Title VI Implementation Plan

October 2021
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Nebraska Department of Transportation Mission

To provide the best possible statewide transportation system for the movement of people and goods.

Non-discrimination Statement of Policy

In accordance with Title VI of the Civil Rights Act of 1964 and related statutes, the Nebraska Department of Transportation ensures that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits or services of, or be otherwise subjected to discrimination in all programs, services, or activities administered by the Nebraska Department of Transportation.

John R. Selmer, P.E.
Director
Nebraska Department of Transportation

12-6-21

Date
The United States Department of Transportation (USDOT) Standard Title VI/Nondiscrimination Assurances
DOT Order No. 1050.2A

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

Statutory/Regulatory Authorities

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

49 C.F.R. Part 21 (entitled Nondiscrimination In Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964);

28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

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

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,“ for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.

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

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally-assisted Department of Transportation programs:
1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Department of Transportation programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

   “The Nebraska Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

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

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

7. The Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

   a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

   b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, subrecipients, subgrantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

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

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

John R. Selmer, P.E.
Director
Nebraska Department of Transportation

Date 11/10/21
APPENDIX A

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

1. **Compliance with Regulations**: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination**: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports**: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**: In the event of a contractor’s noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: a. withholding payments to the contractor under the contract until the contractor complies; and/or b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions**: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.
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 Nebraska Department of Transportation (NDOT) will accept title to the lands and maintain the project constructed thereon in accordance with all applicable federal statutes, the Regulations for the Administration of all Department of Transportation programs, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the NDOT 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 NDOT and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the NDOT, its successors and assigns.

The NDOT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed, (and)* (2) that the NDOT 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, Nondiscrimination 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 nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)
APPENDIX C
CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

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

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, NDOT will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the NDOT will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will thereupon revert to and vest in and become the absolute property of the NDOT and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)
APPENDIX D
CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY,
FACILITY OR PROGRAM

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

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal
representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby
covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1)
no person on the ground of race, color, or national origin, will be excluded from participation in, denied
the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the
construction of any improvements on, over, or under such land, and the furnishing of services thereon,
no person on the ground of race, color, or national origin, will be excluded from participation in, denied
the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee,
permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant
to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above
Nondiscrimination covenants, NDOT will have the right to terminate the (license, permit, etc., as
appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the
same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, NDOT
will there upon revert to and vest in and become the absolute property of NDOT and its assigns.*

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

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

Pertinent Nondiscrimination Authorities:

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

The Department of Transportation has sixteen divisions in headquarters, eight field districts, and the Office of Legal Counsel (Attorney General). While the overall responsibility for the NDOT Title VI program lies with the Director of the agency, daily operations are coordinated through the Highway Civil Rights Coordinator, who reports programmatically to the Director and administratively to the Program Management Division Administrator. On matters of importance and need relating to Title VI, the Highway Civil Rights Coordinator has immediate and direct access to the NDOT Director. The Highway Civil Rights Coordinator appropriately notifies the Program Management Division Administrator of any work taking place within the Civil Rights Unit.

Roles and Responsibilities

**Director, Deputy Directors**

- Sign statement of non-discrimination and assurances.

- Responsible for implementation of the Title VI requirements by providing leadership, guidance, direction, support, and resources for the Title VI program.

**Division Heads/District Engineers**

- Incorporate Title VI non-discrimination requirements into the appropriate manuals, directives, and policies relating to their respective areas of operations

- Designate staff to work closely with the Highway Civil Rights Coordinator (as needed) in the development or execution of procedures to ensure non-discrimination in NDOT program areas.

**Highway Civil Rights Coordinator**

- Oversee and manage NDOT's internal and external Civil Rights Program, including the following areas of civil rights compliance: Americans with Disabilities Act; Disadvantaged Business Enterprise program; Contractor EEO compliance; Internal EEO compliance; and all elements of the Title VI Nondiscrimination Program (Internal/external Title VI compliance, Limited English Proficiency, and Environmental Justice).

- Prepare and/or oversee the preparation of memos, reports, publications, program documents, and presentations to meet the requirements of civil rights regulations and NDOT policies. Coordinate updates of all relevant program documents and submit to FHWA for approval when necessary.

- Assist NDOT internal program areas and subrecipients in understanding civil rights requirements, as well as identifying and correcting discriminatory practices or policies.

- Coordinate and conduct Title VI compliance reviews of NDOT internal program areas, internal policies/procedures, and subrecipients.

- Provide technical assistance and training to NDOT and subrecipients regarding civil rights issues.
Collect, review, and analyze, or oversee collection, review, and analysis of, statistical data on participants in and beneficiaries of NDOT programs, activities, and services. Coordinate with other NDOT program areas to collect statistical data when needed.

Develop and coordinate performance standards related to the NDOT Civil Rights Program.

Investigate or oversee investigation of Title VI, ADA, DBE, EEO, and/or other complaints of discrimination against NDOT or its subrecipients.

Civil Rights Specialist, Equal Employment Opportunity

Plan, organize, and perform technical, administrative, liaison, and oversight activities attendant to federally mandated EEO compliance.

Develop and maintain agency EEO Plan; Publicize Plan both internally and externally.

Develop and implement educational and outreach programs in order to promote agency job openings/opportunities, with particular emphasis on diversity and outreach to traditionally underrepresented populations; Establish and maintain contacts and resources in local communities to aid in recruitment efforts.

Design, implement, and monitor internal data and reporting systems to measure program effectiveness; Develop strategies for continued efficiency and improvement.

Monitor and evaluate NDOT employee recruitment and selection procedures to ensure nondiscriminatory practices; Assist with recruitment activities when necessary.

Monitor agency compliance with state and federal statutes, regulatory agency guidelines, and agency policies relating to EEO, diversity, and other civil rights topics.

Coordinate agency TRAC/RIDES program through innovative strategies with schools; Coordinate the NSTI program and participate in NSTI events as needed.

Increasing awareness of EEO/diversity policies and initiatives by providing training and education, writing articles and/or newsletters, and similar strategies.

Disadvantaged Business Enterprise Officer

Oversee and coordinate the agency’s Disadvantaged Business Enterprise (DBE) and Contractor Compliance programs; investigate and monitor activities of applicants and participants to ensure compliance with agency, state, and federal program guidelines and regulations.

Develop and maintain agency DBE and Contractor Compliance Manuals; Publicize manuals both internally and externally.

