain the appropriate Title VI, EEO and contractor compliance provisions
- Monitor construction project and professional services agreement accomplishments and problem areas;
- Develop procedures to incorporate the appropriate Training Special Provisions into all prime and subcontractor contracts;
- Ensure that all provisions of the DBE Program Plan are being implemented with respect to Federal-aid construction contracting and subcontracting and professional services agreements;
- Establish the appropriate level of DBE participation on Federal-aid highway construction projects and professional services agreements;
- Identify areas of concern or any barriers to equal participation by female and minority firms on construction projects and professional services agreements (i.e. bonding, cash flow, etc.);
- Establish procedures to review and monitor contractors, subcontractors, and professional services firms for compliance with Title VI and with contract training special provisions ;
- Review corrective action plans prepared by contractors or consultants when areas of deficiency with regard to Title VI/EEO requirements are identified;
- Monitor Commercially Useful Function reviews performed by DBE staff;
- Monitor prompt payment provisions for compliance;
- Report in the annual Title VI Assurances Update, Part 1, on any construction contract or professional services procedure complaints with potential Title VI implications;
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination);

- Report Title VI goals for the upcoming period annually to the Civil Rights Administrator.

**Annual Review – Civil Rights Administrator**

The Civil Rights Section will review and report annually the Title VI activities of the Contract Administration Section. The following items will be considered in the review and will be reported to the FHWA in DelDOT's annual Title VI Assurance Update:

- Composition of the Contract Administration section workforce by position title, race, and gender;
- Number of construction contracts and professional services agreements awarded and the dollar amount of awards;
- Number of female and minority firms utilized and the dollar amount of awards;
- Number of contractors/consultants defaulting on contracts;
- Number of DBE contractors or subcontractors/consultants defaulting on contracts/agreements;
- Status of any Title VI procurement complaints received during the reporting period;
- Any significant activities accomplished by the Title VI Liaison Coordinator or CCO during the review period;
- Any significant actions planned for the ensuing year.

## 12. INTERNAL MONITORING & REVIEW PROJECT DEVELOPMENT

The Project Development phase occurs between Planning and Construction. This is when project development explicitly defines the project, selects the final location, and prepares the final design. At this point, planning is done at the project level. Project Development encompasses both the Design and Environmental sections.

**Design**

The Project Development Title VI Liaison Coordinator for the Design section has the primary responsibility for assuring that all aspects of the design phase and the resulting final design are executed in accordance with Title VI. The process includes consultant selection, preliminary design work, development of alternatives, and final design.

**Compliance Monitoring - Project Development Design Title VI Liaison Coordinator**

- Review consultant/subconsultant agreements and construction contracts to determine that appropriate Title VI contract provisions are included;
- Ensure equal opportunity for female and minority-owned consulting firms to participate in consultant design agreements when participating in selection process;
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination);
- Report Title VI goals for the upcoming period annually to the Civil Rights Administrator.

**Environmental**

The Project Development Title VI Liaison Coordinator for the Environmental section has the primary responsibility for assuring that the determination of environmental effects and any resulting impacts and mitigative measures are executed in accordance with Title VI. This process requires consideration of all possible social, economic, and environmental (SEE) effects of a proposed project on minority or low-income groups in order to identify potential Title VI issues. It is here that the Title VI Liaison Coordinator investigates these effects to see if they meet the designed transportation needs and goals of the community. This process also provides for the protection and enhancement of the environment.

**Compliance Monitoring - Project Development Title VI Liaison Coordinator**

- Monitor compliance with Environmental Justice (E.O. 12898) by demonstrating what activities have been undertaken to identify and locate minority and low-income populations that may be impacted by transportation programs and activities;
- Monitor procedures for the identification of SEE impacts through use of the Environmental Evaluation checklist;
- Identify what mitigative measures have been employed in the location studies and project alternative analysis when there is the potential for disproportionate or discriminatory impacts on minority or low-income populations;
- When participating in the selection process, where consultant agreements regarding environmental issues are utilized for location studies, ensure that female and minority-owned consulting firms are afforded equal opportunity to participate in such agreements;
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination);
- Report Title VI goals for the upcoming period annually to the Civil Rights Administrator.

**Project Development Annual Review – Civil Rights Administrator**

The Civil Rights Section will review and report annually the Title VI activities of the Project Development Design and Environmental Sections. The following items will be considered in the review and will be reported to the FHWA in DelDOT's annual Title VI Assurance Update:

- Public involvement strategies for engaging minority and low-income populations in transportation decision-making and for reducing participation barriers;
- Whether the public involvement process is routinely evaluated and whether efforts are made to improve the process, especially with regard to minority and low-income populations;
- Efforts made to engage minority and low-income populations in the public outreach effort, and public outreach efforts utilizing media targeted to these groups;
- Methods used to ensure that issues/concerns raised by minority and low-income populations as well as other affected individuals and groups are appropriately considered in the decision-making process;
- Composition of the Project Development section workforce by position title, race and gender;
- Number of consultant agreements awarded and the dollar value of awards;
- Number of female and minority-owned firms and the dollar value of awards;

- Number and type of environmental activities completed;
- Summary of any Environmental Assessments or Environmental Impact Statements where minority and low-income populations were disproportionately impacted and any mitigating measures taken as a result;
- Efforts made to ensure an equal opportunity for participation of female and minority firms in obtaining consultant/subconsultant agreements and construction contracts;
- Potential concerns/barriers for female and minority consultants (i.e. licensing, pre-qualification, lack of subconsulting opportunities);
- Number of public hearings/information meetings held during the design phase and in what locations;
- Percentage of female and minority participation in public meetings/public involvement activities;
- Efforts made to take EJ concerns into consideration in the environmental process;
- Status of any Title VI complaints received regarding the design process, environmental project impacts, or the public involvement process;
- Any significant accomplishments made during the review period;
- Any significant actions planned for the ensuing year.

## 13. INTERNAL MONITORING & REVIEW PUBLIC RELATIONS

The Title VI Liaison Coordinator for public involvement is located in Public Relations and has a primary responsibility for assuring that public participation activities include consideration of Title VI Environmental Justice (EJ) and Limited English Proficiency (LEP) requirements. The public involvement phase occurs in conjunction with Planning and Project Development. At this point in the process, staff involved with the planning and development of a project collaborate with public involvement staff to develop the best strategy for gaining the appropriate level of public input. DelDOT staff may seek input from the public on a proposed project and its potential impacts to the community, particularly if there may be a disproportionate impact to a minority or low-income neighborhood. Later in the process, there may be a need to provide information on an on-going basis to the public as the project progresses through various stages of design and construction. Public Relations staff may be involved in the planning effort at the statewide level for long- and short-range planning purposes or at the project level from the preliminary phase through construction.

