*The State of North Dakota*
*Department of Transportation*

# TITLE VI PLAN

## Federal Transit Administration

**Local Government Division, Transit Section**
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TRANSIT TITLE VI AND NONDISCRIMINATION POLICY STATEMENT

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

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

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

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

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

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

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

*Title VI of the Civil Rights Act of 1964 governs race, color, and national origin.

Grant Levi

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

3/25/15
Date

## PLAN SUMMARY

The NDDOT Transit Section has developed this **Limited English Proficiency Plan** to help identify reasonable steps for providing language assistance to individuals with Limited English Proficiency (LEP) who wish to access services provided. As defined Executive Order 13166, LEP individuals are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP individuals that assistance is available.

In order to prepare this plan, the NDDOT used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP individuals in the service area who may be served by the NDDOT transit services.
2. The frequency with which LEP individuals come in contact with transit services.
3. The nature and importance of services provided by the NDDOT to the LEP population.
4. The resources available to the NDDOT for LEP outreach, as well as costs associated with that outreach. A summary of the results of the four-factor analysis is in the following section.

## MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

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

The NDDOT staff reviewed the *2007-2011* American Community Survey 5-Year Estimates for North Dakota and determined that *33,158* individuals, in North Dakota [*5.3%* of the population] speak a language other than English. Of those *9,137* individuals have limited English proficiency; that is; they speak English less than "very well" or "not at all." This is only *1.46%* of the overall population in North Dakota. In North Dakota, of those individuals with Limited English Proficiency, *0.30%* speaks German, *0.25%* speaks Spanish, *0.16%* speaks African languages, 0.13% speaks Chinese, 0.10% speaks Serbo-Croatian, 0.06% speaks Japanese, 0.06% speaks Vietnamese, *0.05%* speaks Russian, *0.05%* speaks Scandinavian, *0.04%* speaks Arabic, 0.03% speaks French (Patois, Cajun), *0.03%* speaks other Native North American languages, 0.03% speaks Tagalog, *0.02%* speaks other Asian Languages, *0.02%* speaks other Indic languages, *0.02%* speaks Korean, *0.02%* speaks other Pacific Island languages, *0.02%* speaks other Slavic languages, *0.02%* speaks Polish, *0.01%* speaks other Indo-European languages, *0.01%* speaks other and unspecified languages, *0.007%* speaks Gujarati, *and 0.004%* speaks French Creole, *0.004%* speaks Mon-Khmer, Cambodian, *0.004%* speaks Persian, *0.004%* Portuguese or Portuguese Creole, *0.003%* Hungarian, *0.003%* speaks Italian, *0.003%* speaks Laotian, *0.003%* speaks Thai, *0.003%* speaks Urdu, *0.001%* speaks Hebrew, *0.002%* speaks Greek, *0.001%* speaks Hindi, *0.001%* speaks Yiddish. NDDOT has contracted with a telephone based interpreter service that provides immediate interpreter services.

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

The NDDOT transit staff reviewed the frequency with which transit agencies have, or could have, contact with LEP individuals. This includes documenting phone inquiries or office visits. NDDOT Local Government, Transit Section utilizes a telephonic interpreter service for requests for oral interpretation. *No telephone calls through Local Government Transit Section were reported by the telephonic interpreter service.*

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

There is no large geographic concentration of any type of LEP individuals in the North Dakota. The overwhelming majority of the population, *94.7%,* speaks only English. As a result, there are only a few social, service, or professional and leadership organizations within North Dakota that focus on outreach to LEP individuals. *NDDOT Local Government Transit Section considered the importance of immediate and long-term effects of a delay in written translations. All services have several days to weeks allowed for comment or completion. Immediate oral interpretation is provided. Written translation is considered within a reasonable timeframe.*

**4. The resources available to the NDDOT for LEP outreach, as well as costs associated with that outreach.**

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

## LANGUAGE ASSISTANCE

A person who does not speak English as their primary language or who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to transit services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

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

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge.
- All transit staff will be provided with *language lists* to assist in identifying the language interpretation needed.
- All transit staff *who has encountered LEP* will be informally surveyed periodically on their experience concerning any contacts with LEP individuals during the previous year.
- When passengers board transit vehicles, a driver may greet them as they arrive. By informally engaging participants in conversation it is possible to gauge each passenger's ability to speak and understand English and this encounter may enable them to help identify the need for future translation and interpretation.

### Language Assistance Measures

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

1. The NDDOT transit staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating in English.

2. The following resources will be available to accommodate LEP individuals:

- Language interpretation will be accessed for most languages through a telephone interpretation service.
- "I Speak" cards are available to assist with language identification.

## STAFF TRAINING

The following training is provided to all staff:

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

## TRANSLATION OF DOCUMENTS

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

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

## MONITORING

**Monitoring and Updating the LEP Plan -** The NDDOT transit division will update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when data from the *2020* U.S. Census is available, or when it is clear that higher concentrations of LEP individuals are present in North Dakota. Updates will include the following:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP individuals have been addressed.
- Determination of the current LEP population in the service area.
- Determination as to whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine whether the NDDOT's financial resources are sufficient to fund language assistance resources needed.
- Determine whether the NDDOT fully complies with the goals of this LEP Plan.
- Determine whether complaints have been received concerning the agency's failure to meet the needs of LEP individuals.
- Determine which public notices will be translated and into which language they will be translated. Translations will be only as requested.