Oversee the DBE certification program to ensure applicants meet federal eligibility criteria; review and approve staff recommendations; Advise supervisory and management staff on matters pertaining to the DBE program and contractor compliance.
Obtains all of the data needed for establishing the NDOT Annual DBE Overall Participation Goal. Calculate the goal, submit the goal to the FHWA for approval, publish the goal in the appropriate media, explain the rationale used in establishing the goal.

Assist in establishing individual NDOT project/contract DBE participation goals.

Provide training for certified DBE firms and potential DBE firms. Answer questions from firms seeking DBE certification and provides guidance to firms with the DBE application process.

Coordinate the identification and contact of minority and female owned and controlled firms to solicit participation in the DBE program.

Highway Civil Rights Specialist, DBE and OJT

Analyze applications from firms providing highway construction related services to determine if the firms and their owners meet the federal eligibility criterion for certifications as Disadvantage Business Enterprises (DBEs).

Conduct reviews of firms currently certified as DBEs to determine if the firms should retain their DBE eligibility status.

Conduct inspections of highway construction projects and/or contractors' home offices.

Review and analyze data and interview personnel to determine if contractors are in compliance with the EEO/EO contract requirements including: Recruiting, hiring, training, and promoting women and minorities, and subcontracting with women and minority owned firms.

Document findings of contractor inspections and interviews organize documents obtained during the inspections as exhibits and prepare written EEO Contractor Compliance Review Reports for FHWA.

Monitor On-the-Job (OJT) Program to ensure contractors are meeting their OJT obligations.

Review trainee enrollment requests and determine if individuals are eligible to participate.

Receive monthly OJT reports from contractors and enter data.

Prepare annual FHWA OJT Update and Accomplishments Report.

Receive FHWA-1391 EEO Reports from contractors and prepare FHWA-1392 Annual EEO Report.

Disseminate information on DBE, EEO Contractor Compliance and On-the-Job Training Programs.
Location of Civil Rights Unit Within NDOT

Director

Deputy Director - Engineering

Program Management Division Administrator

Highway Civil Rights Coordinator

Highway Civil Rights Specialist - EEO

DBE Officer

Highway Civil Rights Specialist - DBE
Internal Program Area Compliance

The Nebraska Department of Transportation is required by 23 CFR 200.9(b)(5) to develop a program to conduct Title VI reviews of program areas. NDOT currently divides its program areas into sixteen divisions, each responsible for a different aspect of either project delivery or daily operations. The duties of some NDOT divisions have a greater nexus with civil rights obligations, and by consequence, these divisions have greater civil rights responsibilities. These divisions are subject to more frequent and rigorous review than others.

What follows are the methods used by the NDOT Civil Rights Office to review the Title VI compliance of Internal Program Areas.

NDOT Civil Rights Office Review of Agency Directives

In the course of regular business, the NDOT Civil Rights Office reviews many policies and procedures of other NDOT Divisions to ensure that they are nondiscriminatory and that they don't conflict with civil rights-related regulations, policies, and procedures. The NDOT Civil Rights Office has either reviewed or had a hand in creating many NDOT policies, including the Environmental Procedures Manual, the Right of Way Manual, the Public Involvement Plan and various public involvement-related manuals and policies, the NDOT Operating Instruction on ADA for Roadway Design, the Standard Specifications Book (2017), and the LPA Manual for the Local Projects Section. The entire agency is notified via email whenever an NDOT Operating Instruction is updated, and the Civil Rights Offices reviews each update for Title VI and other civil rights considerations.

Communication Division

The NDOT Communication Division is a varied division with many duties, including information processing, record-keeping, photography services, mail services, and print-and-copy services. Additionally, and more importantly in the civil rights context, the Communication Division is tasked with the preparation and distribution of Departmental information to the public, the maintenance of the NDOT website, and the planning, scheduling, and conducting of public meetings and hearings.

Some areas of the Communication Division (the NDOT Print Shop or the NDOT Word Center) have minor or no nexus with civil rights issues and are not commonly reviewed by the NDOT Civil Rights Office. Other areas, however, frequently encounter civil rights issues. The NDOT Civil Rights Office has contact with the NDOT Communication Division Public Involvement Team on a near-daily basis. Regular items of discourse include Title VI, Environmental Justice, and Limited English Proficiency requirements for public outreach during the development of NDOT projects.

A process is currently in place to ensure that the Civil Rights Office completes a civil rights review of every NDOT or local federal-aid project before the Public Involvement team begins to plan for public outreach. The NDOT Public Involvement Team receives a document from the Civil Rights Office describing the demographic data in the project area, the required public outreach enhancements, and recommendations for community resources to aid in information dissemination. In this way, the Civil Rights Office ensures that the Communication Division has the information needed, and in a timely manner, to adequately prepare for enhanced outreach to protected populations. The Public Involvement Manager, Public Involvement Specialists, and the Highway Civil Rights Coordinator commonly meet, both formally and informally, to discuss public outreach with regard to civil rights issues.
In circumstances where enhanced public outreach has occurred as a result of a protected population in a project area, the Civil Rights Office has direct network access to public hearing and public meeting reports, and other public involvement documents, in order to review the attendees of public meetings, any translated materials, pre-meeting outreach to community contacts, and/or other population-specific outreach efforts. The NDOT Civil Rights Office reviews these public involvement documents regularly in the ordinary course of business.

Because of the everyday nature of the contact between the NDOT Civil Rights Office and the NDOT Communication Division, annual or biannual surveys of civil rights compliance would be redundant. The Civil Rights Office thoroughly reviews those activities in the Communication Division that are intertwined with civil rights issues in the normal course of business. As in the case of any other NDOT division, the Communication Division may be subjected to a more involved compliance review in response to a complaint or other irregularity.

**Construction Division**

The Construction Division is responsible for advertising, letting, awarding, and administering all construction activities, as well as coordinating construction activities with the FHWA.

The NDOT Civil Rights Office annually will review a sample of NDOT construction contracts to ensure that the Construction Division includes all the necessary Title VI Assurance contract provisions in all federal aid construction contracts executed. The Construction Division may be subject to a more through civil rights review in response to a complaint or other irregularity.

**Human Resources Division**

The NDOT Human Resources Division has many duties, including recruitment, classification, payroll, discipline/grievances, and workforce development.