**Compliance Monitoring – Public Relations Title VI Liaison Coordinator**

- Monitor the overall strategies and goals of the public input process to ensure Title VI compliance;
- Monitor the utilization of demographic information to identify minority and low-income populations and determine strategies to reach these populations;
- Monitor the public involvement processes to improve performance and reduce participation barriers for minority and low-income populations;
- Monitor EJ (E.O. 12898) issues to identify and locate minority and low-income populations that may be impacted by transportation planning programs;
- Monitor compliance with E.O. 13166, LEP, to improve access and understanding of transportation issues for those in the population confronted with language barriers;

- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination);
- Report Title VI goals for the upcoming period annually to the Civil Rights Administrator.

**Public Relations Annual Reviews - Civil Rights Administrator**

The Civil Rights Section will review and report annually the Title VI activities of the Public Relations section. The following items will be considered in the review and will be reported to the FHWA in DelDOT's annual Title VI Assurance Update:

- Strategies used to ensure that all components of the public outreach process comply with Title VI;
- Whether a demographic profile of the State that includes identification of minority and low-income populations has been developed;
- Whether a process has been developed to identify the needs of minority and low-income populations;
- Whether there is a public involvement strategy for engaging minority and low-income populations in transportation decision-making and reducing participation barriers;
- Whether the public involvement process is routinely evaluated and whether any efforts were made to improve the process, especially with regard to minority and low-income populations;
- Efforts made to engage minority and low-income populations in the public outreach effort, and public outreach efforts made to utilize media targeted to these groups;
- Composition of the Public Relations workforce by position title, race and gender;
- Number of public information meetings/open houses that were held;
- Percentage of female and minority participation in public information meeting/open houses;
- Status of any Title VI complaints received regarding the public involvement process;
- Any significant Title VI accomplishments made during the review period;
- Any significant actions planned for the ensuing year.

## 14. INERNAL REVIEW AND MONITORING RIGHT-OF-WAY (Real Estate)

The Title VI Liaison Coordinator for the Real Estate Section has the primary responsibility for assuring that the ROW appraisal and negotiation functions and the results of those activities are executed in accordance with Title VI. This process includes property appraisals, negotiations with property owners, acquisition of properties, and relocation of people and businesses.

**Compliance Monitoring – Right-of-Way Title VI Liaison Coordinator**

- Review/monitor realtor, fee appraiser, and negotiator contracts to ensure inclusion of Title VI provisions;
- Monitor diversification in the use of fee appraisers;

- Monitor utilization of staff appraisers and consultants from the approved fee appraiser list to ensure all listed have an opportunity to perform services as needed;
- Monitor efforts made to ensure that female and minority appraisers are provided an equal opportunity to participate in the bid process for providing appraisal services to the department;
- Ensure equitable treatment of all businesses and persons displaced by highway projects regardless of race, color, age, gender, national origin or disability (i.e., property valuations, negotiations, and relocation benefits were conducted/calculated in a nondiscriminatory manner);
- Ensure adequate data collection procedures and systems are in place;
- Monitor efforts taken to overcome language barriers in all phases of the right-of-way process;
- Ensure Appendix C and Appendix D of the standard *FHWA Assurances for Title VI and Other Nondiscrimination Statutes and Regulations* are included in all Right-of-Way related excess land disposals (excess land sales) and airspace leases/licenses;
- Ensure that internal procedures are reviewed and updated as necessary to maintain Title VI compliance during all phases of the right-of-way process;
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination);
- Report Title VI goals for the upcoming period annually to the Civil Rights Administrator.

**Right-of-Way Section Annual Review - Civil Rights Administrator**

The Civil Rights Section will review and report annually the Title VI activities of the Right-of-Way Section. The following items will be considered in the review and will be reported to the FHWA in DelDOT's annual Title VI Assurance Update:

- Composition of the ROW section workforce by position title, race, and gender;
- Process for data collection and analysis;
- Property valuation (appraisal) processes;
- Number of consultant fee appraisers utilized;
- Number of female and minority consultant fee appraisers;
- Efforts made to ensure an equal opportunity for participation of female and minority consulting firms;
- Number of staff appraisers utilized;
- Number of female and minority staff appraisers;
- Efforts made to ensure an equal opportunity for the participation of females and minorities;
- Property acquisition (negotiation) processes;
- Number of internal and external negotiators utilized;
- Number of internal and external female and minority negotiators;
- Efforts made to ensure an equal opportunity for participation of females and minorities as negotiators for property acquisition;
- Efforts made to provide information in the appropriate language and/or number of times interpreters were used;
- Property relocation processes;
- Number of relocations involving female, minority, elderly, low-income, and disabled persons;

- Concerns raised, if any, by female, minority, elderly, low-income, and disabled persons who were relocated and what action was taken to address concerns;
- Number of relocation assistance contracts awarded;
- Number of female or minority firms utilized and efforts made to provide an equal opportunity for female and minority firms to participate in bidding for relocation assistance contracts;
- Status of any Title VI complaints received regarding the right-of-way process, i.e. appraisals, negotiations, relocation assistance, and payments;
- Property management processes including demographics related to rentals and property disposals;
- Any significant accomplishments made during the review period;
- Any significant actions planned for the ensuing year.

# 15. INTERNAL MONITORING & REVIEW RESEARCH

The Title VI Liaison Coordinator for Research has a primary responsibility for assuring that all aspects of transportation-related research projects are executed in accordance with Title VI. The process includes consultant/university selection and the diversification of research participants. Monitoring and review of colleges and universities will also be managed by the Liaison for this area.

**Compliance Monitoring – Research Title VI Liaison Coordinator**

- Ensure that the appropriate Title VI provisions are contained in the terms of all research agreements;
- Ensure sub-recipient college/university CEO has signed the standard US DOT Assurances for Title VI and Other Nondiscrimination Statutes and Regulations document.
- Ensure the sub-recipient college/university submits a Title VI Nondiscrimination Plan approved by the Department
- Monitor diversification in the selection of universities and consultants;
- Ensure equal opportunity for female and minority-owned consultant firms to compete for and participate in research contracts;
- Monitor the utilization of female and minority students on research projects by the contract universities;
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination);
- Report Title VI goals for the upcoming period annually to the Civil Rights Administrator.

