

NEBRASKA DEPARTMENT OF ROADS

Title VI Plan for Agencies

SAMPLE PLAN

Over 100,000 Population

(Local Public Agency)

TITLE VI PLAN

Department Commissioners

Department Administrator

Prepared by: _____
Job title (Title VI Coordinator)

Office of _____

(DATE)

Title VI Plan - Large Department (Population over 100,000)

I. Policy Statement, Authorities and Citations

A. Policy of Nondiscrimination

(Local Public Agency) assures that no person shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Department sponsored program or activity. LPA further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

In the event LPA distributes Federal aid funds to another entity, LPA will include Title VI language in all written agreements and will monitor for compliance.

Title VI compliance is a condition of receipt for Federal funds. Assurance of compliance, therefore, falls under the proper authority of the Board of Department Commissioners pursuant to its budgetary authority and responsibility. The Department Administrator and Title VI Coordinator are authorized to ensure compliance with provisions of this policy and with the law, including the requirements of 23 Code of Federal Regulation (CFR) 200 and 49 CFR 21.

Department Administrator

Date

B. Authorities

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

The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are Federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

C. Additional Citations

Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3

II. Organization, Staffing and Structure

A. Organizational Chart – Reporting Relationships

(Place Organizational Chart here or attach to back of report with reference as what page to find it. Name the Title VI Coordinator for your organization.)

B. Staffing and Structure

Department Administrator

The Department Administrator is authorized to ensure compliance with provisions of the Department's policy of non-discrimination and with the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21. The Department's grants compliance function and Title VI coordination shall be performed under the authority of the Department Administrator.

Title VI Coordinator

LPA has created a position of _____ (title) _____ to perform the duties of the Title VI Coordinator and ensure implementation of the Department's Title VI Federally Funded Transportation Program. The _____ has other duties and responsibilities in addition to Title VI. Although this position may report to _____, their direct supervisor, this position shall have an indirect reporting relationship and access to the Department Administrator.

Title VI Specialists (if applicable)

Additionally, the Department has designated Title VI Specialists (Specialists) in departmental special emphasis program areas. The Specialists, designated below, shall work in concert with the Title VI Coordinator. These key programs or department areas are subject to receiving Federal assistance through grants or other types of transportation related funding, or are responsible for implementing Department directives and policies to ensure civil rights compliance and equal opportunity. The Specialists will work with the Coordinator to ensure their respective departments and programs comply with Title VI regulations and assurances, meet the objectives of the Title VI Plan, meet Federal and state reporting requirements, and provide adequate training opportunities for applicable staff.

Title VI Specialists will work with the Coordinator to ascertain Title VI compliance by contractors, subcontractors, consultants, suppliers and other sub-recipients under Federally funded projects or programs. Specialists will ensure applicable Title VI provisions and requirements are included in contractual agreements to prime contractors and sub-recipients. Specialists will work with the Coordinator to obtain statistical data on race, color, national origin, handicap/disability, and sex of participants in, and beneficiaries of Federally funded _____ Department transportation programs. Each of the Specialists will maintain data relative to their respective special emphasis program area, designated below. The Coordinator shall use the data to complete annual Title VI reports and for other administrative needs.

List Title VI Specialists and their Official Job Title (if applicable)

III. Title VI Plan Implementation and Program Administration

Title VI Coordinator's Responsibilities and Program Administration

As authorized by the Department Administrator, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring *LPA* compliance with Title VI requirements as follows:

- A. **Program Administration.** Administer the Title VI program and coordinate implementation of the plan. Ensure compliance with the assurances, policy, and program objectives. Perform Title VI program reviews to assess administrative procedures, staffing, and resources; provide recommendations as required to the Department Administrator.
- B. **Complaints.** Review written Title VI complaints that may be received by *LPA* following the adopted procedural guidelines (see Section V – Complaint Procedures). Ensure every effort is made to resolve complaints informally at the local or regional level.
- C. **Data Collection.** Review the statistical data gathering process performed by Title VI Specialists periodically to ensure sufficiency of data for meeting the requirements of Title VI program administration. (See Section VII - Special Emphasis Program Areas).
- D. **Environmental Impact Statements.** Ensure that available census data are included as a part of all Environmental Impact Statements/Assessments (EIS/EIA) for projects receiving Federal Highway Administration or other Federal assistance.
- E. **Training Programs.** Conduct or facilitate training programs on Title VI issues and regulations for Department employees; and facilitate Title VI training for appropriate staff, contractors and sub-recipients. A summary of training conducted will be reported in the annual update.
- F. **Title VI Plan Update.** Review and update the *LPA* Title VI Plan as needed or required. Present updated plan to the Department Administrator for approval; submit amended Plan to NDOR.
- G. **Annual Accomplishment Report.** Prepare an annual report of Title VI accomplishments and changes to the program in the preceding Federal fiscal year; identify goals and objectives for the upcoming year as required; and submit by July 31.
- H. **Public Dissemination.** Work with Department staff to develop and disseminate Title VI program information to _____ Department employees and sub-recipients, including contractors, subcontractors, consultants, and sub-consultants and beneficiaries, as well as the general public. Public dissemination may include postings of official statements, inclusion of Title VI language in contracts or other agreements, website postings, and annual publication of the Department's Title VI Policy Statement in newspaper(s) having a general circulation, and informational brochures. Ensure public service announcements or notices are posted of proposed projects, hearings, meetings, or formation of public advisory boards, in newspapers or other media reaching the affected community. Ensure the full utilization of available minority publications or media; and, where appropriate, provide written or verbal information in languages other than English.
- I. **Elimination of Discrimination.** Work with other Department offices to establish procedures for promptly resolving deficiencies, as needed. Recommend procedures to identify and eliminate discrimination that may be discovered in any Department processes.

- J. **Maintain Legislative and Procedural Information.** Federal laws, rules and regulations, NDOR guidelines, the current LPA Title VI Plan, Annual Accomplishment Reports, and other resource information pertaining to the implementation and administration of the Department's Title VI program will be maintained and updated by the Coordinator. Information will be made available to other Department departments or the public as requested or required.

IV. Discrimination Complaint Procedures – Allegations of Discrimination in Federally Assisted Programs or Activities

A. Overview

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by LPA, as well as to sub-recipients, consultants, and contractors. Intimidation or retaliation of any kind is prohibited by law.

The procedures do not deny the right of the complainant to file formal complaints with other state or Federal agencies or to seek private counsel for complaints alleging discrimination. Every effort will be made to resolve complaints informally at the Department and sub-recipient level. The option of informal mediation meeting(s) between the affected parties and a designated mediator may be utilized for resolution.

B. Procedures – Please outline

1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the LPA. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the LPA's Title VI Coordinator for review and action.
2. In order to have the complaint consideration under this procedure, the complainant must file the complaint no later than 180 days after:
 - a) The date of alleged act of discrimination; or
 - b) Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the LPA or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the LPA, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the LPA's investigative procedures.
4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of procedures to be followed, and advise the complainant of other avenues of redress available, such as NDOR and USDOT.
5. The LPA will advise NDOR within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to NDOR:
 - a) Name, address, and phone number of the complainant.
 - b) Name(s) and address (es) of alleged discriminating official(s).
 - c) Basis of complaint (i.e., race, color, national origin or sex)
 - d) Date of alleged discriminatory act(s).

- e) Date of complaint received by the LPA.
 - f) A statement of the complaint.
 - g) Other agencies (state, local or Federal) where the complaint has been filed.
 - h) An explanation of the actions the LPA has taken or proposed to resolve the issue raised in the complaint.
6. Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the head of the LPA. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.
 7. Within 90 days of receipt of the complaint, the head of the LPA will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with NDOR, or USDOT, if they are dissatisfied with the final decision rendered by the LPA. The Title VI Coordinator will also provide NDOR with a copy of this decision and summary of findings upon completion of the investigation.
 8. Any complaints received against the LPA should immediately be forwarded to NDOR for investigation. The LPA will not investigate any complaint in which it has been named in the complaint.