The NDOT Civil Rights Office interacts with the Human Resources Division primarily on the topics of Equal Employment Opportunity and diversity recruitment. The NDOT Civil Rights Office has access to data that allows the Office to review workplace actions that NDOT employees might be subjected to (for example, hires, terminations, promotions, trainings attended, and disciplinary actions). Examples of available data and information include the following:

Demographic data on the current NDOT workforce.

Changes to Human Resources policies and procedures.

Demographic and other data on employment activities, including recruitment, promotion, discipline, and termination.

The NDOT EEO Officer is in regular contact with appropriate personnel in the Human Resources Division.

The Human Resources Division may be subject to a more through civil rights review in response to a complaint or other irregularity.
Project Development Division

The NDOT Project Development Division is responsible for planning and location studies, agreements and consultant services, project scoping and utilities services, and, most importantly in the context of civil rights compliance, the creation of environmental documents under the National Environmental Policy Act.

The NDOT Civil Rights Office has near-daily contact with the Environmental Unit of the Planning and Project Development Division. The Civil Rights Office currently reviews each state and local federal-aid project for Title VI, Environmental Justice, and Limited English Proficiency concerns during the completion of NDOT Form 53 (DR-53), Probable Class of NEPA Action Form, by collecting and analyzing demographic data at the block-group level for each project site. Data that is always collected includes data on race and ethnicity, income level, and ability to speak the English language. Data that is collected as needed for further specificity in the analysis includes data on country of birth, ancestry, school/college enrollment, property values, and median household income.

The NDOT-53 form includes most project specifics, as well as project area and detour maps, as attachments. Because the DR-53 is one of the first documents created in the life of a project, the NDOT Civil Rights Office is able to review projects at a very early stage of development. This early review allows the Civil Rights Office to recommend effective public involvement/outreach methods, and also allows the Civil Rights Office to keep a close eye on projects with potential disproportionately high and adverse effects as the project development process progresses. The early Civil Rights Office review is included with the DR-53, or in a separate “Environmental Justice/LEP Memo,” and is routed to both the NDOT Public Involvement Office and the NDOT Environmental Unit.

Though the analysis is primarily focused on Environmental Justice and follows the analytical framework of an EJ analysis rather than, strictly speaking, an “adverse impacts” analysis under Title VI, the difference is largely semantical. The “Environmental Justice/LEP analysis” performed by NDOT considers data on race and, when possible, color and national origin. The analysis considers the potential project effects to each identified population and the distribution of those effects across the entire population of the project area. When potential adverse effects are anticipated to disproportionately impact one or more identified populations, alternatives with less discriminatory effects are considered. NDOT believes this analysis would be sufficient to meet the three-pronged “disparate impact” test adopted by some federal.

The Civil Rights Office maintains records of every Civil Rights/Environmental Justice analysis undertaken for the NDOT Environmental Unit. The Civil Rights Office has direct access to project descriptions, project maps, and other project-specific documents, and does not ordinarily rely on the Planning and Project Development Division to provide these documents. The Civil Rights Office reviews and approves Civil Rights/Environmental Justice analyses undertaken by consultants.

The NDOT Civil Rights Office is currently not involved in the project selection process at NDOT. Demographic data is not analyzed as part of the project selection decision-making process. Instead, objective measures such as infrastructure condition and funding availability factor heavily into project selection at NDOT. Further, various funding sources have their own criteria and limitations which factor into project selection. In any event, demographic data is not being used at NDOT to make decisions about where projects, improvements, maintenance, or funding is allocated in the State of Nebraska.

The NDOT Civil Rights Office does have the ability to overlay planned project locations and demographic data in the NDOT Geographical Information System in order to perform an ad-hoc analysis of potential disparity in the distribution of projects and funding.

Because of the everyday nature of the contact between the NDOT Civil Rights Office and the NDOT Project Development Division, annual or biannual surveys of civil rights compliance would be redundant.
The Civil Rights Office thoroughly reviews those activities in the Planning and Project Development Division that are intertwined with civil rights issues in the normal course of business. As in the case of any other NDOT division, the Planning and Project Development Division may be subjected to a more involved compliance review in response to a complaint or other irregularity.

**Program Management Division**

The NDOT Program Management Division is responsible for developing and managing the one- and six-year highway construction program with the advice of the District Engineers and Highway Commission. The Program and Project Delivery Section is responsible for implementation and maintenance of the scope and estimate change management process and coordination of the project delivery process.

The Civil Rights Unit of NDOT is located in the Program Management Division. The placement of the Civil Rights Unit in a division of NDOT that has very little nexus with civil rights was an intentional act intended to alleviate actual or perceived conflicts of interest resulting from the location of the Civil Rights Unit.

**Strategic Planning Division**

The Rail and Public Transportation Section of the NDOT Strategic Planning Division must submit a Title VI Implementation Plan to the Federal Transit Administration every three years. Additionally, the Section must perform compliance evaluations on subrecipients of federal financial assistance. Civil Rights-related complaints received by the Rail and Public Transportation Division are forwarded to the NDOT Civil Rights Office or to the FTA.

The NDOT Civil Rights Office, being primarily tasked with oversight of highway-related civil rights matters, communicates with the Rail and Public Transportation Section simply to confirm that FTA requirements have been met and that the Section is staffed to administer the FTA civil rights programs.

As with any division of NDOT, the Strategic Planning Division may be subject to a more thorough review of policies and/or activities in response to a complaint or other irregularity.

**Right of Way Division**

The Nebraska Department of Transportation Right of Way Division is responsible for activities which include negotiating for and closing the purchase of real estate needed by NDOT, making and reviewing appraisals establishing the value of land and interests in land, and providing relocation assistance payments and services to those displaced by the NDOT. The NDOT Civil Rights Office is particularly interested in reviewing information pertaining to the relocation services provided by the Right of Way Division in order to ensure compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act).

The Right of Way Division maintains a comprehensive manual of procedures. The sections of this manual very closely track the language used in 49 CFR 24, the implementing regulations for the Uniform Act. In addition, the manual contains discussion of various civil rights regulations applicable to the right of way process. New employees in the Right of Way Division are trained from this manual, and the provisions of the Right of Way Manual are followed in all business of the division. The Highway Civil Rights Offices reviews changes/updates to the ROW Manual for Title VI considerations. The Right of Way Division collects data on all acquisitions, including the owner's race, gender, and other demographic data, through the use of a questionnaire. This data is entered into a database and a report can be generated instantly for review.
In order to review civil rights compliance in the Right of Way Division, the NDOT Civil Rights Office addresses an annual questionnaire to the Right of Way Division Manager, or his designee. The questionnaire seeks information on a few key points:

Have there been any revisions to the Right of Way Manual?