**Annual Review - Civil Rights Administrator**

The Civil Rights Section will review and report annually the Title VI activities of the Research section. The following items will be considered in the review and will be reported to the FHWA in DelDOT's annual Title VI Assurance Update:

- Composition of the Research Section workforce by position title, race and gender;
- Number of research agreements currently underway by universities/and or consultants and the dollar amount;
- Efforts made to ensure equal opportunity for participation of female and minority consultants in obtaining research contracts;
- Possible concerns/barriers for female and minority consulting firms in obtaining research contracts;
- Amount of Federal (SPR) funds spent on contract research;
- Actions taken to encourage universities to utilize female and minority student participants on highway research projects;
- Percentage of female and minority participation in research projects;
- Status of any Title VI complaints received regarding research projects;
- Any significant accomplishments made during the review period;
- Any significant actions planned for the ensuing year.

# 16. INTERNAL MONITORING & REVIEW PLANNING

The Title VI Liaison Coordinator for Planning has a primary responsibility for assuring that multi-modal planning and the results of that planning are executed in accordance with Title VI requirements. This process entails deliberation of all possible social, economic, and environmental effects of a proposed plan or program on all affected groups in order to avoid the unintended creation of inappropriate and biased programs. The Planning Title VI Liaison Coordinator also monitors the transportation planning activities of the various Metropolitan Planning Organizations (MPOs) and Local Public Agency LPAs to ensure consistency with Title VI compliance requirements.

**Compliance Monitoring – Planning Title VI Liaison Coordinator**

- Monitor the overall strategies and goals of the transportation planning process to ensure Title VI compliance;
- Monitor Environmental Justice (EJ) (E.O. 12898) issues to identify and locate minority and low-income populations that may be impacted by transportation planning programs;
- Monitor the utilization of demographic information that identifies minority and low-income populations and evaluate the equitable distribution of the benefits/burdens of the transportation plans and activities on these populations;
- Ensure that minority and low-income populations have an equal opportunity to participate in the transportation planning process;
- Monitor efforts made to ensure that female and minority-owned consultant firms have an equal opportunity for utilization on Planning agreements;
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination) for DelDOT Planning, MPOs and LPAs;
- Report Title VI goals for DelDOT Planning, MPOs and LPAs for the upcoming period annually to the Civil Rights Administrator.

**Annual Reviews - Civil Rights Administrator**
The Civil Rights Section will review the Title VI activities of Planning annually. The following items will be considered in the review and will be reported to the FHWA in DelDOT's annual Title VI Assurance Update:

- Strategies used to ensure that all components of the transportation planning process comply with Title VI;
- Whether and how demographic information for the State was compiled that includes identification of minority and low-income populations;
- Whether a process was developed to identify the needs of minority and low-income populations and whether demographic information was used to assess the distribution of equitable benefits to all groups;
- Whether there is an analytical process in place to assess the benefits/burdens of transportation system investments on minority and low-income populations, and what data source and tools are used to support such an analysis;
- Whether there is a public involvement strategy for minority and low-income populations to engage in transportation decision-making and reducing participation barriers;
- Whether the public involvement process is routinely evaluated and whether any efforts were made to improve the process, especially with regard to minority and low-income populations;
- Methods used to ensure that issues/concerns raised by minority and low-income populations as well as other affected groups are considered in the decision-making process;
- Composition of the Planning workforce and internships by position title, race and gender;
- Number of Planning consultant agreements awarded and the dollar value of awards;
- Number of female and minority-owned firms with dollar value of awards;
- Methods used to encourage the use of female and minority Planning consultants and subconsultants;
- Amount of Federal money passed to individual MPOs and LPAs through DelDOT for transportation planning;
- Status of any Title VI complaints received regarding transportation planning or the public involvement process;
- Any significant planning accomplishments made during the review period;
- Any significant planning actions planned for the ensuing year.

## 17. EXTERNAL (SUBRECIPIENT) MONITORING & REVIEW PROGRAM

Each year DelDOT allocates a portion of its FHWA funding to Metropolitan Planning Organizations (MPOs) and Local Public Agencies (LPAs) in the form of direct funding or grants/awards, to be used for transportation planning and construction projects at the metropolitan and/or local level.

**Reviews/Reporting**

Federal regulation 23 CFR 200.9b (7) requires DelDOT to "conduct Title VI reviews of cities, counties, consultant contractors, suppliers […] and other recipients of Federal-aid highway funds." Therefore, in order for DelDOT to approve any grant/award application(s) involving the receipt of Federal-aid funds, local agencies must complete a pre-award assurance. For example, a non-discrimination agreement must be signed as part of the grant/award funding agreement process (State and Local Agreement) for MPOs and LPAs. The non-discrimination agreement serves as the LPA's Title VI Plan and includes implementation procedures, reporting requirements, and a description of potential sanctions for non-compliance. Additionally, the agreement requires the MPO/LPA to pass down non-discrimination requirements in their own contracting process. This new procedure provides pre- and post-award reviews and supports required Federal reporting. It also provides DelDOT staff an opportunity to deliver technical assistance when requested.

Depending on the size of the grant and the frequency of grants awarded, the MPO/LPA will be required to submit an annual report or undergo an on-site review. Generally, sub-recipients receiving direct funding or grants in excess of $250,000 will undergo an on-site review at least once during the life of the project. During alternate years and for grants/awards less than $250,000, a Title VI Annual Update of Accomplishments Report will be required.

Each of the MPOs develops its own Title VI Plan that describes implementation, reporting, and complaint procedures. DelDOT staff reviews MPOs each year either through a standard reporting process or by an on-site review. The MPOs also undergo a triennial FHWA/FTA joint review, which includes a Title VI compliance assessment.

**Complaint Process**
The non-discrimination agreement includes a procedure for handling Title VI complaints. The LPAs sign this agreement as part of the award process. The MPOs include a complaint procedure within their Title VI Plans.

**Funding**
The two Delaware Metropolitan Planning Organizations, Wilmington Metropolitan Area Planning Organization (WILMAPCO) and the Dover/Kent Metropolitan Planning Organization, receive Federal financial assistance. The LPAs also receive Federal financial assistance.

## 18. EXTERNAL (SUBRECIPIENT) MONITORING & REVIEW LOCAL PUBLIC AGENCIES (LPA)

Local Public Agencies (LPA) not covered by the MPOs are responsible for the transportation planning process within their jurisdiction. Each LPA develops a three-year Transportation Improvement Program (TIP) and a long-range transportation plan and develops and implements an annual Unified Planning Work Program (UPWP). The Title VI Liaison Coordinator for LPAs advises them regarding Title VI compliance.