## DISSEMINATION OF THE NDDOT LEP PLAN

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

## PROGRAM ADMINISTRATION

The Transit Section along with the Civil Rights Division shall be responsible for coordinating the overall administration of the Title VI and Nondiscrimination Program, plan, and assurances. The Transit Title VI Specialist will be responsible for the program's day-to-day administration. The Transit Section Title VI Specialist works directly with the Title VI Specialists located in each of the transit agencies.

### A. Data Collection

Data collection ensures that transportation programs, services, activities, facilities, and projects effectively meet the needs of "all persons" without discrimination; i.e., disproportionately benefiting or harming one group over another is a violation of Title VI. Timely and accurate data allows for better decision-making and provides support to the decisions made. Statistical data on race, color, national origin, *limited English proficiency,* and when feasible, based on the U.S. Department of Health and Human Services Poverty Guidelines definition of low income, of participants in and beneficiaries of NDDOT transit programs, e.g., relocatees, impacted citizens, and affected communities will be collected and maintained by NDDOT. Each of the Title VI program area, as appropriate, will maintain data to be incorporated in the Title VI Annual Update for FTA. The data gathering process will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of the Title VI program administration.

### B. Public Involvement

NDDOT transit staff disseminates the Title VI and Nondiscrimination Program internally, via Intranet, to transit agencies, subrecipients, and the general public as well as in other formats as requested. Public dissemination of other Title VI information will include posting the Title VI and Nondiscrimination Policy Statement, Forms and Instructions in transit vehicles, facilities and publishing announcements of hearings, meetings, and other activities in minority media and in local newspapers having a general circulation in the vicinity of local transit agencies. This information is also available on each Transit Agencies website, if they have one.

NDDOT transit staff advertises all grant funding opportunities on the Transit website and in three major newspapers (Bismarck Tribune, Fargo Forum and Grand Forks Herald) throughout the state.

NDDOT actively encourages agencies who are, or who represent, minorities; people with low income; and people with limited English proficiency to participate.

### C. Complaints

If any individual believes that she/he or any other program beneficiaries have been subjected to unequal treatment or discrimination in their receipt of benefits and/or services, or on the grounds of race, color,

national origin, or *limited English proficiency*, she/he may exercise their right to file a complaint with the local transit agency or with the NDDOT. All complaints will be recorded on a Complaint Log.

NDDOT Transit section has had no complaints or lawsuits filed under Title VI for Transit Programs. Subrecipients of Transit Program also do not have any complaints or lawsuits files under Title VI. In the event of a compliant or lawsuit being filed within the NDDOT Transit Program, a log will be maintained to include the following information (as required by Circular 4702.1B): date complaint/lawsuit was filed; summary of allegation (s); current status; and actions taken by the recipient in response or final findings related to investigation/compliant/lawsuit. This list shall be included in the Title VI Program submitted to FTA every three years. See Attachment B.

**D. Monitor and Review**

NDDOT Local Government Transit Section monitors Title VI compliance by conducting annual program reviews. NDDOT has developed a process to conduct Title VI reviews of program areas and subrecipients to determine the effectiveness of program activities at all levels.

**E. Training Program**

Subrecipients can access training through Upper Great Plains Transportation Institute, Transportation Learning Network, and NDDOT website. The training provides comprehensive information on Title VI and related nondiscrimination provisions, its application to program operations, identification of Title VI issues, and resolution of complaints. All NDDOT Local Government Transit Section training events for Transit Agencies will be recorded documenting the training topic, date, time, hours, location, and participants.

**F. Limited English Proficiency Plan**

Limited English Proficiency is a term used to describe individuals who are not proficient in the English language. According to the US Census, North Dakota is home to a small number of individuals who are not proficient in the English language. Executive Order 13166, Improving Access to Services for Persons With Limited English Proficiency, August 2000, is directed at implementation of protections afforded by Title VI of the Civil Rights Act of 1964. NDDOT is committed to affording individuals affected by a NDDOT transit activity(s) with meaningful access to programs and services through the development and implementation of NDDOT's Limited English Proficiency Plan.

**G. Environmental Justice**

A 1994 Presidential Executive Order directed every federal agency to make environmental justice part of its mission by identifying and addressing the effects of all programs, policies, and activities on "minority populations and low-income populations." In order to comply with this order, NDDOT must appropriately address the concerns of individuals potentially affected by our activities. Those individuals must appropriately be involved in the development of transit operations that fit harmoniously within their communities without sacrificing safety or mobility.

**H. Title VI Plan Update, Accomplishments, and Goals**

The Local Government Title VI Liaison Officer will be responsible for coordination and preparation of the Title VI Program Update, including a goals and accomplishment report for the preceding year, and goals for the coming year. Title VI Specialist will be responsible to prepare and submit annual reports for Transit Agencies including Title VI responsibilities, operational guidelines, goals and annual accomplishments for the past year, and goals for the coming year.

## MONITOR AND REVIEW

### A. Program Areas

Title VI Specialists will coordinate efforts to ensure equal participation in their programs and activities in addition to their day-to-day monitoring. Program area reviews are required to be conducted annually for Transit Agencies.

### B. Subrecipient Reviews

Title VI Specialists will conduct Title VI compliance reviews of their program area subrecipients. NDDOT Transit Division developed a web page for subrecipients to access information and sample forms regarding developing their Title VI and Nondiscrimination Programs.

Reviews will be conducted with recipients of federal funds. NDDOT Transit provides guidance and training to subrecipients in the development of their Title VI Program. The Title VI Review Schedule Subrecipient Report documents the status of the reviews conducted during the reporting period and is included in the annual update.

### C. Determination of Site or Location of Facilities

Title 49 CFR Section 21.9(b)(3) states, "In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part." Title 49 CFR part 21, Appendix C, Section (3)(iv)provides, "The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin."

