

EVERYTHING YOU WANTED TO KNOW ABOUT TITLE VI NONDISCRIMINATION

A Handbook for Local Governments
and Consultants

Kansas Department of Transportation
Office of Civil Rights Compliance



April of 2022

TABLE OF CONTENTS

- I. Introduction to the Nondiscrimination Program
 - A. Definition
 - B. Title VI Nondiscrimination Assurances
 - C. How KDOT Monitors Title VI/Nondiscrimination
- II. How Nondiscrimination Impacts a Community
 - A. Public Involvement
 - B. Benefits and Services
 - C. Contractors and Suppliers
- III. How to Locate Minority and Women Owned Firms
- IV. Nondiscrimination Requirements for Local Governments
- V. Nondiscrimination Requirements for Consultants

Appendix A – Definitions

Appendix B – Nondiscrimination Agreement

I. INTRODUCTION TO THE NONDISCRIMINATION PROGRAM

A. DEFINITION:

Title VI and related statutes prohibit discrimination on the basis of race, veteran status, color, sex, age, disability, low income or national origin in any aspect of any program receiving federal-aid funds.

Once an agency, firm, or local government receives federal-aid funds, ALL programs and activities of that entity are covered by Title VI.

B. TITLE VI NONDISCRIMINATION ASSURANCES:

It is the policy of the Kansas Department of Transportation, (KDOT) to assure full compliance with Title VI of the Civil Rights Act of 1964 and subsequent related statutes. Signed assurances are required of each state highway agency by Title 49, Code of Federal Regulations, Part 21 and related statutes and regulations. The Secretary of Transportation, as the chief executive officer has the responsibility for all transportation matters relating to civil rights. The Secretary delegates to the State Transportation Engineer, the Division of Administration Director, and to the Office of Civil Rights, the responsibility for initiating and monitoring KDOT's Title VI/Nondiscrimination program activities.

C. HOW KDOT MONITORS NONDISCRIMINATION:

The purpose of nondiscrimination in transportation is to identify and eliminate discrimination found to exist within any program or activity by any entity that accepts federal-aid funds. The basic philosophy of nondiscrimination is that people affected by programs should receive the services, benefits, and opportunities, to which they are entitled, without regard to their race, veteran status, color, national origin, age, disability, low income and sex. Nondiscrimination requirements apply to daily program activities that may arise during any phase of a transportation project.

The Kansas Department of Transportation is required to monitor recipients of federal aid for nondiscrimination compliance. This includes conducting reviews of local governments, consultants, planning agencies, and research facilities to ensure compliance. The KDOT also will provide education and training in regard to nondiscrimination and will assist others in their compliance programs. KDOT's annual plan and efforts are reviewed each year by the Federal Highway Administration.

II. HOW NONDISCRIMINATION IMPACTS A COMMUNITY

A. PUBLIC INVOLVEMENT:

The purpose of public involvement is to obtain information and participation in the planning and development of transportation projects. In some areas, extra effort may be needed to encourage participation by all community members. Notices or advertisements which are used in non-minority areas may not be effective in reaching the minority populations. Inadequate efforts to reach all protected groups are a violation of Title VI. The following are suggestions for obtaining the involvement of all residents in a community:

1. Place press releases in local newspapers, including minority, disabled, senior and women-oriented newsletters, and place spot announcements on local radio or television stations, especially those including programs of minority, elderly and women interest,
2. Post flyers in churches, grocery stores, post offices and meeting halls which are frequented by all community members,
3. Encourage all local organizations to become involved in representing their neighborhoods,
4. Contact minority, elderly and women organizations and community leaders of groups such as the NAACP, GI Forum, LINKS, YWCA, NOW, and neighborhood associations,
5. Locate public hearings at a site to produce maximum involvement by both minority and non-minority members of the community and to be accessible to all,
6. Hold public hearings at hours convenient to the majority of people affected, which may be evenings or weekends,
7. Provide translators and written material in the appropriate language in areas with language barriers, provide signers for the hearing impaired when requested, and
8. When written comments are requested, provide persons to write the comments of those present.