**Compliance Monitoring – LPA Title VI Liaison Coordinator**

- Monitor overall strategies and goals of the transportation planning process to ensure Title VI compliance;

- Ensure LPA has a signed US DOT standard Assurances for Title VI and Other Nondiscrimination Statutes and Regulations document;
- Ensure the required Title VI nondiscrimination language is included in all solicitations, RFPs, contracts and subcontracts for LPA,
- Ensure LPA has a Title VI Nondiscrimination Coordinator;
- Ensure LPA has a Title VI Nondiscrimination Plan approved by the Department;
- Monitor the utilization of demographic information to identify minority and low-income populations and examine the distributions of the benefits/burdens of the transportation plans and activities on these groups;
- Monitor the service equities of the planning data collection and analyses for impacts on different socio-economic groups;
- Monitor the public involvement processes to improve effectiveness and reduce participation barriers for minority and low-income populations;
- Monitor Environmental Justice (E.O. 12898) issues to identify and locate minority and low-income populations that may be impacted by transportation planning programs;
- Monitor compliance with E.O. 13166, Limited English Proficiency, to improve access and understanding of transportation planning processes for those in the population confronted with language barriers;
- Ensure that female and minority-owned firms have an equal opportunity to participate in the consultant selection phase of the transportation planning process;
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination) to DelDOT Planning (or the Civil Rights Administrator if requested);
- Report Title VI goals for the upcoming period annually to DelDOT Planning (or the Civil Rights Administrator if requested).

**Annual Review - Civil Rights Administrator/LPA Title VI Liaison Coordinator**
The information listed below is obtained annually from each LPA and reviewed for compliance with Title VI. The Civil Rights Administrator conducts on-site reviews with the LPAs annually, establishing a three-year review cycle for each LPA.

- Strategies used to ensure that all components of the transportation planning process comply with Title VI;
- Whether the LPA has developed a demographic profile of its planning area that includes identification of minority and low-income populations;
- Whether the LPA has developed a process to seek to identify the needs of minority and low-income populations and to use demographic information to assess the distribution of benefits across these groups;
- What process is in place to assess the benefits/burdens of transportation system investments on minority and low-income populations on an analytic basis and whether an appropriate data source and tools are used to support the analysis;
- Whether a public involvement strategy for engaging minority and low-income populations in transportation decision-making is in place and what steps are being taken to reduce any participation barriers that have been identified;
- Determine if the public involvement process is routinely evaluated and whether there have been efforts made to improve effectiveness, especially with regard to minority and low-income populations and any other affected groups;

- What efforts have been made to engage minority and low-income populations in the public outreach effort and whether the public outreach effort utilizes media targeted to minority and low-income groups;
- What procedure the LPA has established for using issues/concerns raised by minority and low-income populations as well as other affected individuals and groups in the decision-making process;
- Composition of the LPA's workforce by position title, race and gender;
- The names, race, and gender of the individuals that make up the leadership of the LPA's and what criteria has been established for their selection and retention;
- Number of construction contracts and consultant agreements awarded and the dollar amount of awards;
- Number of female and minority firms awarded contracts and consultant agreements and the dollar amount of awards;
- Efforts made to ensure an equal opportunity for female and minority contractors and consulting firms to participate in the bid and consultant selection process;
- Number of hearings, the location, and the times of day the hearings were held;
- Percentage of female and minority participation at the hearings; Number of public information meetings/open houses held;
- Percentage of female and minority participation in public information meetings/open houses;
- Efforts made to take Environmental Justice concerns into consideration in the transportation planning process;
- Whether there was any training received regarding Title VI or Environmental Justice;
- Review of the LPA internal complaint procedures and policies;
- Status of any Title VI complaints received regarding any of the transportation planning and public involvement processes;
- Any significant Title VI activities or accomplishments made during the review period;
- Any significant Title VI activities or actions planned for the ensuing year.

## 19. EXTERNAL MONITORING & REVIEW METROPOLITAN PLANNING ORGANIZATIONS (MPO)

The Metropolitan Planning Organizations (MPOs) are responsible for the transportation planning process within their urbanized areas. Each MPO develops a three-year Transportation Improvement Program (TIP) and a long-range transportation plan and develops and implements an annual Unified Planning Work Program (UPWP). The Planning Title VI Liaison Coordinator assists the MPOs in the transportation planning activities that require Title VI compliance and advises them on Title VI compliance issues. The following are the MPOs for the state of Delaware:

- Wilmington Area Planning Council (WILMAPCO)
- Dover/Kent County Metropolitan Planning Organization

**Compliance Monitoring - Planning Title VI Liaison Coordinator for MPOs**

- Monitor overall strategies and goals of the transportation planning process to ensure Title VI compliance;

- Ensure the MPO has signed the standard US DOT Assurances for Title VI and Other Nondiscrimination Statutes and Regulations document;
- Ensure that Title VI nondiscrimination assurances are included in all solicitations for bid and requests for proposals, and in all prime contracts, agreements and subcontracts;
- Ensure the MPO has a Title VI Coordinator;
- Ensure the MPO has submitted a Title VI Nondiscrimination Plan approved by the Department;
- Monitor the utilization of demographic information to identify minority and low-income populations and examine the distributions of the benefits/burdens of the transportation plans and activities on these groups;
- Monitor the service equities of the planning data collection and analyses for impacts on different socio-economic groups;
- Monitor the public involvement processes to improve effectiveness and reduce participation barriers for minority and low-income populations;
- Monitor Environmental Justice (E.O. 12898) issues to identify and locate minority and low-income populations that may be impacted by transportation planning programs;
- Monitor compliance with E.O. 13166, Limited English Proficiency, to improve access and understanding of transportation planning processes for those in the population confronted with language barriers;
- Ensure that female and minority-owned firms have an equal opportunity to participate in the consultant selection phase of the transportation planning process;
- Monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices/procedures to address actual or potential discrimination) to DelDOT Planning (or the Civil Rights Administrator if requested);
- Report Title VI goals for the upcoming period annually to DelDOT Planning (or the Civil Rights Administrator if requested).