No transit facilities were built that required land acquisition or displacement of persons from their residences or businesses that would fit into the intent of this requirement. However, should the NDDOT Transit Section be informed of a subrecipient's intent to build a facility that does not require a NEPA process, the Transit Section will require the subrecipient to complete a Title VI equity analysis. This analysis must perform outreach to person's potential impacted by the proposed location of the facility. The Title VI equity analysis will compare the equity impacts of various location alternatives, and the analysis will occur before the selection of the preferred site.

If the recipient determines that the location of the project will result in a disparate impact on the basis of race, color or national origin, the recipient may only locate the project in that location if there is substantial legitimate justification for locating the project there and where there are no alternative locations that would have a less disparate impact on the basis of race, color, or national origin. The recipient must show how both tests are met and must consider and analyze alternatives to determine whether those alternatives would have less of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative.

### D. Operational Guidelines

All NDDOT directives, policies, procedures, and operational guidelines provided to subrecipients, and internal programs are reviewed annually to ensure the required Title VI provisions, state law, and related requirements are included, where applicable, by the Title VI Specialist.

### E. Remedial Action

NDDOT actively pursues the prevention of Title VI deficiencies and violations and takes the necessary steps to ensure compliance with all program requirements, both within NDDOT and its subrecipients of

federal funds. When irregularities occur in the administration of the federal program operation, corrective action will be taken to resolve Title VI issues. When conducting Title VI compliance reviews on its subrecipients, NDDOT transit staff will define a remedial action with agreement of FTA to provide to the subrecipient within a period not to exceed 90 days.

**F. Review Selection and Procedures**

1. NDDOT subrecipients

a) All subrecipients will have a yearly compliance review.

b) If deficiencies are found during the review, the subrecipient shall be given a scheduled number of days to fix the deficiencies.

c) Conducted by Transit Staff.

d) The review procedures for subrecipients are as follows:

(1) Send written notice of review date

(a) Provide list for production of documents

(2) Send Notice of Compliance, or

(3) Send Deficiency Notice with corrective actions

(a) Including a reasonable time not to exceed 90 days after receipt of deficiency notice, to voluntarily correct deficiencies; and possible sanctions.

e) Failure of recipient to comply within the allotted time frame

(1) Notice of Non-compliance identifying specific details of deficiencies

f) Title VI Review Schedules will be maintained documenting the required information as follows:

(1) Date Review Notice sent

(2) Date Review Conducted

(3) Date of Notice of Compliance

(4) Date of Notice of Deficiency, if any

(a) Date of follow-up review meeting with recipient

(b) Date of Notice of Non-compliance

g) Date of Last Review

## TITLE VI COMPLAINT PROCESS

### A. Scope of Title VI Complaints

The scope of Title VI covers all external NDDOT transit activities. Adverse impacts resulting in Title VI complaints can arise from many sources.

Complaints can originate from individuals alleging inability to obtain transit services.

### B. Formal Title VI Complaint Procedure

NDDOT's Title VI Policy, as outlined in its Title VI and Nondiscrimination Program, assures that no person or groups of persons shall, on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by NDDOT and its subrecipients.

NDDOT uses the following detailed, internal procedures for prompt processing of all Title VI complaints received under Title VI. These procedures include but are not limited to:

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

2. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. NDDOT's Title VI Complaint Form (SFN 51795) must be used.

3. The complaint may also be filed with the Office of Civil Rights, Federal Transit Administration, 1200 New Jersey Avenue, SE, Washington, D.C. 20590. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary *of the* U. S. Department of Transportation.

4. Upon receipt of a Title VI complaint, the Title VI Liaison Officer immediately advises the NDDOT Director of the complaint. The Director confers with the appropriate NDDOT Deputy Director, appropriate NDDOT Office Director, and the Title VI Liaison Officer to determine a course of action. Possible courses of action may include but are not limited to:

   a) Title VI complaints filed against NDDOT are referred to the Federal Transit Administration (FTA) Regional Office.

   b) Title VI complaints filed against NDDOT transit subrecipients (e.g., city, county, nonprofit, for profit transit agencies, etc.) are processed by NDDOT.

   c) A copy of the complaint, together with a copy of NDDOT's report of the investigation and recommendations, are forwarded to the FTA Regional Office within 60 days of the date the complaint was received by NDDOT.

   d) The FTA Headquarters Office of Civil Rights makes the final agency decision.

5. The NDDOT Director reviews and determines the appropriate action regarding every complaint. NDDOT will recommend, to the FTA Regional Office, not to proceed with or continue a complaint investigation if:

   a) The complaint is, on its face, without merit.

   b) The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions.

   c) The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.

6. If an investigation is to be initiated, the NDDOT Director designates a specific NDDOT Deputy Director to whom the investigation team will report in order to facilitate communication with the Director. The Deputy Director and NDDOT Office Director confer with the Title VI Liaison Officer and NDDOT Legal Counsel to establish guidelines for the investigation team. The Title VI Liaison Officer is instructed to appoint a team leader and an on-call team member to conduct the investigation. The team leader apprises the Deputy Director of the team's progress throughout the investigation.

7. The team leader determines the timeframe in which the investigation should be completed based on the date the complaint was filed. The entire investigation process, including the submission of the report of the investigation and recommendations to the FTA Regional Office, is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by NDDOT.

