

NDDOT'S TITLE VI/NONDISCRIMINATION AND ADA PROGRAM REQUIREMENTS, GUIDANCE, AND TEMPLATES FOR SUB RECIPIENTS

- I. Title VI/Nondiscrimination and ADA Program Requirements
 - A. DOT ORDER 1050.2A, DOT Standard Title VI Assurances and Non-Discrimination Provisions, signed by Secretary Ray LaHood on April 24, 2013
 - 1. Standard Title VI/Non-Discrimination Assurances signed by NDDOT
 - a. Includes Methods of Administration (MOAs)-Requirements to be set out in an Implementation Plan.
 - b. Gives reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance will comply with all requirements.
 - B. Title VI/Nondiscrimination and ADA Program Implementation Plan
 - 1. Implementation Plans are the process documents outlining recipients, sub recipients, and others Title VI/Nondiscrimination and ADA Program.
 - 2. Implementation Plans ensures compliance with Title VI of the Civil Rights Act of 1964, and gives sub recipient's employees, members of the general public, NDDOT, FHWA, and FTA a consistent and easy to understand "roadmap" of their Title VI/Nondiscrimination and ADA Program.
- II. Title VI/Nondiscrimination and ADA Program Guidance and Templates
 - A. Key Elements of a Title VI/Nondiscrimination and ADA Program Implementation Plan
 - 1. Title VI/Nondiscrimination and ADA Policy Statement
 - a. Express commitment to Title VI/Nondiscrimination and ADA Program
 - b. Specific programs and activities covered by the Title VI and ADA Program
 - c. The Agency Title VI and ADA Program Coordinator
 - d. A delegation of authority and responsibilities to appropriate Division Managers
 - e. Policy Statement signed by Chief Executive Officer
 - f. Policy statement circulated throughout organization and made available to the public.

NDDOT has written their Title VI/Nondiscrimination and ADA Policy Statement according to federal regulations and FHWA and FTA guidance. It is included in NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan on page 2. It can be electronically accessed at the following location.

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

NDDOT has developed a template. The required Title VI/Nondiscrimination and ADA Policy Statement can be obtained from the NDDOT Civil Rights Division, Title VI/Nondiscrimination and ADA Program, Sub Recipient Title VI/Nondiscrimination and ADA Program information web page.

<https://www.dot.nd.gov/divisions/civilrights/titlevi-subrecipients.htm>

2. Standard Title VI/Non-Discrimination Assurances
 - a. Required prior to approval of federal financial assistance
 - b. Require Methods of Administration (MOAs) in an Implementation Plan
 - c. Signed by your Chief Executive Officer
 - d. Legal contractual obligation
 - e. Attach current signed assurances including Appendices (USDOT ORDER 1050.2A (April 2013); formatted for sub recipients; Appendix A and E are included in all applicable contracts.
 - f. Refusal to furnish/comply required assurances – may refuse/terminate funds

NDDOT's Standard Title VI/Non-Discrimination Assurances are included in NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan on pages 3-11. It can be electronically accessed at the following location.

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

The required Standard Title VI/Non-Discrimination Assurances template (USDOT ORDER 1050.2A (April 2013); formatted for sub recipients can be obtained from the NDDOT Civil Rights Division, Title VI/Nondiscrimination and ADA Program, Sub Recipient Title VI/Nondiscrimination and ADA Program information web page.

<https://www.dot.nd.gov/divisions/civilrights/titlevi-subrecipients.htm>

3. Organization and Staffing
 - a. Include a description of the relationship between the Title VI Coordinator Unit and the head of the Agency.
 - b. Include a description of the Title VI Coordinator Unit along with an organizational chart that identifies their placement in the agency.
 - c. Outline the roles and responsibilities of the Title VI Coordinator, Title VI Specialist/Manager & staff, and ADA Coordinator.

Refer to NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan, pages 12-15, posted on the Civil Rights Division, Title VI/Nondiscrimination and ADA Program web page. <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

4. Program Area Review and Compliance Procedures
 - a. Describe the pertinent program areas and the Title VI responsibilities of each program area along with the process for conducting yearly reviews of the program areas. (Pertinent programs are defined as any program that intersects with Title VI/LEP/EJ.) The process should define:
 - 1) The type of reviews and their objectives.
 - 2) What activities will be reviewed for the program?
 - 3) What data will be sought from the program area(s)?
 - 4) How the data obtained will be analyzed?
 - 5) How will the review determine effectiveness?
 - b. Describing the processes for conducting the program area reviews, sub recipients should include how they will determine the effectiveness of each program areas' pre-grant and post-grant approval reviews.
 - 1) Ensures that all federal-aid contracts include the required Title VI/nondiscrimination language. Use of Appendix A & E in contracts.