V. Sub-Recipient Review and Remedial Action Procedures

- A. **Title VI Review of Sub-recipients of Federal-Aid Highway Funds.** The Coordinator will assist NDOR to periodically conduct Title VI compliance reviews. LPA staff will review select recipients of Federal-aid highway or other Federal funds, to ensure adherence to Title VI requirements (see Section VII). The LPA will work cooperatively to periodically confirm operational guidelines provided to consultants, contractors, and sub-recipients, including Title VI language, provisions, and related requirements, as applicable.
- B. **Post-Grant Reviews.** The Coordinator will collaborate with _____ staff to conduct periodic post grant reviews of select recipients of Federal highway funds or other Federal funds, for roads, sidewalks, bridges, municipal construction, etc. to ensure adherence to Title VI requirements (see Section VII). Appropriate staff will periodically confirm that operational guidelines provided to consultants, contractors and sub-recipients include Title VI language and provisions and related requirements, where applicable.
- C. **Remedial Action.** When irregularities occur in the administration of Federal-aid highway programs at either the Department or sub-recipient levels, corrective action will be taken to resolve identified Title VI issues. LPA will seek the cooperation of the consultant, contractor or other sub-recipient in correcting deficiencies found during periodic reviews. LPA will provide technical assistance and guidance, upon request, to support voluntarily compliance by the sub-recipient. When conducting Title VI compliance reviews, the LPA will reduce to writing any recommended remedial action agreed upon by the Department and sub-recipient, and provide a copy of the letter within a period not to exceed 45 days.

Sub-recipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies. When a sub-recipient fails or refuses to voluntarily comply with requirements within the allotted time frame, LPA will submit to NDOR and FHWA copies of the case file and a recommendation that the sub-recipient be found in noncompliance.

A follow-up review will be conducted within 180 days of the initial review to ascertain if the sub-recipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the sub-recipient refuses to comply, LPA and NDOR may, with FHWA's concurrence, initiate sanctions per 49 CFR 21.

VI. Title VI Implementation Activities in Special Emphasis Program Areas

The following activities may/may not apply to your Department based on Department Resources, and NDOR Involvement. Please adjust as needed.

A. Planning & Location Activities

1. **Planning Process.** The _____ has responsibility for providing long-range planning (through a service agreement with _____), program development, and capital programming necessary to provide efficient transportation services to Department citizens. The Department _____ annually updates and coordinates _____ Department's six-year plan for transportation improvement programs and projects. The update also informs other LPA Department jurisdictions of the current planning direction for transportation needs. Projects included in the update are the result of evaluation and prioritization of needs in various transportation areas. The evaluation process includes input from various divisions in the department, cities, local jurisdictions and organizations, citizen groups, and private individuals. All six-year plans must be consistent with the adopted Comprehensive Plan approved under the State's Growth Management Act.

2. **Public Involvement in Planning Activities & Title VI**
 - a) Invite participation of a cross section of the populace from social, economic, and ethnic groups in the planning process by disseminating written program information to minority media and ethnic organizations, and providing public service announcements for all local media, when forming citizen advisory committees or planning board, and requesting involvement.
 - b) LPA staff will obtain demographic statistics at applicable community meetings and public hearings involving transportation planning sessions. Data will be gathered through use of a voluntary self-reporting form which includes race, gender, and national origin. Copies of the completed forms will be provided to Title VI Coordinator after each meeting.
 - c) To ensure access to public meetings, evening meetings will be conducted in a variety of community buildings throughout the Department, including those along transit routes, ensure translation services are available if anticipated, and ensure public meetings are held in predominantly minority communities when transportation projects will specifically impact those communities.

B. Consultant Contracts Activities

1. **Consultant Contracts Administration.** The _____ Division is responsible for recommending consultant firms to the Department _____ for final selection, negotiation and award. The _____ administers awarded consultant contracts.

2. **Consultant Selection Process.** _____ staff will request qualifications from consulting engineering firms specializing in various aspects of civil engineering which may relate to public works projects and the development of construction plans and special provisions for roads and bridges, design work associated with structures, performing environmental studies or preparing NEPA or SEPA documents for public works projects. Consultant selection from the certified list maintained by the _____ Division adheres to Nebraska State regulations and is consistent with _____ Department vendor policies.

3. Title VI Assurances and Provisions

- a) Include Title VI assurance and provision language in all Federally funded consultant contracts. Periodically review documents and language to ensure compliance with current laws and regulations. Provide a copy of the form of the contract to the Coordinator, and any amendments or updates that may occur over time.