8. The Title VI Liaison Officer acknowledges receipt of the allegation(s) within ten (10) working days. The complainant is notified of the proposed action to be taken to process the allegation(s). The notification letter contains:

   a) The basis for the complaint.

   b) A brief statement of the allegation(s) over which NDDOT has jurisdiction.

   c) A brief statement of NDDOT's jurisdiction over the recipient to investigate the complaint; and

   d) An indication of when the parties will be contacted.

   e) Depending on the nature of the complaint, the complaint will be referred to the following for final decision:

      (1) Federal Transit Administration (FTA)

      (2) U.S. Department of Justice (USDOJ)

9. The Title VI Liaison Officer also notifies the FTA Regional Office within ten (10) calendar days of receipt of the allegations. The following information is included in the notification to FTA:

   a) Name, address, and phone number of the complainant.

   b) Name(s) and address(es) of persons alleged to have been involved in the act.

c) Basis of alleged discrimination (i.e., race, color, national origin)

d) Date of alleged discriminatory act(s).

e) Date complaint was received by NDDOT.

f) A brief statement concerning the nature of the complaint.

g) Other agencies (federal, state, or local) with which the complaint has been filed.

h) An explanation of the actions NDDOT proposes to take to resolve the issues raised in the complaint.

10. The investigation team leader notifies the Transit Director of the local transit agency in which the problem occurred that a complaint has been received.

11. The investigation team conducts an in-depth, personal interview with the complainant(s). Information gathered in this interview includes: identification of each complainant by race, color, national origin, name of the complainant; a complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint; the date the complaint was filed; and any other pertinent information the investigation team feels is relevant to the complaint. The interviews are recorded either on audio tape or by a team member taking notes. The team arranges for the complainant to read, make necessary changes to, and sign the interview transcripts or interview notes.

12. Following the interviews, the team leader develops a report of the investigation and recommendations based on the facts. The report contains the investigation team's findings, conclusions concerning each issue raised in the complaint, and recommendations for corrective action. The report is completed with the coordination and consultation of NDDOT's General Counsel. The report is the last document prepared as part of the investigation. Any other actions taken as a result of the investigation team's findings and conclusions are the responsibility of NDDOT management.

13. The complainant receives a letter from the NDDOT Director detailing the findings and any recommendations for corrective action to be taken based on the facts. All issues in the complaint are addressed. The complainant is informed that the final determination is made by the FTA Headquarters Office of Civil Rights.

14. The NDDOT Director forwards the report of the investigation and recommendations to the FTA Regional Office. Included with the report is a copy of the complaint, copies of all documentation pertaining to the complaint, the date the complaint was filed, the date the investigation was completed, and any other pertinent information.

15. The FTA Regional Office of Civil Rights makes the final agency decision.

**C. Informal Title VI Complaint Procedure**

1. Title VI complaints may be resolved by informal means. When informal means are used, the complainant is informed of his or her right to file a formal written complaint.

2. Such informal attempts and their results are summarized by the Transit Director of the local transit agency in which the problem occurred, or by their respective Title VI Specialist, and are forwarded to the Title VI Liaison Officer.

3. Any complaint received in writing is considered to be a formal complaint and is handled under the formal complaint procedure outlined above.

4. The Title VI Liaison Officer periodically informs the FTA Regional Office of the status of all complaints.

5. When a complaint has been directly filed with another federal or state agency, the Title VI Liaison Officer is to be informed by the agency where the complaint has been filed and is to coordinate any action needed by NDDOT to resolve the complaint.

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

## PROGRAM AREAS AND RESPONSIBILITIES

The following information describes the location of program functions within NDDOT and identifies responsibilities and processes, and applicable operational

### Local Government/Transit Section

The Local Government/Transit Section administers, coordinates, and allocates funds for rural transit state and federal-aid programs. The division also provides a liaison between Federal Transit Administration (FTA), local rural transit agencies, and NDDOT.

**1. Title VI Responsibilities**

a) Title VI responsibilities in the Local Government/Transit Section are:

1) The reviewing of subrecipients at the rural transit level.

2) Ensure public involvement for local projects is carried as required by our operational guidelines.

3) Title VI requirements related to the Transit federal-aid program are reported directly to FTA.

4) Continue with annual compliance reviews on all transit providers.

5) ADA accessibility items within Transit are described within the NDDOT ADA Transition Plan, available on the NDDOT website on the “Title VI and Nondiscrimination/ADA Program” webpage at http://www.dot.nd.gov/divisions/civilrights/titlevi.htm

6) Ensure subrecipient’s Title VI assurances are included in all grant applications.

7) Ensure Title VI regulations are included in all applicable contracts related to Local Government/Transit Section.

**FTA Circular 4702.1B**

IV.5.b (1) Requirement to Notify Beneficiaries of Protection under Title VI and
VI.7a (5) NDDOT Title VI Notice to Public

North Dakota Department of Transportation has chosen to inform the public of their rights under Title VI. The Title VI program is on our website at https://www.dot.nd.gov/divisions/localgov/transit-operator-services.htm This includes our complaint form and procedure. The Title VI and Non-discrimination policy statement attached to this plan and is posted at all transit locations, in transit vehicles, on transit websites (for those transit agencies that have websites), and all it is posted in all transit vehicles.

**IV.7.a (3) Title VI Complaint Procedures**

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs receiving federal financial assistance. This section outlines the Federal Transit Administration (FTA) Title VI complaint procedures related to providing programs, services, and benefits. However, it does not deny the complainant the right to file formal complaints with North Dakota Department of Transportation Civil Rights Division, Equal Employment Opportunity Commission, FTA, or to seek private counsel for complaints alleging discrimination, intimidation or retaliation of any kind that is prohibited by law.