B. BENEFITS AND SERVICES

It is important that nondiscriminatory criteria be used to provide benefits and services equally to all community members. Exclusion or unequal treatment of persons because of race, veteran status, color, national origin, age, handicap, low income or sex should not occur. The following are suggestions about nondiscrimination effects on community members:

1. Zoning changes should maintain or improve the quality of life in the affected neighborhood,
2. Relocation assistance or treatment should be provided in the same or similar manner to all community members,
3. Payments or property valuations for similar property should be equitable,
4. Replacement housing should be comparable to property being replaced,
5. The accessibility to schools, health care, shopping, churches, recreation, employment, and transportation should be maintained equitably,
6. Property values and tax bases should change equitably, and
7. Health and environmental impacts should not disproportionately affect one neighborhood.

C. CONTRACTORS AND SUPPLIERS:

When a transportation project is proposed, regulations require that minority and women owned businesses be given the maximum opportunity to participate in the planning, design and construction. The following actions shall be taken:

1. Establish criteria in the selection of contractors and consultants to increase minority and women owned business participation,
2. Maximize efforts to locate minority or women contractors, appraisers, consultants, researchers, vendors and suppliers of goods and services,

3. Maximize efforts to notify minority and women contractors and consultants about projects available for bid,
4. Include Title VI/Nondiscrimination in all contracts and agreements, and
5. Monitor projects for Title VI/Nondiscrimination compliance by contractors and subcontractors.

III. HOW TO LOCATE MINORITY AND WOMEN OWNED FIRMS

Recipients of federal-aid funds are responsible to meet the goals and objectives of Title VI of the Civil Rights Act of 1964 and subsequent related statutes. As part of the daily business of locating suppliers of goods and services, local governments and consultants must seek out minority and women owned firms by taking the following actions as a minimum:

1. Contact neighborhood associations to develop a list of minority and women owned businesses,
2. Record efforts taken to locate minority and women owned firms,
3. Advertise through media announcements and local newspapers to locate minority and women owned firms,
4. Utilize the DBE directory published by the KDOT Office of Civil Rights and the Minority and Woman-Owned Business directory published by the Kansas Department of Commerce, Business Development Division,
5. Develop a directory listing all businesses in your community with ownership annotated by race and sex, and
6. Refer minority, women or disadvantaged owned, businesses to KDOT or KDOC for certification as a DBE.

IV. NONDISCRIMINATION REQUIREMENTS FOR LOCAL GOVERNMENTS AND AGENCIES

Cities, counties and other local government entities come under Title VI Requirements when they accept federal-aid funds to improve roads, bridges or other public works. Title VI/Nondiscrimination then applies to all operations of the government entity. The following steps should be taken to ensure compliance with Nondiscrimination:

1. Appoint someone in a position of authority to be responsible for nondiscrimination activities, instruction, complaints and reports,
2. Compile and utilize a resource directory of minority and women owned businesses that supply goods and services,
3. Have written procedures in place to review nondiscrimination compliance and to handle complaints,
4. Conduct a study within the local jurisdiction to determine the total population, female heads of households, disabled, low income, elderly and the ethnic make-up in different areas,
5. Compile a comprehensive list of all community organizations and community and religious leaders,
6. Have written procedures in place to ensure nondiscriminatory techniques are used in conducting environmental impact studies,
7. Have written procedures in place to ensure equality in relocation, condemnation, replacement housing,
8. Have written procedures in place to ensure equal opportunity in the hiring of minority and women appraisers,
9. Have written procedures in place to document bid lettings and awards to ensure equal opportunity for minority and women owned businesses, and
10. Ensure the inclusion of Title VI/Nondiscrimination references in all government agreements and contracts.