**Annual Review - Civil Rights Administrator**

The information listed below is obtained annually from each MPO and reviewed for compliance with Title VI. The Civil Rights Administrator conducts on-site reviews with MPOs, establishing a three-year review cycle for each MPO. The following items will be considered in the review and will be reported to the FHWA in DelDOT's annual Title VI Assurance Update:

- Strategies used to ensure that all components of the transportation planning process (including preparation of work plans, public participation plans, long-range plans, and transportation management area certification reviews) comply with Title VI;
- Whether the MPO has developed a demographic profile of its planning area that includes identification of minority and low-income populations;
- Whether the MPO has developed a process to seek to identify the needs of minority and low-income populations and to use demographic information to assess the distribution of benefits across these groups;
- What process is in place to assess the benefits/burdens of transportation system investments on minority and low-income populations on an analytic basis and whether an appropriate data source and tools are used to support the analysis;

- Whether a public involvement strategy for engaging minority and low-income populations in transportation decision-making is in place and what steps are being taken to reduce any participation barriers that have been identified;
- Determine if the public involvement process is routinely evaluated and whether there have been efforts made to improve effectiveness, especially with regard to minority and low-income populations and any other affected groups;
- What efforts have been made to engage minority and low-income populations in the public outreach effort and whether the public outreach effort utilizes media targeted to minority and low-income groups;
- What procedure the MPO has established for using issues/concerns raised by minority and low-income populations as well as other affected individuals and groups in the decision-making process;
- Composition of the MPO's workforce by position title, race and gender;
- The names, race and gender of the individuals on the MPO's Board of Directors and what criteria has been established for their selection and retention;
- Number of consultant agreements awarded and the dollar amount of awards;
- Number of female and minority firms working with the MPOs and the dollar amount of awards;
- Efforts made to ensure an equal opportunity for female and minority consulting firms to participate in the consultant selection process;
- Number of hearings, the location, and the times of day the hearings were held;
- Percentage of female and minority participation at the hearings;
- Number of public information meetings/open houses held;
- Percentage of female and minority participation in public information meetings/open houses;
- Efforts made to take Environmental Justice concerns into consideration in the transportation planning process;
- Whether there was any training received regarding Title VI or Environmental Justice;
- Review of the MPO's internal complaint procedures and policies;
- Status of any Title VI complaints received regarding any of the transportation planning and public involvement processes;
- Any significant Title VI activities or accomplishments made during the review period;
- Any significant Title VI activities or actions planned for the ensuing year.

## 20. EXTERNAL (SUBRECIPIENT) MONITORING & REVIEW COLLEGES AND UNIVERSITIES

Delaware State University and the University of Delaware are sub-recipients and are subject to monitoring and review of their activities related to Title VI compliance. The Research Title VI Liaison Coordinator is involved in the transportation research activities that require Title VI compliance and advises colleges and universities on Title VI compliance issues. See Internal Monitoring & Review - Research for activities related to colleges and universities.

As sub-recipients, colleges and universities are required to have a signed Assurances document (see sample in Appendix A), which must be re-signed every three years. If there is a change in

top leadership (president), a new Assurances statement must be signed within thirty days. The college or university will also be responsible for including the Title VI/Nondiscrimination Assurance paragraph in solicitations for bid, requests for proposals, and project agreements.

The Civil Rights Administrator conducts on-site reviews with the college/university, establishing a three-year review cycle for each.

Detailed responsibilities of the Research Title VI Liaison Coordinator and the Civil Rights Administrator are listed in **Internal Monitoring and Review – Research**.

## 21. PUBLIC INVOLVEMENT PLAN

A successful public involvement plan (PIP) involves early and continued involvement of citizens who are impacted by DelDOT projects without regard to race, color, national origin, sex, disability, or socio-economic status. Individuals with limited English proficiency (LEP) must also be considered in order to ensure equal opportunity to participate in public involvement activities. DelDOT's Public Involvement Policy was issued in 1996 with the purpose of establishing policies and procedures for DelDOT to reference and implement to mitigate adverse impacts associated with its projects, or, as deemed appropriate, to consider and offer alternatives when adverse impacts cannot be avoided. The PIP was developed in accordance with guidelines set out in 23 USC § 135 (f)(1)(c) and 23 CFR § 450.210, both of which indicate the State must allow public involvement in the planning process. Additional considerations regarding public involvement include the National Environmental Policy Act (NEPA)(42 USC §4331, 40 CFR § 1506.6 (a)-(f); 23 CFR §771.111(h), and Environmental Justice (EJ)(Executive Order 12898)

Click this link for DelDOT Policy Implement #O-03 Public Involvement or go to:

http://mydot/divisions/planning/policies_procedures/pi/o03.shtml.

DelDOT is currently in the process of updating Policy Implement #O-03.

## 22. TRAINING

**Internal/External**

Per 23 CFR § 200.9, State highway agencies are responsible for providing Title VI training programs for program areas and civil rights officials. DelDOT employees requiring periodic Title VI non-discrimination training include the Secretary, Senior Management, Division Directors, Civil Rights Staff, and Committee Liaisons (assigned to each federal program area) Planning staff and project managers. Periodic training will also be provided to sub-recipient's Title VI Coordinators for MPOs, LPAs, and Colleges and Universities. It is the responsibility of the Civil Rights Administrator to ensure that training programs are provided for the individuals, groups and entities noted herein. Training conducted will be documented and reported to FHWA annually in DelDOT's Title VI/Nondiscrimination Work Plan and Accomplishment

# 23. ENVIRONMENTAL JUSTICE

The National Environmental Policy Act NEPA Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898) directs each Federal Agency to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations," including tribal populations.

To provide guidance and support for environmental justice requirements and efforts, The Federal Interagency Working Group on Environmental Justice (EJ IWG) was established under Executive Order 12898 which was signed by President Clinton on February 11, 1994. The Environmental Protection Agency is the Chair of this working group, and the Department of Transportation is represented on the committee.

The Environmental Protection Agency Office of Environmental Justice defines environmental justice as:
"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. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies."

In order to comply with the federal Environmental Justice requirements, DelDOT will:

- Identify minority and low-income populations;
- Implement public participation procedures to ensure participation of identified minority and low-income populations within the limits of a proposed project;
- Consider alternatives and propose measures to avoid or mitigate "disproportionately high and adverse environmental or public health effects and interrelated social and economic effects" of proposed projects, programs, policies, and activities;
- Ensure that "programs, policies, and activities that will have disproportionately high and adverse effects on minority populations and/or low-income populations will only be carried out if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is "practicable," the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account." (Excerpt from Department of Transportation Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations (5610.2(a)).