Any person believing they have been subjected to discrimination as noted below may file a written complaint with the NDDOT Civil Rights Division. Complaints have the right to complain directly to the appropriate federal agency. Federal and state law requires complaints be filed within 180 calendar days of the last alleged incident. For FTA, complaints may be based on race, color, or national origin.

1. Within five calendar days of receipt of a written Title VI complaint the Civil Rights Division will notify the NDDOT Director of the complaint.
   All FTA – related complaints against NDDOT will be investigated by CRD.
   All Title VI complaints against State subrecipients will be investigated by CRD.

2. Within five calendar days of receipt of a complaint against state subrecipient, an investigation by the CRD will begin.

3. The compliant detail shall be entered on the CRD complaint spreadsheet. Complaints summarily resolved will be entered on the complaint spreadsheet and a file record of documents kept. If more thorough investigation is required, a written investigation report will be prepared by the investigator. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.

4. The CRD Director will be advised of the complaint resolution or review the report, if applicable. Any report will then be forwarded to the NDDOT Director for final internal action.

5. The investigation report with recommendations and corrective actions taken will be forwarded within 60 calendar days of the date the complaint was received by NDDOT to the FTA Regional office.

6. Complainants will be advised of their appeal rights to the appropriate federal agency.

**IV.7.a (5) Title VI Program Complaint Form**

A current Transit Title VI Program Complaint Form is attached to this plan. The form and instructions is in the process of being converted to a NDDOT state form and once completed will be available at https://www.dot.nd.gov/divisions/localgov/transit-operator-services.htm

**IV.7.a (4) Title VI Complaint Log**

A Transit Title VI Program Complaint Log is in draft form and attached to this plan. The log is in the process of being converted to a NDDOT state form and once completed will be available at https://www.dot.nd.gov/divisions/localgov/transit-operator-services.htm

**IV.8 Analysis of Construction Projects**

All projects for transit parking facilities and transit office/parking facilities.

**IV.9 Promoting inclusive public participation**

Steps taken to ensure that minority and low-income people had meaningful access to outreach and involvement activities include:

Dissemination of the North Dakota DOT Transit Title VI plan.

NDDOT's long-range and statewide planning associated with the development of the STIP is managed by the Programming Division. The Transit Section submits program and funding information to the Programming Division for inclusion in the STIP. The Draft STIP is placed for public comment on the NDDOT website and is advertised for comments. At the end of the comment period, comments are evaluated and addressed prior to final acceptance of the STIP.

## DEMOGRAPHIC INFORMATION

General demographic characteristics for the state of North Dakota that includes identification of the locations of minority populations in the aggregate.

Based on the most recent US Census data, 672,000 thousand persons lived in North Dakota in 2010. Table 1. below shows North Dakota's 2010 population base on race and ethnicity. As noted in the table:

- 88.9% of North Dakota's population is white
- Native Americans and Alaska Native populations make up the state's largest minority population, followed by Hispanic and African American populations.
- The Native American population makes up the state's largest minority population, being 5.3% of the total population. The majority of this population resides on the States Indian reservations. North Dakota has four transit providers who provide services on the reservations. Of the total funds available for the current grant year, 6.53% was awarded to transit agencies located on the States Indian reservations. In addition to the funds received from grants awarded by NDDOT

Transit Section, the transit providers located on the Indian reservations may also apply and receive direct funding from FTA.

| Table 1: ND Demographics from 2010 US Census | | |
|---|---|---|
| | | |
| **Race** | **Population** | **Percentage** |
| White | 598,007 | 88.9% |
| African American | 7,720 | 1.1% |
| Native American/Alaskan Native | 35,562 | 5.3% |
| Asian | 6,839 | 1.0% |
| Native Hawaiian/Pacific Islander | 290 | 0.0% |
| Hispanic or Latino | 13,467 | 2.0% |
| Some Other Race | 341 | 0.1% |
| Two or More Races | 10,365 | 1.5% |
| **Total Population** | **672,591** | **100%** |
| **Total Minorities** | **74,584** | **11.1%** |

North Dakota is a mostly rural state with three urban areas that have the largest concentration of the population. Table 2. and Figure 1. below show the minority population breakout by percent in each county.