V. NONDISCRIMINATION REQUIREMENTS FOR CONSULTANTS

Consultants are affected by Title VI/Nondiscrimination when they bid on or are awarded a contract with KDOT or a local government entity that involves federal aid. The following steps should be taken to ensure compliance:

1. Appoint someone in a position of authority in the firm to be responsible for Title VI/Nondiscrimination activities and reports,
2. Conduct systematic and direct recruitment of minorities and women when hiring to staff projects,
3. Document training opportunities to upgrade the skills of minorities and women on staff,
4. Document procedures utilized to acquire goods or services and efforts taken to purchase from minority and women owned firms,
5. Have a written complaint procedure to handle problems and complaints from any sector of the public affected by your consultation work, and
6. Determine if protected groups will be impacted and if so make every effort to insure their input, participation and equitable treatment when working on a project.

APPENDIX A

DEFINITIONS:

AFFIRMATIVE ACTION -	A good faith effort to eliminate discrimination in public programs.
BENEFICIARY -	Any person or group entitled to receive direct or indirect benefits from a federal-aid program. This could be one relocated person or a whole community.
COMPLIANCE -	A satisfactory condition existing when a recipient has met all Title VI requirements or demonstrated that good faith efforts were made.
DEFICIENCY -	A lack of fulfillment of one or more requirements of the Title VI program.
DISCRIMINATION -	An intentional or unintentional act which subjects a person or group to unequal treatment within a public program.
PROGRAM -	This includes any highway project or transportation activity or facility to provide services, financial aid or other benefits to individuals.

SOURCES:

1. 49 CFR Part 21 details nondiscrimination in USDOT federal-aid highway programs.
2. Title VI and Title VIII of the Civil Rights Act of 1964.
3. National Environmental Policy Act of 1969.
4. Uniform Relocation Assistance of 1970.
5. Federal Aid Highway Act of 1973 (Added sex as protected group).
6. Rehabilitation Act of 1973 (Added handicap).
7. Age Discrimination Act of 1975.
8. Civil Rights Restoration Act of 1987.
9. Americans with Disabilities Act of 1990.
10. Executive Order 12898 of 1995 (Added low-income).

Appendix B

Sample Nondiscrimination Agreement

SAMPLE NONDISCRIMINATION AGREEMENT
FEDERAL HIGHWAY ADMINISTRATION
REGIONAL OFFICE
CITY, STATE

NONDISCRIMINATION AGREEMENT

THE FEDERAL HIGHWAY ADMINISTRATION
REGIONAL ADMINISTRATOR
AND
(NAME OF RECIPIENT)

The (Name of Recipient), (hereinafter referred to as the "Recipient") hereby agrees to comply with the following Federal statutes, U.S. Department of Transportation and Federal Highway Administration Regulations, and the policies and procedures promulgated by the Federal Highway Administration, as a condition to receipt of Federal funds.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI of the Civil Rights Act of 1964, as amended, provides that no person shall on the grounds of race, color, national origin, sex, age, and handicap/disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Civil Rights Restoration Act of 1987 amended Title VI to specify that entire institutions receiving Federal funds—whether schools and colleges, government entities, or private employers—must comply with Federal civil rights laws, rather than just the particular programs or activities that receive the funds.

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

ASSURANCES

49 CFR PART 21.7

The (Name of the Recipient), HEREBY GIVES ASSURANCES:

1. That no person shall on the grounds or race, color, national origin, sex, age, and handicap/disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are Federally funded or not, Activities and programs, which the recipient hereby agrees to carry out in compliance with Title VI and related statutes include but are not limited to:

LIST ALL MAJOR PROGRAMS AND ACTIVITIES OF THE RECIPIENT

2. That it will promptly take any measures necessary to effectuate this agreement.
3. That each program, activity, and facility as defined at 49 CFR 21.23(b) and (e), and the Civil Rights Restoration Act of 1987 will be (with regard to a program or activity) conducted, or will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this agreement.