- 2) Ensures that contractors, subcontractors, consultants, and sub consultants are clearly aware of their responsibilities to comply with Title VI/Nondiscrimination and ADA Program requirements.
- 3) Review records must be maintained in the sub recipient's files. These include Review Schedules, review questionnaires and answers, sub recipient pre-authorization checklists and answers, and other documentation gathered during the review documenting compliance with Title VI/nondiscrimination and ADA requirements.

NDDOT has described their Program Area Review Procedures. It is included in the NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan, pages 15-16, posted on the Civil Rights Division, Title VI/Nondiscrimination and ADA Program web page. <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

5. Sub Recipient Review and Compliance Procedures

- a. Describe the process for conducting reviews of your sub recipients. The process should define:
 - 1) A schedule or amount of reviews anticipated per year
 - 2) The types of reviews and their objectives
 - 3) Where and when the outcome of the reviews will be reported?
 - 4) What activities will be reviewed, and
 - 5) How will the review determine effectiveness?
 - 6) Review records must be maintained in the sub recipient's files. These include Review Schedules, review questionnaires and answers, sub recipient pre-authorization checklists and answers, and other documentation gathered during the review documenting compliance with Title VI/nondiscrimination and ADA requirements.
- b. Review Selection and Procedures
 - 1) Provides for a specific process to conduct reviews in a nondiscriminatory manner and to ensure compliance with Title VI
 - 2) Records must be maintained in the sub recipient's files. These records document that the Review Selection and Procedures was followed to ensure reviews are conducted in a nondiscriminatory manner. These records include a written step process to select sub recipients for review and to bring their programs into compliance within the required timeframes. Maintain other documentation as set out in your Review and Selection Process.

NDDOT has described their Sub Recipient Review Procedures and Review Selection and Procedures according to federal regulations and FHWA and FTA guidance. It is included in NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan on pages 41-44. It can be electronically accessed at the following location. <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

6. Data Collection

- a. The collection, analysis, and reporting of data on recipients are key elements of a successful Title VI enforcement strategy.
- b. Data collection is the primary means by which an agency can monitor whether its program funds are reaching the communities that need the assistance.
- c. Data collection records must be maintained in the sub recipient's files. These records document the processes used to collect data using various data collection tools along with an analysis of the gathered information.
- d. The data collected needs to be directly related to the specific processes in a Program Area.
- e. A data collection and analysis might include using a demographic survey at a public meeting or event and comparing the attendance results with 2010 Census demographic information of the same area. The comparison would show what percentage of each demographic area was reached at the public meeting or event. A determination can be made whether the results were satisfactory or if additional steps need to be taken to improve the reach of your program to additional beneficiaries/individuals.
- f. The Office of Right-of-Way should analyze the data to determine if property valuations were conducted in a non-discriminatory manner, if property owners were negotiated in a non-discriminatory manner, and if Relocation Benefits were calculated in a non-discriminatory manner.

NDDOT has described their Data Collection process according to federal regulations and FHWA and FTA guidance. It is included in NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan on pages 44-45. It can be electronically accessed at the following location.

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

NDDOT has developed templates for public meetings; a Sign-In Sheet, Public Participation Survey and Instructions, and a Request For Reasonable Accommodations that can be obtained from the NDDOT Civil Rights Division, Title VI/Nondiscrimination and ADA Program, Sub Recipient Title VI information web page.

<https://www.dot.nd.gov/divisions/civilrights/titlevi-subrecipients.htm>

7. Training Program for Staff and Sub Recipients

- a. Provides training for local program staff
- b. Provides training for sub recipients and stakeholders
- c. Training records must be maintained in the sub recipient's files. These records include training schedules, agendas, sign-in sheets, and training materials such as PowerPoint's, and handouts, etc. Maintain a training report listing the name of your training events, date, location, and the number of attendees for each training event held during the reporting period.

NDDOT has described their Training program for staff and employees, sub recipients, and stakeholders according to federal regulations and FHWA and FTA guidance. It is included in NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation

Plan on pages 46-47. It can be electronically accessed at the following location.

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

NDDOT has developed a webpage with numerous training materials. Materials cover Title VI, ADA and Section 504, and LEP. Materials include online videos and text formats, and links to “Other Resources” are available on NDDOT Civil Rights Division, Title VI/Nondiscrimination and ADA Program, Sub Recipient Title VI/Nondiscrimination and ADA Program Training Resources web page.

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

8. External Complaints of Discrimination Procedures

- a. Describe your procedures for prompt processing, investigation, and resolution of Title VI and related nondiscrimination statutes complaints
- b. Procedures must include the following:
 - 1) A description of the complaint process identifying how and where a complaint would be filed, with which department or person, and all applicable timeframes.
 - 2) A statement that investigations will be conducted by personnel trained in compliance investigations.
 - 3) A description of the process by which the sub recipient will track the complaints and keep the required data for each complaint received.
 - 4) Procedure by which each complaint received by the Sub Recipient along with the sub recipient report of investigation will be sent to the NDDOT within the required 60 day time period.
- c. Informs beneficiaries of their right to file a complaint.