**Table 2. Minority by County data table**

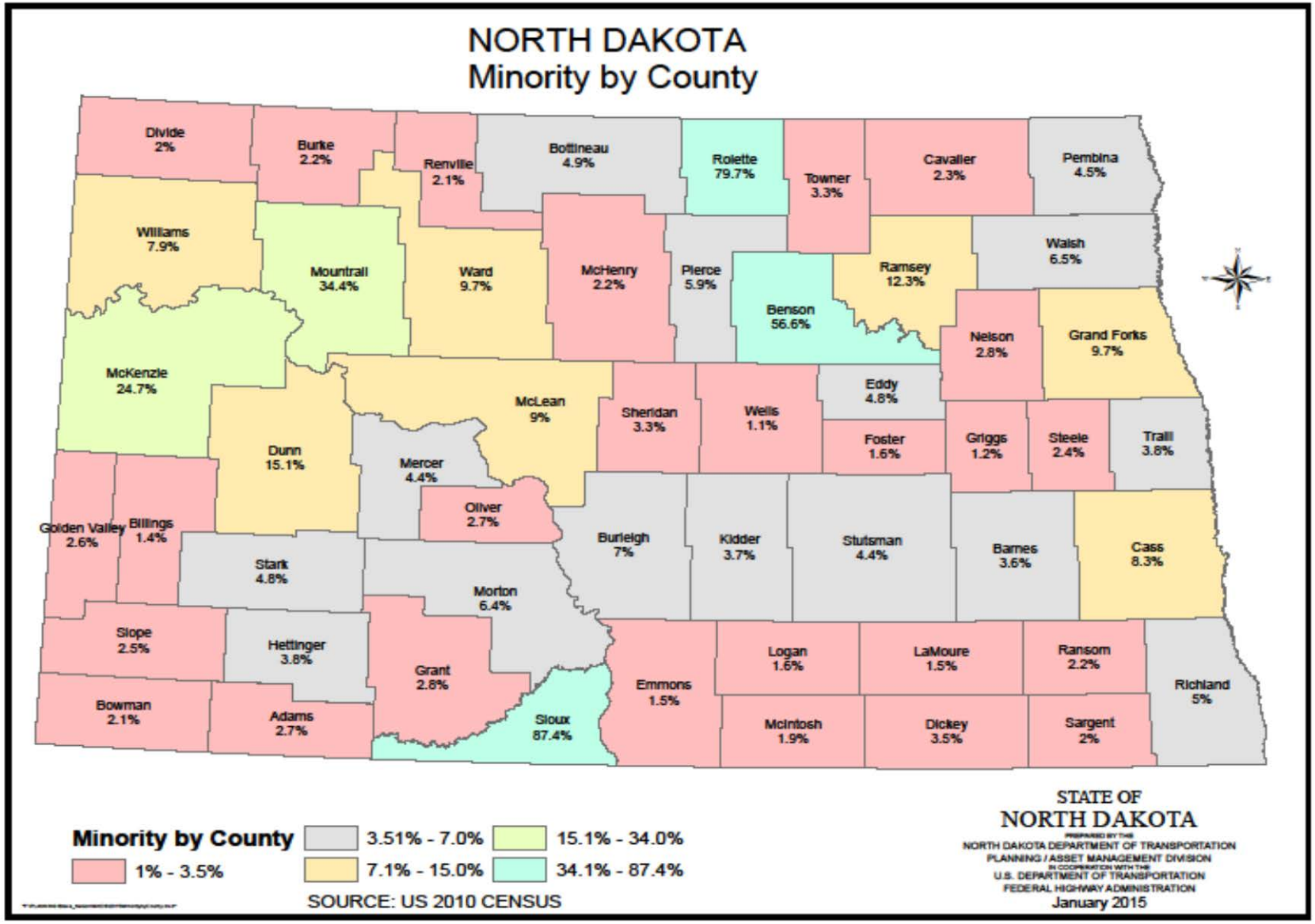
| County | % White | % Minority | County | % White | % Minority |
|---|---|---|---|---|---|
| Adams County | 97.3 | 2.7 | McLean County | 91 | 9 |
| Barnes County | 96.4 | 3.6 | Mercer County | 95.6 | 4.4 |
| Benson County | 43.4 | 56.6 | Morton County | 93.6 | 6.4 |
| Billings County | 98.6 | 1.4 | Mountrail County | 65.6 | 34.4 |
| Bottineau County | 95.1 | 4.9 | Nelson County | 97.2 | 2.8 |
| Bowman County | 97.9 | 2.1 | Oliver County | 97.3 | 2.7 |
| Burke County | 97.8 | 2.2 | Pembina County | 95.5 | 4.5 |
| Burleigh County | 93 | 7 | Pierce County | 94.1 | 5.9 |
| Cass County | 91.7 | 8.3 | Ramsey County | 87.7 | 12.3 |
| Cavalier County | 97.7 | 2.3 | Ransom County | 97.8 | 2.2 |
| Dickey County | 96.5 | 3.5 | Renville County | 97.9 | 2.1 |

| | | | | | |
|---|---|---|---|---|---|
| Divide County | 98 | 2 | Richland County | 95 | 5 |
| Dunn County | 84.9 | 15.1 | Rolette County | 20.3 | 79.7 |
| Eddy County | 95.2 | 4.8 | Sargent County | 98 | 2 |
| Emmons County | 98.5 | 1.5 | Sheridan County | 96.7 | 3.3 |
| Foster County | 98.4 | 1.6 | Sioux County | 12.6 | 87.4 |
| Golden Valley County | 97.4 | 2.6 | Slope County | 97.5 | 2.5 |
| Grand Forks County | 90.3 | 9.7 | Stark County | 95.2 | 4.8 |
| Grant County | 97.2 | 2.8 | Steele County | 97.6 | 2.4 |
| Griggs County | 98.8 | 1.2 | Stutsman County | 95.6 | 4.4 |
| Hettinger County | 96.2 | 3.8 | Towner County | 96.7 | 3.3 |
| Kidder County | 96.3 | 3.7 | Traill County | 96.2 | 3.8 |
| LaMoure County | 98.5 | 1.5 | Walsh County | 93.5 | 6.5 |
| Logan County | 98.4 | 1.6 | Ward County | 90.3 | 9.7 |
| McHenry County | 97.8 | 2.2 | Wells County | 98.9 | 1.1 |
| McIntosh County | 98.1 | 1.9 | Williams County | 92.1 | 7.9 |
| McKenzie County | 75.3 | 24.7 | | | |

Source: US 2010 Census

In Table 2. and Figure 1. it is clear that there are five counties that have higher than 24% minority population, with three counties have more than 56% minority population. One Indian Reservation encompasses the five counties with the higher than 24%. The three largest counties each have a separate Indian Reservation which accounts for the high number. The remaining counties in the state have 15% or less minority population.

Figure 1. Minority by County Map



## FEDERAL AND STATE TRANSIT FUNDING DISTRIBUTION BY AGENCY

North Dakota has 53 counties and all counties receive funding to provide transportation services. See Table 3. below for the distribution for each agency.