C. Design & Engineering / Environmental Activities

1. Design /Environmental Review Process and Title VI

- a) Depending on the scope, complexity, and impacts of a project, a National Environmental Policy Act (NEPA), NEPA Categorical Exclusion, NEPA Environmental Assessment, State Environmental Policy Act (SEPA) checklist, SEPA Determination of Non Significance, or NEPA and/or SEPA Environmental Impact Statement will be completed.
- b) Monitor compliance with Title VI requirements in all aspects of conducting Environmental Impact Statements or Assessments. Provide a comprehensive summary of the demographic and environmental data elements to be considered by the EIS/EIA process to the Coordinator; including updated summary lists as applicable. Incorporate into the review process, adequate time for the Coordinator to review and comment, as applicable, on the draft EIS/EIA to ensure there are no violations of the Federal Civil Rights Act, as amended, as a result of the Department's Federal-aid highway activities.
- c) In order to ensure dissemination of information and foster participation from affected populations, the Public Works staff will place public notices in applicable general and minority media; select accessible locations and times for public hearings or meetings, and arrange for translation services as needed; particularly in projects impacting predominantly minority communities. Ensure the public has information pertaining to their rights to call or write the department to view plans and discuss environmental problems.
- d) Staff will obtain demographic data at community meetings and public hearings pertaining to the transportation design phase. Data will be gathered through use of a voluntary sign-up form which includes race, gender, and national origin. Copies of the voluntary self-reporting forms will be provided to the Coordinator after each meeting.
- e) Staff shall provide a copy of the Annual Construction Report to the Title VI Coordinator in or around April of each year. The Coordinator shall work with the Department GIS Department to generate a map of the Federally funded transportation projects to include demographic data of the neighborhoods effected by the projects.

D. Right-of-way Activities

- 1. **Real Property Services.** The Real Property Services Section manages and coordinates the appraisal and acquisition of real property and relocation assistance services for public works projects. The right of way acquisition process entails appraisal of property, negotiation of terms and conditions for acquisition, and assistance in the relocation of displaced individuals, businesses, farm operations, nonprofit organizations, and property management. This Section is located in the _____ Division.

2. Right-of-way Activities and Title VI

- a) Ensure equal opportunity in all aspects of procuring real estate service contracting and appraisal agreements.
- b) Follow adopted vendor procurement policies in the acquisition of contracted services.
- c) Utilize current directories identifying fee appraiser organizations and the Nebraska Department of Roads' list of certified fee appraisers when seeking services. Maintain data on awards to minority and female appraisers, and provide data to the Title VI Coordinator on a quarterly basis.
- d) Incorporate Title VI language and assurance statements in all surveys of property owners and tenants after the conclusion of all business. Coordinate the preparation of deeds, permits and leases to ensure the inclusion of the appropriate clauses, including Title VI Assurances.
- e) Ensure that appraised values and communications associated with the appraisal and negotiation operations result in equitable treatment.
- f) Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process.
- g) Maintain statistical data including race, color, national origin, and sex on all relocatees affected by Federally funded projects, and provide detailed demographic data quarterly to the Title VI Coordinator.

E. Construction and Maintenance Activities

1. **Construction Management Section.** This section is located in the _____ Division, and is responsible for administration of all new construction contracts and inspecting bridges. The _____ Division is responsible for oversight and the administration of transportation construction projects, as set forth by policy decisions and supervision of the Department Engineer.
2. **Maintenance.** The _____ Division is responsible for the efficient program for maintaining Department roads, bridges, and parks/grounds by economically utilizing the resources of contractors, equipment, and materials.
3. **Construction and Maintenance Activities and Title VI**
 - a) Review all Federally funded projects for application of DBE goals. As appropriate, include DBE provisions in those projects with designated goals. Include Title VI language in bid announcements and applicable construction documents, as stipulated in the Department's Title VI Policy Statement (p. 2) and Assurances (Addendum 2, p. 14-15) herein.
 - b) Award construction contracts on the basis of lowest responsive bidder, as well as meeting DBE requirements. Include Title VI language in prime contract award letters to encourage utilization of DBE subcontracts and vendors.
 - c) Ensure that prime contractors with DBE requirements award contracted work to qualified DBEs which perform commercially useful functions.
 - d) Monitor all maintenance and construction operations to ensure nondiscrimination throughout all operations.
 - e) Coordinate the gathering of maintenance and construction information regarding DBE participation for the Annual Title VI Report; and provide to the Coordinator.