Prior references to Environmental Justice may be found in Internal Monitoring and Review Project Development (Environmental and Design) and Planning. Also see State of Delaware Policy Implement #O-03 (Exhibit C) and FHWA Order 6640.23A FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

# 24. LANGUAGE ACCESS PLAN (LIMITED ENGLISH PROFICIENCY)

Most individuals living in the United States adequately read, write, speak, and understand English. However, there are many individuals whose primary language is not English. Individuals with a limited ability to read, write, speak, or understand English have Limited English Proficiency, or LEP. The greater the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population, the more likely language services are needed.

DelDOT is responsible for ensuring that LEP persons have meaningful access to all Federal-aid programs, activities, and services. Federal-aid Programs include the following: Planning, Environment, Design, Right-of-Way (ROW), Construction, and Safety. Whenever DelDOT holds a public hearing/meeting, the legal notice regarding the hearing/meeting must indicate that LEP persons may request that documents are printed in an alternate language by contacting a DelDOT representative to communicate this need a reasonable amount of time prior to the event. Additionally, legal notices must inform LEP persons that a translator will be made available if DelDOT is notified sufficiently in advance of the hearing/meeting. In the case of ROW agents making individual contacts, if a property owner does not speak English as his/her primary language, the ROW agent will consult the DelDOT Language Request List to coordinate the services of another DelDOT employee who may act as a translator or contract out for translation services.

On August 11, 2000, President Clinton signed Executive Order 13166, entitled "Improving Access to Services for Persons with Limited English Proficiency" (LEP). The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) were instructed to ensure that all FHWA/FTA funding recipients provide meaningful access to their LEP applicants and beneficiaries.

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. Recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important governmental services.

As a recipient of Federal funding, DelDOT is required to take reasonable steps to ensure LEP persons have meaningful access to all Federal-aid programs and activities. To comply with Title VI of the Civil Rights Act of 1964, as amended, DelDOT adheres to acceptable compliance standards ensuring reasonable access to all Federal-aid programs and activities by LEP persons to prevent discrimination on the basis of national origin. Coverage extends to all DelDOT programs and activities.

This section of the Title VI Plan describes steps that DelDOT must take to ensure meaningful access by LEP persons to Federal-aid Programs and activities. Populations likely to include LEP persons seeking or utilizing DelDOT programs and services may include, but are not limited to:

- Public transportation passengers;
- Persons who apply for a driver's license at a State department of motor vehicles office;

- Persons subject to the control of State or local transportation enforcement or authorities, including, for example, commercial motor vehicle drivers;
- Persons served by emergency transportation response programs;
- Persons living in areas affected or potentially affected by transportation projects;
- Business owners who apply to participate in the Disadvantaged Business Enterprise Program.

The LEP Program is designed to be flexible and fact dependent. The LEP four-factor analysis will be utilized to ensure balanced individualized assessment and consists of the following:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a DelDOT program, activity, or service;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the DelDOT program, activity, or service to people's lives;
4. The resources available to DelDOT and costs.

DelDOT will ensure that any resource limitations are identified and that every reasonable effort will be made to ensure access to programs, services, and activities and will be made available to the LEP group, community, or population. Resources and actions that may reduce the costs needed to provide access to LEP individuals include, but are not limited to:

- Training bilingual staff to act as interpreters and translators;
- Sharing information through industry groups;
- Making available telephonic and video conferencing interpretation services;
- Translating vital documents posted on Web sites;
- Pooling resources and standardizing documents to reduce translation needs;
- Using qualified translators and interpreters to ensure that documents need not be "fixed" later and that inaccurate interpretations do not cause delay or other costs;
- Centralizing interpreter and translator services to achieve economies of scale;
- Formalizing use of qualified community volunteers.

**Language Services**

There are two main ways to provide language services: oral interpretation either in person or via telephone interpretation services; and written translation. Oral interpretation can range from onsite interpreters for critical services to commercially available telephonic interpretation services. Written translation can range from translation of an entire document to translation of a short description of the document.

Providing transportation access to LEP persons is crucial. An LEP's person's inability to utilize effectively public transportation may adversely affect his or her ability to obtain health care, education, or access to employment. When it is determined that interpretation is needed and reasonable, it should be provided in a timely manner in order to be effective.

If an LEP person voluntarily chooses to provide his or her own interpreter, DelDOT should consider making a record of that choice and whether the offer of assistance is appropriate. Where precise, complete, and accurate interpretations or translations of information and/or testimony are critical, or where the competency of the LEP person's interpreter is not established, DelDOT may decide to provide its own, independent interpreter, even if the LEP person wants to use his or her own interpreter as well. Extra caution should be used when the LEP person chooses to use a minor as an interpreter.

Interpreters should demonstrate proficiency in the ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting (e.g., consecutive, simultaneous, summarization, or sight translation). Interpreters should have knowledge in both languages of any specialized terms or concepts peculiar to the program or activity and of any particularized vocabulary and phraseology used by the LEP person. Interpreters also should understand and follow confidentiality and impartiality rules regarding the person for whom they are interpreting. They should understand and adhere to their role as interpreters without deviating into a role as counselor, advocate, or legal advisor.

DelDOT will determine which items will be translated applying the four-factor analysis. DelDOT will translate written materials into the language(s) most frequently identified with the intent of ensuring meaningful access to the particular LEP population. Written materials may include, but are not limited to:

• Emergency transportation information;
• Markings, signs, and packaging for hazardous materials and substances;
• Signage in bus and train stations, and in airports;
• Notices of public hearings (i.e. legal notices) regarding DelDOT's proposed transportation plans/projects, changes to plans/projects, and reduction, denial, or termination of services or benefits;
• Signage in waiting rooms, reception areas, and other initial points of entry;
• Notices advising LEP persons of free language assistance and language identification cards for staff;
• Statements about available services and access to free language translation services in appropriate non-English languages, in brochures, booklets, outreach and recruitment information, and other materials for the identified LEP population;
• Written tests that do not assess English-language competency, but test competency for a particular license, job, or skill for which knowing English is not required;
• Applications or instructions on how to participate in a DelDOT program or activity or to receive DelDOT benefits or services (i.e. ROW acquisition/relocation brochure);
• Consent forms.

**Language Assistance**

DelDOT maintains a listing of employees proficient in languages other than English. This is a resource made available by DelDOT employees to assist LEP persons in accessing necessary services, programs, or activities. DelDOT can utilize State of Delaware procurement contracts that have been established for the purpose of providing onsite oral and written interpretation services, and telephone based services.