Has training on the procedures in the Right of Way Manual been provided in the past six months? If yes, to whom?

Have there been any relocations in the past six months? If yes, please provide demographic data for those persons relocated.

Other areas within the duties of the Right of Way Division might be explored in response to a complaint or other irregularity. In addition, as with any division of NDOT, the Right of Way Division may be subject to a more thorough review of policies and/or activities in response to a complaint or other irregularity.

Other NDOT Divisions and the Eight NDOT Districts

NDOT maintains several additional divisions that have rare or infrequent nexus with the Civil Rights Office with regard to Title VI, though the Civil Rights Office communicates with some of these Divisions on other civil rights-related matters (ADA compliance, for example). These divisions include:

Aeronautics Division

Assistant Attorney General for the Department of Transportation (Legal Division)

Bridge Division

Business Technology Support Division

Controller Division

Local Assistance Division

Materials and Research Division

Operations Division

Roadway Design Division

Traffic Engineering Division

The NDOT Civil Rights Office does not regularly conduct reviews of these program areas with regard to Title VI compliance. However, a thorough review would be conducted of any program area in response to a civil rights complaint or other irregularity.

The eight NDOT districts do not currently have civil rights-related responsibilities. All of the activities that might be civil rights-related that are carried out by the NDOT districts are reviewed first by either the Civil Rights Office or other NDOT divisions with civil rights-related duties. For example, when pre-construction public involvement is needed, the districts contact the NDOT Communication Division for assistance with
any necessary translations. Americans with Disabilities Act considerations for NDOT projects have already been addressed in design before the districts get the project information. Any EEO questions or complaints are not handled in district offices; they are handled by the NDOT EEO Officer or the Human Resources Division. For these reasons, the NDOT Civil Rights Office does not regularly conduct reviews of the eight NDOT districts. However, a thorough review may be conducted of any district in response to a civil rights complaint or other irregularity.

Correcting Program Area Deficiencies

It is difficult to describe the specific steps that will occur to correct any identified Title VI deficiencies, but generally speaking, any identified deficiencies will be corrected in the following manner:

The NDOT Civil Rights Office will prepare an overview of the potential deficiency, including a summary of the deficiency and of the governing regulation, policy, or guidance. The NDOT Civil Rights Office will inform the Program Management Division Head.

The NDOT Civil Rights Office will approach the program area in which the potential deficiency has been discovered, with documentation, at the lowest reasonable level necessary to correct the deficiency. The Civil Rights Office would first attempt to resolve the deficiency at this level.

In the event that the deficiency cannot be resolved at a low level, or the existence of a deficiency is in dispute, the NDOT Civil Rights Office, in consultation with the Division Head for Program Management, will continue to elevate the matter up the chain of command until it is either satisfactorily shown not to be a deficiency, or is corrected.

The NDOT Civil Rights Office will document the process and result for inclusion in the annual Work Plan and Accomplishment Report to FHWA.
Subrecipient Compliance

23 CFR 200.9(b)(7) requires State Transportation Agencies to conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds. In a year when a subrecipient is not subject to a Desk Review, the subrecipient must complete an Annual Report and return it to the NDOT Civil Rights Office by July 31 (See Documents Appendix). The Civil Rights Office compiles a report on any changes, trends, or deficiencies noted in the Annual Reports for inclusion in the NDOT’s Title VI annual accomplishment report and work plan.

The Nebraska Department of Transportation conducts desk reviews on an ongoing basis of subrecipients that have requested Federal-aid highway funds. To ensure that the same few subrecipients that receive the bulk of federal aid through NDOT are not reviewed every year, the Civil Rights Office does not review individual subrecipients more frequently than every 4 years unless complaints or other irregularities in a specific subrecipient prompt more frequent review.

NDOT desk reviews focus on subrecipient compliance with Title VI of the Civil Rights Act of 1964 and related regulations/guidance.

Desk Review

When a subrecipient submits an NDOT-530 form, requesting the use of federal financial assistance, they are added to the NDOT Local Project Section’s list of active local projects. The NDOT Civil Rights Office monitors this list, and a Civil Rights Compliance Questionnaire is mailed to sub-recipients to complete and return to NDOT. Completed and returned Questionnaires are reviewed for compliance by the NDOT Highway Civil Office, and a follow-up letter is mailed to the subrecipient to request further information, note deficiencies, and/or advise of the subrecipient’s compliance status.

Subrecipients are given one month to complete and return the Questionnaire. If the Questionnaire has not been completed in the time allowed, the NDOT Civil Rights Office will attempt to follow up with the subrecipient. If follow-up communications fail to elicit a response, the NDOT Civil Rights Office examines the subrecipient’s compliance based solely on information already on file with NDOT (if any). If the subrecipient fails to respond to NDOT, and the NDOT has no information on file for the subrecipient, the compliance assessment will determine that the subrecipient is wholly deficient. Federal funding or progress on any active projects may be imperiled for the nonresponsive subrecipient.

The NDOT Civil Rights Office works with the subrecipients to correct any deficiencies. In the past, this work has primarily taken the form of technical assistance visits, which consist of Title VI training, help understanding and/or drafting program requirements, and the provision of templates and example documents. Regular contact is maintained with subrecipients during the review process.

Desk Review with On-Site Review

When desk reviews have supplied insufficient information, or when a subrecipient has failed, after repeated attempts at contact, to acknowledge the desk review or to make compliance progress, the NDOT Civil Rights Office may initiate the process of an On-Site Review. On-Site Reviews will be conducted by NDOT’s Highway Civil Rights Coordinator and/or Highway Civil Rights Specialist.

Notification of an On-Site Review will be sent to the subrecipient no sooner than two weeks prior to the date of the review. Notification will include, at minimum, the reason for and scope of the On-Site Review;
applicable regulations and NDOT policy; a selection of at least 3 dates for the Review (in order to allow for conflicts in the subrecipient’s schedule); and contact information for the NDOT Civil Rights Office.

On-Site Reviews may consist of:

A training segment, during which time the civil rights responsibilities of NDOT subrecipients will be presented and explained. Civil rights laws and regulations will be examined, and tools for coming into compliance will be presented to the subrecipient (sample plans, templates, etc.).