Table 3. Transit Agency Funding 2014

| Transit Agency | Counties Served | 5339 Funding | 5310 Funding | 5311 Funding | 5316 Funding | 5317 Funding | State Aid Funding | Total Funding |
|---|---|---|---|---|---|---|---|---|
| Benson County Transportation | Benson | | | $ 48,128 | | $ 19,723 | $ 54,090 | $ 121,941 |
| Bis-Man Transit Board | Burleigh & Morton | | $ 473,829 | | | $ 37,068 | $ 698,663 | $ 1,209,560 |
| Cando Transportation | Cando | | | $ 40,940 | | | $ 54,457 | $ 95,397 |
| Cavalier County Transit | Cavalier | | $ 36,000 | $ 39,103 | | | $ 65,703 | $ 140,806 |
| Devils Lake Transit /Eddy Co Transit | Ramsey & Eddy | | | $ 95,000 | | | $ 169,062 | $ 264,062 |
| Dickey County Transportation | Dickey | | $ 45,000 | $ 2,000 | | | $ 74,045 | $ 121,045 |
| Stark County (Elder Care) | Stark | $ 24,700 | | $ 483,650 | | | $ 195,769 | $ 704,119 |
| Fargo Metro Area Transit | Cass | $1,132,000 | | | $ 256,302 | $256,302 | $ 791,417 | $ 2,436,021 |
| Glen Ullin City Transportation | Morton | | | | | | $ 12,197 | $ 12,197 |
| Golden Valley/Billings Cncl. On Aging | Golden Valley & Billings | | | $ 43,255 | | | $ 95,854 | $ 139,109 |
| Grand Forks - Cities Area Transit | Grand Forks | $ 220,000 | $ 97,616 | | $ 5,317 | $ 38,000 | $ 437,961 | $ 798,894 |
| Handi-Wheels Transportation | Cass | | | | | | $ 37,372 | $ 37,372 |
| Hazen Busing | Mercer | $ 68,000 | | $ 69,400 | | | $ 50,894 | $ 188,294 |
| James River Public Transit | Stutsman, Sheridan, Wells | | $ 44,000 | $ 315,909 | | | $ 264,023 | $ 623,932 |
| Jamestown, City of | Stutsman | | | | | | $ 27,381 | $ 27,381 |
| Kenmare Wheels & Meals, Inc. | Ward | $ 2,800 | | $ 30,109 | | | $ 37,942 | $ 70,851 |
| Kidder Senior Services | Kidder | | | $ 42,560 | | | $ 55,674 | $ 98,234 |
| Minot, City of | Ward | $ 433,460 | | $ 441,005 | $ 156,540 | $156,540 | $ 97,512 | $ 1,285,057 |
| Nelson County Transportation | Nelson, Grand Forks | | | $ 49,190 | | | $ 77,340 | $ 126,530 |
| Nutrition United/Rolette Co. Transp. | Rolette | | $ 30,000 | $ 69,898 | | | $ 88,107 | $ 188,005 |
| Pembina County Meals & Trans | Pembina | | | $ 101,250 | | | $ 87,717 | $ 188,967 |
| Souris Basin Transportation | Ward, Renville, Pierce, Mountrail, McHenry, Burke, | | $ 52,500 | $ 620,131 | | | $ 723,664 | $ 1,396,295 |
| South Central Adult Servcies | Barnes, Emmons, Cass, Foster, Griggs, LaMoure, | $ 104,000 | $ 124,621 | $ 543,610 | | | $ 478,714 | $ 1,250,945 |
| Southwest Transportation Services | Bowman, Adams, Hettinger, Slope | $ 43,200 | | $ 80,848 | | | $ 215,989 | $ 340,037 |
| Spirit Lake Transit | Benson | | | $ 90,133 | | | $ 28,780 | $ 118,913 |
| Standing Rock Public Transportation | Sioux, Morton, Burleigh | | $ 103,989 | $ 566,570 | | | $ 92,378 | $ 762,937 |
| Trenton Indian Services Area | Williams | | | $ 26,500 | | | $ 35,316 | $ 61,816 |
| Turtle Mountain Transit | Rolette | | | $ 29,133 | | | $ 41,607 | $ 70,740 |
| Valley Senior Services | Cass, Grand Forks, Ransom, Richland, Sargent, | $ 31,200 | $ 64,800 | $ 203,500 | | | $ 610,358 | $ 909,858 |
| Walsh County Transportation | Walsh | | | $ 79,400 | | | $ 111,573 | $ 190,973 |
| West River Transit | Burleigh, Dunn, Grant, McLean, Mercer, Morton, | $ 240,000 | | $ 361,969 | $ 6,400 | $ 6,400 | $ 354,780 | $ 969,549 |
| Wildrose Senior Transportation | Williams | | | | | | $ 15,034 | $ 15,034 |
| Williston Region 1 Council on Aging | Divide, McKenzie, Williams | $ 74,376 | | $ 230,500 | | | $ 268,096 | $ 572,972 |
| Totals | | $2,373,736 | $1,072,355 | $ 4,703,691 | $ 424,559 | $514,033 | $6,449,469 | $ 15,537,843 |

## MINORITY REPRESENTATION ON PLANNING AND ADVISORY BOARDS

Table 4. below shows the racial breakdown of the membership of transit related boards. The board members are elected or appointed in each community. Each Transit Agency annually sends an updated list of board member to the Transit Section by April 1.