4. That these assurances are 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 recipient by the Federal Highway Administration under the Motor Carrier Safety Assistance Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Motor Carrier Safety Assistance Program. The person or persons whose signatures appear below are authorized to sign these assurances on behalf of the Recipient.
5. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Motor Carrier Safety Assistance programs and, in adapted form all proposals for negotiated agreements:
 2. The grant or donation of Federal property and interest in property,
 3. The detail of Federal personnel,
 4. The sale and lease of, and the permission to use (other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
 5. Any Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.:

The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 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 in any contract entered into pursuant to this advertisement, disadvantaged business, enterprises as defined by 49 CFR Part 23 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, national origin, sex, age, handicap/disabled in consideration for an award.

6. That the Recipient shall insert the clauses of Appendix A of this agreement in every contract subject to the Act and the Regulations,
7. The Recipient 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 agreement.

IMPLEMENTATION PROCEDURES

23 CFR PART 200

This agreement shall serve as the recipient's Title VI plan pursuant to 23 CFR 200 and Region Title VI Implementation Guide.

For the purpose of this agreement, "Federal Assistance" shall include:

1. Grants and Loans of Federal funds,

The recipient shall:

1. Issue a policy statement, signed by the head of the recipient, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.
2. Take affirmative action to correct any deficiencies found by the Federal Highway Administration within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The head of the recipient shall be held responsible for implementing Title VI requirements.
3. Establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the recipient. This unit shall contain a Title VI Equal Employment Opportunity Coordinator or a Title VI Specialist, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
4. Adequately staff the civil rights unit to effectively implement the civil rights requirements,
5. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigations. Identify each complainant by race, color, national origin, sex, age, handicap/disability; the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the recipient's report of investigation, will be forwarded to the Office of Motor Carrier Safety within

60 days of the date the complaint was received by the recipient.

6. Collect statistical data (race, color, national origin, sex, age, handicap/disability) of participation in, and beneficiaries of the programs and activities conducted by the recipient.
7. Conduct Title VI reviews of the recipient and sub-recipient contractor program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
8. Conduct training programs on Title VI and related statutes.
9. Prepare a yearly report of Title VI accomplishments for the past year and goals for the next year.

(a) *Accomplishment Report*

List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI Specialist and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews conducted by the Title VI Specialist. List any major problem(s) identified and corrective action taken. Include a summary and status report on any Title VI complaints filed with the recipient.

(b) *Annual Work Plan*

Outline Title VI monitoring and review activities planned for the coming year; state by which each activity will be accomplished and target date for completion.

DISCRIMINATION COMPLAINT PROCEDURE

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, as amended, may file a complaint with the recipient. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the recipient's Title VI Specialist for review and action.
2. In order to have the complaint considered under this procedure, the complainant must file the complaint no later than 180 days after:
 - (a) The date of the 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 recipient 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 recipient, the person shall be interviewed by the Title VI Specialist. If necessary, the Title VI Specialist 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 in the usual manner.
4. Within 10 days, the Title VI Specialist will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as the Federal Highway Administration and the Department of Transportation.
5. The recipient will advise the Office of Motor Carriers within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to the Office of Motors Carriers:
 - (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, sex, age, disability/handicap).
 - (d) Date of alleged discriminatory act(s).
 - (e) Date of complaint received by the recipient.
 - (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 recipient has taken or proposed to resolve the issue raised in the complaint.
6. Within 60 days, the Title VI Specialist will conduct and complete 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 recipient. 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 recipient 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 the Department of Transportation, or the Federal Highway Administration, if they are dissatisfied with the final decision rendered by the State, The Title VI Specialist will also provide the Office of Motor Carriers with a copy of this decision and summary of findings.

SANCTIONS

In the event the recipient fails or refuses to comply with the terms of this agreement, the Federal Highway Administration may take any or all of the following sanctions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;

- (b) Refrain from extending any further assistance to the recipient under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient.

Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the recipient.

- (d) Refer the care to the Department of Justice for appropriate legal proceedings.

SIGNED FOR THE FEDERAL HIGHWAY
ADMINISTRATION:

Regional Administrator *Date*

SIGNED FOR THE RECIPIENT:

Authorized Signature *Date*