A review of the subrecipient’s Civil Rights documents if any are completed.

A review of the subrecipient’s Limited English Proficiency provisions, if any, in order to illustrate the need for a well-reasoned four-factor LEP analysis and plan of action.

Additional areas may need inspection depending on the specific circumstances of the subrecipient. Any additional items will be listed in the On-Site Review Notification letter in the discussion about the scope of the On-Site Review.

Reports

The results of either a Desk Review or a Desk Review with On-Site Review will be captured in a Subrecipient Review Report. At minimum, the report shall include:

A summary of key events and communications during the Desk Review or Desk Review with On-Site Review;

Copies of all civil rights documentation on file for the subrecipient; and

A description of any corrective actions needed.

Subrecipient Review Reports will be kept on file until the subrecipient is next reviewed and the materials are superseded.

Non Compliance

The Nebraska Department of Transportation shall, to the fullest extent practicable, seek the cooperation and voluntary compliance of subrecipients with regard to the responsibilities of the Title VI Program. NDOT shall provide assistance and guidance to subrecipient to help them comply voluntarily.

If attempts at voluntary compliance fail to correct civil rights deficiencies NDOT will contact the FHWA to determine the appropriate actions to be taken. 49 CFR 21.13(a) states, with regard to federal agencies under the authority of the United States Department of Transportation, that:

(a) General. If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to: (1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United
States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

In the event of noncompliance by a subrecipient that cannot be resolved through voluntary or informal means, NDOT will seek one or more of the above sanctions, with the advice and consent of the FHWA.
Data Collection

23 CFR 200.9(b)(4) requires the Nebraska Department of Transportation to develop procedures for the collection of statistical data (race, color, and national origin) of participants in, and beneficiaries of State highway programs, i.e., relocatees, impacted citizens and affected communities.

Data collection regularly takes place within the program areas of NDOT. Specific methods of data collection include the following:

The relevant demographic data on persons that have property acquired by NDOT is collected by use of a questionnaire. The Right of Way Division administers this questionnaire as a regular part of the acquisition and/or relocation process. The data collected in these questionnaires is reported to the Civil Rights Office biannually or upon request. The Civil Rights Office examines the data for evidence of disproportionality in the acquisitions that NDOT undertakes. The ROW Division also keeps narrative accounts of interactions between ROW agents and property owners, which are available for the Civil Rights Office to review for evidence of disparate treatment or impacts.

The NDOT Civil Rights Office collects and maintains data relating to the Limited English Proficiency program. State-wide data to support the four-factor LEP analysis is collected and presented in the LEP Plan. In addition, the NDOT Civil Rights Office conducts a civil rights review of each federal-aid project, whether an NDOT project or a local public agency project. Data on LEP persons in the project area is collected and used to determine whether or not translations and interpretation is required during public involvement for the project.

As stated above, the NDOT Civil Rights Office conducts a civil rights review of each federal-aid project, whether an NDOT project or a local public agency project. Data on Title VI and Environmental Justice populations in the project area is collected and used to develop tailored, targeted public outreach efforts intended to promote meaningful involvement in transportation decision-making by traditionally underserved populations. Environmental Justice data is also a factor used in determining effective mitigation strategies.
Training

The Workforce Development Section of the Nebraska Department of Transportation is within the Human Resources Division. This office is responsible for the overall administration, development, and implementation of the Employee and Leadership Development programs. Most courses are offered to anyone interested in increasing their knowledge and skills. In most cases there are no requirements necessary to complete the courses. Although placed into a recommended category, the course offering is intended to provide training opportunities, either for existing duties or future development.

The Highway Civil Rights Coordinator will work with the Human Resources Workforce Development team to coordinate and provide training to NDOT employees pertaining to Title VI compliance:

Identify courses necessary for all employees to support the Title VI programs throughout the agency, including Limited English Proficiency.

Develop courses appropriate for the Title VI education of NDOT employees.

Provide training on Title VI topics on an annual basis by the use of on-line resources, as well as possible classroom training. Ensure all employees have equal access to training courses.

NDOT may use tools such as emails and newsletters to provide ongoing information regarding the Title VI program.

Maintain program documentation to support the Title VI initiatives of NDOT.

The Highway Civil Rights Coordinator provides training to subrecipients and other interested parties (local public agencies, contractors, consultants, etc.) in the following manner:

Subrecipients and other interested parties are provided with annual classroom training opportunities. Training completions will be tracked and recorded.

The NDOT Highway Civil Rights Coordinator or designee is available to conduct specific training relating to the Title VI program on request from a subrecipient or other interested party. Training completion will be tracked and recorded.

NDOT may use tools such as emails and newsletters to provide ongoing information regarding the Title VI program.
Complaint Procedures

The Nebraska Department of Transportation is required, under 23 CFR 200.9(b)(3), to develop procedures for prompt processing and disposition of Title VI and Title VIII complaints received directly by the State and not by FHWA. The following complaint procedures are patterned after the Federal Highway Administration Procedures Manual for Processing External Complaints of Discrimination, found here. Internal civil rights complaint procedures are found in the NDOT Equal Employment Opportunity Plan.

Complaints may be against NDOT itself, or against an NDOT subrecipient. All Complaints filed with NDOT are forwarded to FHWA. FHWA will then decide which agency will investigate the complaint.

FHWA has delegated authority for making all final decisions for Title VI complaints. A copy of the complaint, together with a copy of NDOT's report of investigation (if NDOT is selected to investigate the complaint), will be forwarded to the FHWA division office within 60 days of the date the complaint was received by NDOT. FHWA actions might then include dismissing the complaint, conducting additional investigation, and/or issuing a Letter of Finding.

Persons Eligible to File

Any person or any specific class of persons, by themselves or by a representative, that believe they have been subjected to discrimination or retaliation prohibited by Title VI of the Civil Rights Act of 1964 (Title VI) and related statutes may file a complaint.

Complaint Substance and Format

A complaint is a written or electronic statement concerning an allegation of discrimination that contains a request for the receiving office to take action. Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. NDOT has developed a Complaint Form (See Documents Appendix) and made it available on the NDOT website.

A complaint must contain at least the following information:

- The complainant’s name and a way to contact the complainant;
- A written explanation of what has happened;
- The basis of the complaint, e.g., race, color, national origin;
- The identification of the respondent, e.g., agency/organization alleged to have discriminated;
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred; and,
- The date(s) of the alleged discriminatory act(s).