Table 4

**MINORITY REPRESENTATION ON TRANIST BOARDS**

| | White | African American | Asian | American Indian/Alaska Native | Native Hawaiian/Pacific Islander | Other | Identified in 2 or more |
|---|---|---|---|---|---|---|---|
| POPULATION | 90% | 1% | 1% | 5% | 0.05% | 0.5% | 2% |
| TRANSIT BOARD | 95% | 0% | 0% | 5% | 0% | 0% | 0% |

* Information in table is based on 2013-2014 information from Transit Agencies

Attachment A

# (NAME OF Transit Agency)

# TRANSIT TITLE VI COMPLAINT FORM

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

| | | |
|---|---|---|
| **Name** | | **Telephone** |
| **Street Address/P.O. Box** | | **Email Address** |
| **City** | **State** | **Zip Code** |

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

☐ Race ☐ Color ☐ National Origin

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

| |
|---|
| |
| |
| |
| |
| |
| |
| |
| |
| |

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

| |
|---|
| |
| |
| |
| |
| |

**PART V - VERIFICATION**

Complainant's Signature _____ Date _____

Attachment A

**Instructions**

**GENERAL**

1. Under Title VI of the Civil Rights Act of 1964 and the related statutes and regulations, no person or groups(s) of persons 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 and all programs, services, or activities administered by **(TRANSIT AGENCY)**. Any person or groups(s) of persons who feel they have been discriminated against may file a complaint.

2. Instructions provided within this form are not meant to be all inclusive. Complainants are responsible for all procedural requirements.

3. Complainants **must** include all required information and **must** meet all timeframes as defined in the **(TRANSIT AGENCY)** Title VI Complaint Procedure.

4. Legible copies of all available pertinent documentation should be attached to this form.

5. All inquiries should be directed to **(Name of Title VI Coordinator, TRANSIT AGENCY, Street Address/P.O. Box, City, State, Zip Code, Telephone, TTY)**.

**PART I**

Complete all information in this section.

**PART II**

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

**PART III**

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

**PART IV**

State the minimum remedy acceptable for resolution of this complaint.

**PART V**

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

**Complaints filed with U. S. Department of Transportation**

Discrimination complaints based on race, color, or national origin may be filed with the Federal Transit Administration at the FTA Office of Civil Rights, 1200 New Jersey Avenue SE, Washington, DC 20590. The complaint **must** be filed, in writing, no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary, U.S. Department of Transportation.

Attachment B

# TRANSIT TITLE VI - LIST OF INVESTIGATIONS, LAWSUITS, AND COMPLAINTS

North Dakota Department of Transportation, Local Goverment Division

SFN60805 (03-2015)

| Name of Transit Provider/Agency |
|---|
| |

All recipients shall prepare and maintain a list of any of the following that allege discrimination on the basis of race, color, or national origin:

- Active investigations conducted by Federal Transit Administration (FTA) and entities other than FTA;
- Lawsuits; and
- Complaints naming the recipient.

Providers must submit form upon receipt of notification of complaint and annually upon request by the NDDOT Transit Section. Please attach additional documentation as needed. If you have not had any investigations, lawsuits, or complaints, please enter "None" in each category on the annual report.

| | | DATE (MM/DD/YYYY) | SUMMARY OF ALLEGATION(S) (include basis of complaint: race, color or national origin) | CURRENT STATUS | ACTION(S) TAKEN/FINAL FINDINGS |
|---|---|---|---|---|---|
| INVESTIGATIONS | 1. | | | | |
| | 2. | | | | |
| | 3. | | | | |
| | 4. | | | | |
| LAWSUITS | 1. | | | | |
| | 2. | | | | |
| | 3. | | | | |
| | 4. | | | | |
| COMPLAINTS | 1. | | | | |
| | 2. | | | | |
| | 3. | | | | |
| | 4. | | | | |

| Name (Type or Print) | |
|---|---|
| Signature | Date |

Attachment C

# STANDARD DOT TITLE VI ASSURANCES

_____ (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, - Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground 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 applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. Without limiting the above general assurance, the sponsor agrees concerning this grant that:

1. Each "program" and "facility" (as defined in Sections 21.23(e) and 21.23 (b)) will be conducted or operated in compliance with all requirements of the Regulations.

2. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.

3. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

4. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.

5. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the sponsor with other parties:

(a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this Project; and

(b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.

6. This assurance obligates the Sponsor 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 sponsor or any transferee for the longer of the following periods.

(a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or

(b) the period during which the sponsor retains ownership or possession of the property.

7. It will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants or Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

8. It agrees that the United States has a right to seek judicial enforcement 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 Federal financial assistance for this Project and is binding on its contractors, the sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED_____

_____
(Sponsor)

By_____
(Signature of Authorized Official)

ATTACHMENT 1

## CONTRACTOR CONTRACTUAL REQUIREMENTS

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 by it during the contract, shall 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 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 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, 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 the Sponsor or the Federal Aviation Administration (FAA) 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 the sponsor or the FAA, 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, the sponsor shall impose such contract sanctions as it or the FAA 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 5 in every subcontract, including procurements 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 subcontract or procurement as the sponsor or the FAA 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 the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

ATTACHMENT 2

## CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of Assurances 5(a) and 5(b).

1. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

2. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his 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 grounds of race, color, or national origin shall 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 grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permitee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

Attachment D

**STATEMENT OF NON-DISCRIMINATION**

Under Title VI of the Civil Rights Act of 1964, and its related statutes and regulations, no person or groups of persons shall be, 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 and all programs or activities funded in whole or in part with Federal funds.

Contact the Project Director at 701-_____
to request additional information on our nondiscrimination obligations or to file a complaint.

---

**This Transportation service is**

# Open to the PUBLIC