## 25. REVIEW OF DELDOT DIRECTIVES

Annually, the Civil Rights Administrator will review DelDOT new directives, and those issued by other governing and state agencies, such as the governor’s office, that impact DelDOT to determine if there are Title VI implications that affect the operations of the Department. If a directive is determined to have Title VI implications, the impact to each program area will be detailed. This information will be shared via memorandum and during meetings and trainings with Liaison Coordinators, executive staff, and management as deemed appropriate.

# 26. TITLE VI IMPLEMENTATION PLAN

DelDOT began implementing a renewed Title VI Program in early 2013 when the Department hired a Civil Rights Administrator who is also the designated Title VI Coordinator, with full-time responsibility for initiating and monitoring DelDOT's Title VI Activities. The immediate priorities were to draft the Title VI Plan and to gain FHWA approval of the written plan. Approval of this document will accomplish that goal.

Moving into FFY 2015 the Title VI Coordinator will meet with Title VI Liaison Coordinators and establish a baseline of DelDOT's functioning with respect to its Title VI obligations. Once the baseline is established, process reviews will be scheduled for major program areas, so that strengths and weaknesses can be identified, addressed and reported.

Another priority for the Title VI Coordinator is to complete the four-factor analysis and the language implementation plan. Initially, the Department will conduct a self-assessment to identify language service needs and evaluate the translation and interpretation resources already available. We will plan a course forward from there.

DelDOT will also begin actively monitoring and reviewing sub-recipients to ensure they are compliant with Title VI requirements including 1) identifying a Title VI designee; 2) establishing a schedule for and carrying out compliance reviews; and 3) providing training and technical assistance regarding Title VI obligations.

# 27. SUMMARY

DelDOT's Title VI plan ensures that the benefits of our programs and project are available to everyone. Although the Civil Rights Administrator has primary responsibility to direct Title VI compliance activities, it is imperative that every DelDOT employee understand his or her role. With the input of our internal and external partners and resources, DelDOT can be sure the intent of Title VI will be carried out as part of our day to day activities

# 28. APPENDICES

## ACRONYMS

**ADA**.....Americans with Disabilities Act of 1990

**ADAAG**.....Americans with Disabilities Act Accessibility Guidelines

**ADR**.....Alternative Dispute Resolution

**CFR** ..... Code of Federal Regulations

**DBE** .....Disadvantaged Business Enterprise

**DelDOT** ..... Delaware Department of Transportation

**EEO** .....Equal Employment Opportunity

**EJ**.....Environmental Justice

**E.O.**.....Executive Order

**FHWA** ..... Federal Highway Administration

**FOIA** .....Freedom of Information Act

**FTA** .....Federal Transportation Administration

**HBCU**.....Historically Black Colleges and Universities

**HCR**..... FHWA Headquarters Office of Civil Rights

**LEP**.....Limited English Proficiency

**LPA** .....Local Public Agency

**MPO** .....Metropolitan Planning Organizations

**PS&E**..... Plans, Specifications, and Estimate

**RFI**.....Request for Information

**ROW** .....Right-of-Way

**SEE**.....Social, Economic, and Environmental

**SPR**.....State Planning and Research

**U.S.C.** ..... United States Code

**UPWP**..... Unified Planning Work Program

**USDOJ** ..... U.S. Department of Justice

**USDOT**.....U.S. Department of Transportation

**TIP**.....Transportation Improvement Program

**WILMAPCO** ..... Wilmington Metropolitan Area Planning Organization

# 29. TITLE VI DEFINITIONS

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

***Beneficiary*** - Any person or group of persons (other than the United States) entitled to receive benefits, directly or indirectly from any federally assisted program i.e., relocated, 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 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.

***Deficiency status*** - The interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI program guidelines, but has not been declared in noncompliance by the Secretary of Transportation.

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

***Facility*** - Includes all, or any part of, structures, equipment, or other real or personal property, or interests therein, and "the provision of facilities" includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

***Federal assistance*** - Includes:

(1) Grants and loans of Federal funds,

(2) The grant or donation of Federal property and interests in property,

(3) The detail of Federal personnel,

(4) 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

(5) Any Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

***Noncompliance*** - A recipient has failed to meet prescribed requirement and has shown an apparent lack of good faith effort in implementing all of the Title VI requirements.

***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", "Asian or 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.

***State highway agency*** - That department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term "State" would be considered equivalent to "State highway agency" if the context so implies.

***Program area officials*** - The officials in FHWA who are responsible for carrying out technical program responsibilities.

***Recipient*** - Any State, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term "recipient" does not include any ultimate beneficiary under any such program.

***Secretary*** - The Secretary of Transportation as set forth in 49 CFR 21.17(g)(3) or the Federal Highway Administrator to whom the Secretary has delegated his authority in specific cases.

***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, sex, or national origin 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-d4 (49 CFR, Part 21; the standard DOT Title VI assurances signed by each State pursuant to DOT Order 1050.2; Executive Order 11764; 28 CFR 50.3);

(2) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655) (49 CFR Part 25; Pub. L. 91-646);

(3) Title VIII of the Civil Rights Act of 1968, amended 1974 (42 U.S.C. 3601-3619);

(4) 23 U.S.C. 109(h);

(5) 23 U.S.C. 324;

(6) Subsequent Federal-Aid Highway Acts and related statutes

## 30. AUTHORITIES

**Title VI of the Civil Rights Act of 1964** (42 USC § 2000d, 78 stat. 252) prohibits discrimination in federally funded programs on the basis of race, color, and national origin.
**Federal-Aid Highway Act of 1973** (23 USC § 324**)**: amended Title VI to prohibit discrimination on the basis of sex in Federal-Aid highway programs.
**Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,** as amended (42 USC § 4601): prohibits unfair and inequitable treatment of persons as a result of projects that are undertaken with Federal Financial Assistance.
**Age Discrimination Act of 1975, as amended (**42 USC § 6101): prohibits discrimination in federally funded programs on the basis of age.
**Civil Rights Restoration Act of 1987 (**Public Law 100-259 March 1988) amended Title VI of the 1964 Civil Rights Act to make clear that discrimination is prohibited throughout all the operations of an agency if any part of the agency receives Federal assistance.
**Title VIII of the 1968 Civil Rights Act (**Fair Housing Act): prohibits discrimination in the sale or rental of housing on the basis of race, color, religion, sex, national origin, or disability.
**Executive Order 12898**: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
**Executive Order 13166 (Limited English Proficiency)**: Improving Access to Services for Persons with Limited English Proficiency.
**23 CFR Part 200**: FHWA Title VI Program and Related Statutes – Implementation and Review Process
**Section 504 of the Rehabilitation Act of 1973,** ( 29 USC § 794) as amended: prohibits discrimination on the basis of disability.
**Americans with Disabilities Act of 1990**, (42 USC § 12101): prohibits discrimination on the basis of disability.
**The National Environmental Policy Act of 1969** (42 USC § 4321) prohibits disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.
**49 CFR Part 21:** Nondiscrimination in Federally-Assisted Programs of The Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964.
**49 CFR Part 27**: Nondiscrimination On the Basis of Disability in Programs Or Activities Receiving Federal Financial Assistance.
**49 CFR Part 28:** Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
**49 CFR Part 37:** Transportation Services for Individuals With Disabilities – ADA.
**28 CFR Part 35:** Discrimination on the Basis of Disability in State and Local Government Services.
**28 CFR Part 50.3**: Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.