NDDOT has described their External Complaints of Discrimination process and form with instructions and Complainant Consent/Release with the Notice About Investigatory Uses of Personal Information according to federal regulations and FHWA and FTA guidance. It is included in NDDOT’s 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan on page 47. It can be electronically accessed at the following location. <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

NDDOT has developed templates for the External Complaints of Discrimination process that can be obtained from the NDDOT Civil Rights Division, Title VI/Nondiscrimination and ADA Program, Sub Recipient Title VI/Nondiscrimination and ADA Program information web page.

<https://www.dot.nd.gov/divisions/civilrights/titlevi-subrecipients.htm>

9. Dissemination of Title VI Information

- a. Describe your processes and procedures to:
 - 1) Elicit and solicit public participation and involvement
 - 2) Educate the public of their Title VI program rights and obligations in the transportation decision-making process
- b. Include the tools, techniques and strategies to involve and educate the public including LEPs
 - 1) public statements, written documents
 - 2) meetings with community organizations and the media
 - (a) Provides opportunity for public input

- (b) Includes efforts to ensure participation by traditionally underserved
- c. Endeavor to develop a public involvement plan or identify a link or linkage where one already exists.

NDDOT has described their Dissemination of Title VI Information process according to federal regulations and FHWA and FTA guidance. It is included in NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan on page 47-48. It can be electronically accessed at the following location.

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

NDDOT's Public Involvement Plan outlines the processes for outreach and education of the public. The Public Involvement Plan can be accessed in NDDOT's Design Manual, Chapter II Section 3.

<http://www.dot.nd.gov/manuals/design/designmanual/Chapter%202.pdf>

10. Limited English Proficiency Plan

- a. Describe how the sub recipient reaches populations with Limited English Proficiency. This is often done through a Language Access Plan. To develop a Language Access Plan, the following steps may be used:
- b. Perform a Self-Assessment to determine which personnel interact with members of the public
- c. Identify LEP populations state-wide using US Census data and American Survey www.census.gov/acs
- d. Conduct a Four Factor Analysis:
 - 1) Demography- Number and/or proportion of LEP's served and language spoken in a service area.
 - 2) Frequency- Rate of contact with a service or program
 - 3) Importance- nature and importance of program/service to people's lives (transportation)
 - 4) Resources- available resources including language assistance services (limited or wide ranging)
- e. Develop a LEP Plan; additional information at www.lep.gov
- f. Records must be maintained in the sub recipient's files. These records document efforts to reach the public including LEP, low-income, and other traditionally underserved populations.

NDDOT has described their Limited English Proficiency Plan according to federal regulations and FHWA and FTA guidance. It is included in NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan on page 48, with the full plan at Exhibit G. It can be electronically accessed at the following location.

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

NDDOT has developed a template for an LEP Plan that can be obtained from the NDDOT Civil Rights Division, Title VI/Nondiscrimination and ADA Program, Sub Recipient Title VI information web page.

<https://www.dot.nd.gov/divisions/civilrights/titlevi-subrecipients.htm>

11. Environmental Justice (EJ)

- a. Describe the process by which EJ requirements will be met. In the description include how EJ will be integrated into each program area. This can be done in the following ways:
 - 1) Describe how sub recipient is collecting minority (race) and low-income population data in addition to the other nondiscrimination population data i.e., color, national origin, sex, age, disability, LEP.
 - 2) Describe how the affected program area is using the minority (race) and low-income data to further evaluate impacts to these populations according to the EJ Executive Order and available Federal guidance i.e. identify disproportionate and highly adverse impacts, conduct a benefits and burdens analysis, etc.
 - 3) Describe how the affected program area is effectively including the EJ populations in all Public Participation activities;
 - 4) Include EJ populations as applicable groups in the sub recipient external complaint form.

NDDOT has described Environmental Justice according to federal regulations and FHWA and FTA guidance. It is included in NDDOT's 2017 Title VI/Nondiscrimination and ADA Program Implementation Plan on page 48-49. It can be electronically accessed at the following location. <http://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

NDDOT's "Environmental Documentation" process is located in the NDDOT Design Manual, Chapter II, Section 2 at <http://www.dot.nd.gov/manuals/design/designmanual/Chapter%202.pdf>

B. Metropolitan Planning Organization (MPO)

1. MPO's must meet the Title VI requirements in the FTA Circular 4702.1B dated October 2012 and located at https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Title_VI_FINAL.pdf