LPA Department Title VI Notice to the Public

(or provide a copy of own)

LPA hereby gives public notice that it is the Department's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person shall, on the grounds of race, color, sex, or national origin be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Federal Aid Highway program or other activity for which *LPA* Department receives Federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with *LPA*. Any such complaint must be in writing and filed with the *LPA* Department Title VI Coordinator within one hundred, eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from the _____ office at no cost to the complainant by calling (____) _____.

LPA Department Standard DOT Title VI Assurances

The LPA in the State of Nebraska, (hereinafter referred to as the “LPA”), HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d--42 USC 2000d--4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, 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 LPA receives Federal financial assistance through the NDOR, including the U.S. Department of Transportation and Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This Assurance is required by Subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the LPA hereby gives the following specific assurances to its Federal Aid Highway Program:

1. That the LPA agrees that each “program” and each “facility” as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the LPA shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal Aid Highway Program, and in adapted form in all proposals for negotiated agreements:

LPA in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d---42 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.
3. That the LPA shall insert the clauses of Appendix 1 of this Assurance in every contract subject to the Act and the Regulations.
4. That the LPA shall insert the clauses of Appendix 2 of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the LPA receives Federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the LPA receives Federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the Assurance shall extend rights to space on, over or under such property.
7. That the LPA shall include the appropriate clauses set forth in Appendix 3 of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the LPA with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the

construction or use of or access to space on, over or under real property acquired, or improved under the Federal Aid Highway Program.

8. That this Assurance obligates the LPA for the period during which Federal financial assistance is extended to the program, or is in the form of, personal property, or real property or interest therein or structures or improvements there on, in which case the Assurance obligates the LPA 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 LPA retains ownership or possession of the property.
9. The LPA shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom s/he delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.
10. The LPA agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance.

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 the LPA by the U.S. Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, sub-recipients, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person whose signature appears below is authorized to sign this Assurance on behalf of the LPA.

Appendix A

Title VI Assurances for Consultants, Contractors, Subcontractors, Suppliers, and Manufacturers

_____ Department will insert or add the following clauses into every contract subject to the Act and Regulations associated with the receipt of Federal financial assistance:

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 shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the

Department of Transportation (hereinafter DOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination.

The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, including Procurement of Materials and Equipment.

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

4. Information and Reports.

The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by _____ Department or the NDOR to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to _____ Department, or the NDOR as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance.

In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, _____ Department and the NDOR shall impose such contract sanctions as it, or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a) Withholding of payments to the contractor under the contract until the contractor complies, and/or;
- b) Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions.

The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as *LPA* or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request *LPA* enter into such litigation to protect the interests of the Department and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Appendix B: Granting and Habendum Clauses

When LPA is the recipient of real property, structures or improvements thereon, or interest therein from the United States, the following clauses shall be included in any and all deeds affecting or recording the transfer of property:

GRANTING CLAUSE

NOW, THEREFORE, _____ Department, as authorized by law, will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252:42 USC 2000d to 2000d--4) does hereby remise, release, quitclaim, and convey unto _____ Department all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

HABENDUM CLAUSE

TO HAVE AND TO HOLD said lands and interests therein unto _____ Department, 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 the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on _____ Department, its successors, and assigns.

_____ Department, 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 shall on the grounds of race, color, sex, 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)¹ (2) that _____ Department, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination of Federally assisted programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the Department shall have a right to reenter said lands and facilities on said land, and the above described land and

facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.

Appendix C: Lease/Deed Provisions

Upon receipt of Federal financial assistance to construct a facility or part of a facility, the LPA agrees to include these clauses in all future deeds, licenses, leases, permits, or similar instruments entered into by _____ Department pursuant to the provisions of Title VI Assurances, item 7:

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose for which a US Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed 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, as said Regulations may be amended.

That in the event of breach of any of the above non-discrimination covenants, the Department shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by _____ Department pursuant to the provisions of Title VI Assurances, item 7.

The LESSEE, for himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin shall be excluded from participation in, be 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 furnishing of services thereon, no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises 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 may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the Department shall have the right to terminate the lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

¹ Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of Civil Rights Act of 1964.