# 31. STATE OF DELAWARE TITLE VI ASSURANCE STATEMENT

## STATE OF DELAWARE TITLE VI ASSURANCE STATEMENT

THE DELAWARE DEPARTMENT OF TRANSPORTATION (hereinafter referred to as DelDOT) hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (U. S. DOT) it will comply with:

- Title VI of the Civil Rights Act of 1964 42 USC § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) ;
- 49 CFR Part 21, (*Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964*);
- 28 CFR section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964;
- The Civil Rights Restoration Act of 1987 (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.)
- The American with Disability Act (ADA)
- The Executive Order #12898 regarding Environmental Justice and Executive Order #13166 regarding Limited English Proficiency EO are non-discriminatory in their intent, while they are not statutes and a person may not bring a lawsuit under them, FHWA has included them as sections within the Title VI/Nondiscrimination Plan.
- Other pertinent federal directives.

The preceding statutory, regulatory cites as well as reference to Executive Orders and federal directives hereinafter are referred to as "the Acts and the Regulations" .

DelDOT further agrees that no person in the United States shall on the grounds of race, color, national origin, sex, age, or handicap/disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program or activity which is administered by DelDOT, regardless of the funding source, (i.e. State, Federal Highway Administration (FHWA), or Federal Transit Authority (FTA)). DelDOT hereby gives assurance that it will promptly take any measures necessary to effectuate this agreement.

More specifically, and without limiting the above general assurance DelDOT hereby gives the following specific assurances with respect to its programs:

1. That DelDOT agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of 49 CFR Part 21, will be facilitated, or conducted, or will be operated in compliance with all requirements imposed by, or pursuant to, 29 CFR Part 21 and 28 CFR §50.3.

2. That DelDOT shall insert, in all solicitations for bids for work or material subject to the Regulations, the FHWA and FTA mandatory language and notifications regarding non-discrimination, solicitation for subcontractors which notifies subcontractors and vendors of the obligations to comply with the Regulations, termination as a sanction for breach of the required provisions, and incorporation of the mandatory language in all subcontracts made in connection with all federally-funded activities.

3. That DelDOT shall insert the clauses found in Appendix A and Appendix E of this Assurance in every contract or agreement subject to the Acts and the Regulations as a covenant running with the land, in any deed form.

4. That DelDOT will insert the clauses found Appendix B of this Assurance as a covenant running with the land, in any deed in which the United States has a property interest affecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where DelDOT receives Federal financial assistance to construct a facility, or part of a facility, this Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where DelDOT receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, this Assurance shall extend to rights to space on, over or under such property.

7. That DelDOT shall include the appropriate clauses found in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by DelDOT with other parties: (a) for the subsequent transfer of real property acquired or improved under DelDOT federally-funded programs and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under DelDOT federally–funded programs.

8. That this Assurance obligates DelDOT for the period during which Federal financial assistance is extended to a 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 DelDOT 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 DelDOT retains ownership or possession of the property.

9. DelDOT shall provide for such methods of administration for a program as are found by the U. S. DOT Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under that program will comply with all requirements imposed or pursuant to the Act, the Regulations and this Assurance.

10. DelDOT agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act and the Regulations as well as this Assurance.

By signing this Assurance, DelDOT also agrees to comply (and agrees to require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the USDOT, FHWA, FTA access to records, accounts, documents, information, facilities, and staff. DelDOT will also comply with any program or compliance reviews, and/or complaint investigations conducted by USDOT, FHWA, FTA. DelDOT will keep records, reports, and submit the material for review upon request to USDOT, FHWA, FTA, or its designee in a timely, complete, and accurate way. DelDOT will comply with all of the reporting, data collection, and evaluation requirements as prescribed by law or detailed in program guidance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to DelDOT and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in its programs. The person whose signature appears below is authorized to sign this assurance on behalf of DelDOT.

Dated 12/1/14

By _____
Shailen Bhatt
Secretary, Delaware Department of Transportation

## FHWA - APPENDICES TO THE TITLE VI ASSURANCE
## APPENDIX A

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

1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, (Federal Highway Administration (FHWA), or Federal Transit Authority (FTA ), 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 and the Regulations, 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 (FHWA), or Federal Transit Authority (FTA) 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 (FHWA), or Federal Transit Authority (FTA), as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration (FHWA), or Federal Transit Authority (FTA) may determine to be appropriate, including, but not limited to:

withholding payments to the contractor under the contract until the contractor complies; and/or
cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through five in every subcontract, including procurements of materials and leases of equipment, unless exempt by

the Acts and the Regulations . The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration (FHWA), or Federal Transit Authority (FTA) may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

## CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Delaware Department of Transportation (DelDOT) will accept title to the lands and maintain the project constructed thereon in accordance with *(Name of Appropriate Legislative Administration),* the Regulations for the Administration of *(Name of Appropriate Program),* and the policies and procedures prescribed by the Federal Highway Administration, and the Federal Transit Authority 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 DelDOT 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 DelDOT 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 DelDOT, its successors and assigns.

DelDOT, 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 (l) 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 DelDOT will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non- discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction.*

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

## APPENDIX C

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

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

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.

With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, DelDOT 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.•

With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the DelDOT 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 DelDOT and its assigns.*

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

## APPENDIX D

## CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

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

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.

With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, DelDOT 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.*

With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, DelDOT will there upon revert to and vest in and become the absolute property of DelDOT and its assigns.•

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

## APPENDIX E

During the performance of this contract, the contractor or consultant, 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. § 460 I), (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 nondiscrimination against minority populations by discouraging

programs; policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).