While the above indicates a complaint should be in writing and signed, NDOT will accept complaints in alternate formats from persons with disabilities, upon request. For example, the complaint may be filed on a computer disk, by audio tape, or in Braille, or the complainant may call the agency and provide the allegations
by telephone. The agency will transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for signature.

Complaints in languages other than English will be translated and responded to in the language in which they were written.

The following are examples of items that are not considered complaints, unless the item contains a signed cover letter specifically asking that NDOT take action concerning the allegations:

- An anonymous complaint;
- Inquiries seeking advice or information;
- Courtesy copies of court pleadings;
- Courtesy copies of complaints addressed to other local, State, or Federal agencies;
- Newspaper articles; and,
- Courtesy copies of internal grievances.

**Timeframe for Filing Complaints**

Complaints must be filed within 180 days of the last date of the alleged discrimination. The filing date of the complaint is the earlier of: (1) the postmark of the complaint, or (2) the date the complaint is received by any office authorized to receive complaints.

An extension may be granted under any of the following circumstances:

The complaining could not reasonably be expected to know the act was discriminatory within the 180-day period, and the complaint was filed within 60 days after the complainant became aware of the alleged discrimination;

The complainant was unable to file a complaint because of incapacitating illness or other incapacitating circumstances during the 180-day period, and the complaint was filed within 60 days after the period of incapacitation ended;

The complainant filed a complaint alleging the same discriminatory conduct within the 180-day period with another Federal, State or local civil rights enforcement agency, and filed a complaint with DOT within 60 days after the other agency had completed its investigation or notified the complainant that it would take no further action;

The complainant filed, within the 180-day period, an internal grievance alleging the same discriminatory conduct that is the subject of the DOT complaint, and the complaint is filed no later than 60 days after the internal grievance is concluded;

Unique circumstances generated by DOT action have adversely affected the complainant; or

The discriminatory act is of a continuing nature.
Some complaints will be referred to NDOT by other agencies. In the event the referring agency has possessed the complaint for an inordinately long period of time and the complainant filed his or her complaint with that agency within the 180-day timeframe NDOT will automatically grant an extension.

**Processing and Investigating Complaints**

Upon initial receipt, a complaint will always be date stamped by the receiving office, or the date of receipt will otherwise be recorded. The date of receipt by the receiving office is crucial for determining timeliness.

The complaint will be reviewed within 10 calendars days of receipt to determine whether it contains all the necessary information required for acceptance. If the complaint is complete and no additional information is needed, the complainant will be sent a letter of acceptance. If the complaint is incomplete, the complainant will be contacted in writing or by telephone to obtain the additional information. The complainant will be given 15 calendars days to respond to the request for additional information.

A request for information will be mailed to the respondent, along with a copy of the complaint, upon acceptance of the complaint.

The investigation will be confined to the issues and facts relevant to the allegations in the complaint unless evidence shows the need to extend the issues. The standard of proof applied in making a determination of noncompliance will be one of preponderance of evidence. The preponderance of evidence as a standard of proof in civil cases is evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

An investigative report will be maintained which documents activity related to the complaint. The investigative report will contain, at minimum:

- The identity of each complainant and each respondent, including contact information;
- The nature and basis of the complaint;
- Copies of all requests for information, along with responses to the requests;
- A log of all important dates relevant to the complaint, including, but not limited to, the date that the complaint was filed, the dates of all correspondence with complainant or respondent, the dates of all interviews with complainant or respondent, and the date of the disposition (or the date that the complaint was forwarded to FHWA for further action);
- The disposition and/or recommendations for action; and
- Other pertinent information.

The NDOT Civil Rights Office will complete investigations of Title VI complaints within 60 days, at which time a copy of the complaint, together with a copy of NDOT's report of investigation and recommendation for action, will be forwarded to the FHWA division office as required by regulation.


Dismissal of a Complaint

The FHWA has delegated authority for dismissing Title VI complaints. A complaint may be dismissed for the following reasons:

The complaint is untimely filed;

The complainant fails to respond to repeated requests for additional information needed to process the complaint;

The complainant cannot be located after reasonable attempts;

There is no statutory or alleged basis for the complaint, NDOT and/or FHWA lack jurisdiction in the matter, or the complainant does not allege any harm with regard to current programs or statutes;

The complaint has been investigated by another agency and the resolution of the complaint meets USDOT/FHWA regulatory standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet USDOT’s standards;

NDOT and/or FHWA obtain credible information at any time indicating that the allegations raised by the complainant have been resolved or are moot and there are no class-wide allegations or implications. In such a case, NDOT and/or FHWA will attempt to ascertain the apparent resolution. If NDOT and/or FHWA determine that there are no current allegations appropriate for further complaint resolution, the complaint will be closed;

The complainant decides to withdraw the complaint;

The same complaint allegations have been filed with another Federal, State, or local agency, or through a respondent’s internal grievance procedures, including due process proceedings, and NDOT and/or FHWA anticipates that the respondent will provide the complainant with a comparable resolution process under comparable legal standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet USDOT’s standards;

The FHWA refers the complaint to another agency with concurrent jurisdiction that may be better suited to conduct the investigation;

A complaint, because of its scope, may require extraordinary resources. In such instances, NDOT and/or FHWA may consider treating such a complaint as a compliance review. Similarly, a compliance review may be the most effective means of addressing multiple individual complaints against the same respondent. If NDOT and/or FHWA selects this option, it should discuss the decision with the complainant(s), close the complaint, and initiate the review as soon as possible. NDOT and/or FHWA should provide the complainant(s) with a copy of the resolution documents upon completion of the compliance review.

Contact Information

Complaint forms are available on the NDOT website or by contacting the NDOT Civil Rights Office. Complaints and substantiating information should be sent to:
Nebraska Department of Transportation
Chris Hassler, Highway Civil Rights Coordinator
1500 Highway 2
PO Box 94759
Lincoln, NE 68509-4759
402-479-3553
christopher.hassler@nebraska.gov
Compliance With Executive Order 13166
Improving Access to Services for Persons with Limited English Proficiency

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, requires each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency is also directed to work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries. In certain circumstances, a failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition against national origin discrimination under Title VI of the Civil Rights Act of 1964.

In accordance with federal directives on Executive Order 13166, the Nebraska Department of Transportation has developed a Limited English Proficiency Plan. The NDOT LEP Plan contains, in part, the following information:

Current American Community Survey data on languages spoken in the State of Nebraska;

The four-factor analysis prescribed in the US DOT Limited English Proficiency Guidance. The analysis considers these factors:

The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of NDOT.

The frequency with which LEP individuals come in contact with NDOT programs.

The nature and importance of the programs, activities, and/or services provided by NDOT to people’s lives.

The resources available to NDOT and the costs of providing language assistance measures.

The types of language assistance measures that NDOT will use in order to ensure effective communication with LEP persons; and

A procedure for submitting complaints about the NDOT LEP program.

For complete information on the Nebraska Department of Transportation’s compliance with Executive Order 13166, please see the NDOT Limited English Proficiency Plan.
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NDOT Subrecipient Annual Report Template

Name of Subrecipient

Date

This reporting format will be used for reporting Title VI activities of Local Public Agencies (LPA). The Annual Report is to be submitted by July 31 each year to the Highway Civil Rights Coordinator, NDOT.

POLICY STATEMENT

Describe any changes to your approved policy statement that have resulted from changes in the legislation, local ordinances, etc., or a change in Board. Submit a copy of the policy statement with approved signature.

ORGANIZATION, STAFFING, STRUCTURE: Report any changes in the organizational structure since the last reporting period. Example: New Title VI Coordinator, new planning or public works directors etc.

Report should identify the changes in the racial/gender composition of those persons involved in the transportation decision making, including planning and advisory staff.

If no changes have been made, please indicate that accordingly.

DEMOGRAPHICS: Using the most current data available (through Census or Nebraska State Office of Financial Management), describe the demographics within your jurisdiction.

Describe any required Title VI activities and/or studies conducted that provided data relative to minority persons, neighborhoods, income levels, physical environment, and travel habits.

How was the information utilized or Title VI provisions and needs applied in each study or activity?

COMPLAINTS: Identify Title VI complaints filed, if any. Provide a summary of each with basis, status, actions proposed and actions taken.

This includes complaints from each of the Program Areas (if applicable): Planning, Project Development, Design, Right-of-Way, Construction, and Research.
ACCOMPLISHMENT REPORT FOR EACH PROGRAM AREA

Public Outreach Activities: List any Public outreach activities during the reporting period such as Public announcements and/or communications for meetings, hearings, project notices. Include the following:

How were special language needs assessed? List the special language needs assessments conducted.

What outreach efforts did you utilize to ensure that minority, women, low-income, and LEP population groups were provided equal opportunity to participate in those outreach activities. (Examples: provided materials in other languages, met with local social services agencies, advertised in a minority publications)

List the special language services provided – note the professional language service provided including the name of the service, date provided, number of persons served, and any other relevant information.

List any costs incurred for translations and interpreters for each activity.

Executed Contracts: List all the transportation related contracts, (Federal and others), that were executed during the reporting period.

Is there a Title VI Non-Discrimination statement included in all contracts & public notices?

Impacts on Minority & Low-Income: Summarize any transportation projects that identify potential impacts to minority and/or low-income Environmental Justice (EJ) populations i.e. impacts such as displacements, increased noise, bisecting neighborhoods, et al). Note the following:

How impacts were minimized/mitigated.

Also include a statement, if applicable, on projects that specifically benefit community cohesion such as: adding sidewalks, improving access to properties that improve access for EJ populations.

Right-of-Way: If Right of Way has been acquired for a transportation project, please describe:

Identify the number of minority, low-income, elderly and disabled persons affected

The efforts that were made to address Limited English Proficiency issues (including use of translators, outreach efforts for each reported activity)

Describe any concerns raised by minorities and women regarding appraisals, negotiations, relocation assistance and payments. What actions were taken to resolve those issues?

Education and Training

A. Identify agency staff responsible for training.

B. Describe Title VI training, if any, that was provided, and how many participants attended, their titles, etc.

C. Describe participation in any other kind of civil rights training.

Americans With Disabilities Act, Title II

Local Agencies with 50 or more employees are required by Title II to develop and implement an ADA Self-Evaluation and Transition Plan.
A. Summarize progress towards meeting the Plan’s schedule of ADA corrections

B. If you have 50 or more employees, provide the name of the individual who will be serving as the ADA coordinator for the next year.

C. How do you provide notice to the public that name and contact information for your ADA Coordinator?

D. What process is available so that a member of the public can request an accommodation (for meetings, and in the public right of way)?
# Discrimination Complaint Form

**Nebraska Department of Transportation**

<table>
<thead>
<tr>
<th>Complainant:</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address: (City, State, Zip)</td>
<td>Email:</td>
</tr>
<tr>
<td><strong>Person discriminated against, if different from above:</strong></td>
<td>Phone:</td>
</tr>
<tr>
<td>Address: (City, State, Zip)</td>
<td>Email:</td>
</tr>
<tr>
<td><strong>Type of Discrimination:</strong></td>
<td>Date of Incident:</td>
</tr>
<tr>
<td>☐ Race/Color ☐ Age ☐ Sex ☐ National Origin ☐ Disability ☐ Retaliation</td>
<td></td>
</tr>
</tbody>
</table>

*Date and place of alleged discriminatory actions. Please include earliest date of discrimination and most recent date of discrimination.*

---

Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently than you. Also attach any written material pertaining to your complaint (attach additional pages if necessary).

---

Names and contact information of persons (witnesses, others) whom we may contact for additional information to investigate your complaint.

---

The complaint will not be accepted if it has not been signed. Please sign and date this complaint form below. You may attach any written materials or other supporting information that you believe is relevant to the complaint.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

**Attachments:** ☐ Yes ☐ No

Submit completed form and any additional information to:

**Nebraska Department of Transportation**
Attn: Chris Hassler, Highway Civil Rights Coordinator
1500 Highway 2
PO Box 94759
Lincoln, NE 68509-4759

**NDOT USE ONLY:**
Received by | Date
LPA Compliance Questionnaire

Title VI
Limited English Proficiency
Americans with Disabilities Act/Section 504
Nebraska Department of Transportation

Name of Local Public Agency: ____________________________________________

Date of Completion: ________________________________________________

Questionnaire completed by (please include title, and contact information):

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Number of employees (full and part time): _______________________________

This assessment is designed to assist NDOT in determining compliance with the requirements of FHWA’s Title VI Program. Please include additional sheets as needed to fully explain responses. Please mail or email the completed questionnaire, with attachments, to:

Nebraska Department of Roads
Valerie Kimble, NDOT Highway Civil Rights Specialist
1500 Hwy 2, PO Box 94759,
Lincoln, NE 68509-4759
(402)-479-3661
valerie.kimble@nebraska.gov
<table>
<thead>
<tr>
<th>General Administration</th>
<th>Yes</th>
<th>No</th>
<th>Additional information</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. How many federally funded projects have you managed during the last two years? Dollar amount?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Has your agency designated a Title VI Coordinator? Provide name and contact information.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Does your agency have a Title VI Policy, Assurances and Plan in place?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Does your agency have a plan to inform the public about the Title VI Plan and policies? Provide proof of public dissemination of your Title VI information.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Are Title VI required contract provisions (Appendices to the US DOT Standard Assurances) included in all construction contracts, as appropriate?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaint Procedure</td>
<td>Yes</td>
<td>No</td>
<td>Additional information</td>
</tr>
<tr>
<td>6. Do you have a Title VI complaint procedure for external discrimination complaints? If so, please provide a copy.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. How is the public made aware of this complaint procedure?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Have you received any Civil Rights related complaints during the past 2 years? If so, how many? What were the outcomes?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Training</td>
<td>Yes</td>
<td>No</td>
<td>Additional information</td>
</tr>
<tr>
<td>9. Has your staff received any training (formal or informal) regarding Civil Rights or Title VI?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Would your agency like Civil Rights training or technical assistance from the Nebraska Department of Transportation?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
11. Are you aware of your obligation to comply with Executive Order 13166 on Limited English Proficiency (LEP)? □ □

12. Does your organization have a Limited English Proficiency Plan? If yes, please provide a copy. □ □

13. How do you ensure that LEP persons can access your services? □ □

14. Has your staff been trained on the LEP Plan? □ □

### Planning

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>15.</td>
<td>Does your agency have a process for determining if minority or low income persons will be disproportionately adversely affected by a construction project? If yes, please describe.</td>
<td>□ □</td>
</tr>
<tr>
<td>16.</td>
<td>Are accessible locations, adequate times, and translation services considered or provided during the coordination of public meetings?</td>
<td>□ □</td>
</tr>
<tr>
<td>17.</td>
<td>Is the meeting coordinator keeping records of attendance?</td>
<td>□ □</td>
</tr>
<tr>
<td>18.</td>
<td>What efforts were made to promote attendance by those affected by the project, including members of minority or low income communities?</td>
<td>□ □</td>
</tr>
</tbody>
</table>

### Right of Way Activities

<p>| | | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>19.</td>
<td>Are Title VI language and assurance statements included in all surveys for property owners and tenants after the conclusion of all business?</td>
<td>□ □</td>
</tr>
</tbody>
</table>
20. Do deeds, permits, and leases contain Title VI compliance clauses? □ □

21. Is statistical data being gathered on race, color, national origin, and sex of relocates? □ □

### Construction Activities

<table>
<thead>
<tr>
<th>Construction Activities</th>
<th>Yes</th>
<th>No</th>
<th>Additional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are minority- and women-owned contractors and subcontractors being informed about contracting opportunities with your organization?</td>
<td>□</td>
<td>□</td>
<td></td>
</tr>
</tbody>
</table>

| Are Title VI assurances being included in all contracts, subcontracts, and material supply agreements? | □   | □  |                        |

| Have contractor selection procedures been reviewed to determine uniformity in their application to minority and nonminority contractors? | □   | □  |                        |

### Americans With Disabilities Act/Section 504 of Rehab. Act

| Americans With Disabilities Act/Section 504 of Rehab. Act                                                                 || YES | NO | Additional Information/Comments |
|-------------------------------------------------------------------------------------------------------------------------------|-----|----|--------------------------------|
| If your agency employs 15 or more persons, including part-time, seasonal, and temporary employees, has the agency designated an ADA Coordinator? If yes, please include name and contact information. | □   | □  |                                |

| Has your agency signed the required ADA Assurances and Policy Statement and placed them on file with NDOR? | □   | □  |                                |

| Has your agency adopted and distributed a public notice about your agency’s relevant ADA provisions to all persons who may be interested in your programs, activities, and services? | □   | □  |                                |

If so, please provide a copy of the ADA notice.

| If “yes” to #27, how has this notice been distributed? | □   | □  |                                |

| Has your agency completed a Self-Evaluation, reviewing all programs, services, or activities? | □   | □  |                                |
30. If yes to #30, has your agency provided an opportunity for interested persons to comment on the Self-Evaluation? If so, please describe the process undertaken and attach any documentation.

31. Has your agency made the Self-Evaluation available for public inspection? How has the evaluation been made available?

32. If your agency employs 50 or more persons, including part-time, seasonal, and temporary employees, has your agency completed an ADA Transition Plan?

33. If yes to question #33, please answer the following questions about your agency’s ADA Transition Plan:

   Does the plan identify physical obstacles that the limit the accessibility of programs, service, or activities to persons with disabilities?

   Does the plan describe in detail the methods that will be used to make the programs, services, or activities accessible?

   Does the plan specify the schedule for taking the steps necessary to achieve compliance?

   Does the plan include a schedule for providing curb ramps or other sloped areas in the pedestrian right-of-way for which the agency is responsible?

   Does the plan indicate the official responsible for implementation of the plan?

   Has the plan been made available for public inspection and comment? If so, how was/is it made available?

   Please attach a copy of your agency’s ADA Transition Plan.

34. If your agency employs 15 or more persons, has the agency adopted a written ADA complaint procedure?

   If so, please provide a copy of those procedures.

35. Have you made the public aware of their right to file an ADA complaint?

   If yes, by what methods?
36. In the past 3 years, has your agency had an ADA complaint or lawsuit filed against it? □ □

37. If “yes” to #37, when and what was the nature of the complaint or lawsuit filed and the outcome.

38. Has your agency provided accommodations free of charge to hearing impaired or physically impaired persons needing special assistance? □ □

If yes, please provide examples.

---

**Declaration of Respondent**

I declare that I have completed this Title VI Assessment to the best of my knowledge and believe it to be true and correct.

________________________________________________________
Title VI Coordinator

________________________________________________________
Date