



# **Title VI Implementation Plan**

**For Federal Fiscal Year 2019**

Oklahoma Department of Transportation

Civil Rights Division

Phone: (405) 521-3379

Toll Free: 1-800-788-4539

Fax: (405) 522-2136

[http://ok.gov/odot/Doing\\_Business/Civil\\_Rights/index.html](http://ok.gov/odot/Doing_Business/Civil_Rights/index.html)



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**Oklahoma Division**

November 13, 2018

5801 N. Broadway Ext. Ste. 300  
Oklahoma City, OK 73118  
Phone: 405-254-3300  
Fax: 405-254-3302  
[www.fhwa.dot.gov/okdiv](http://www.fhwa.dot.gov/okdiv)

In Reply Refer To:  
HDA-OK

J. Michael Patterson  
Executive Director  
Oklahoma Department of Transportation  
200 NE 21<sup>st</sup> Street  
Oklahoma City, OK 73105

Dear Mr. Patterson:

The FHWA Oklahoma Division has reviewed the Oklahoma Department of Transportation Title VI Implementation Plan for FY 2019. Our review considered the regulatory requirements, overall program objectives and goal, as well as the analyses of previous year's efforts and accomplishments.

After reviewing this information, we have determined the FY 2019 ODOT Title VI Implementation Plan is consistent with the requirements of 23 CFR part 200 and in accordance with the requirements in 23 CFR 200.9(b)(11) approve its immediate implementation.

The next ODOT Title VI Implementation Plan submission is due to FHWA on October 1, 2019 unless otherwise coordinated. If you have any questions, please contact Steve Duskin at (405) 254-3313.

Sincerely,

Basharat Siddiqi, P.E.  
Division Administrator  
Oklahoma Division  
Federal Highway Administration

Cc: Russel Hulin, ODOT Deputy Director  
Jenny Allen, ODOT CR Division Manager  
Katrina Fire, ODOT Title VI and Title VII Coordinator  
Steve Duskin, FHWA Civil Rights Specialist  
file

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## **I. INTRODUCTION**

The Oklahoma Department of Transportation (ODOT) builds and improves Oklahoma's roads, and focuses on its mission of "Providing a better transportation system for Oklahoma through our unified and dedicated efforts." Established in 1911 as the Oklahoma Department of Highways, ODOT has 2,285 departmental employees all of whom work diligently to further that mission in a fair and nondiscriminatory way. As a recipient of federal financial assistance from the Federal Highway Administration (FHWA), ODOT is required to comply with Title VI of the Civil Rights Act of 1964, which provides:

**"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 subjected to discrimination under any program or activity receiving Federal financial assistance."**

Title VI served as the model for subsequent nondiscrimination laws based on receipt of federal funding, including Title IX of the Education Amendments of 1972 (sex) and Section 504 of the Rehabilitation Act of 1973 (disability). However, each of these laws is accompanied by its own regulations and requirements and is not interchangeable with Title VI.

The U.S. Department of Justice (DOJ), as the Federal government's coordinating agency for Title VI, implemented its Title VI program in 28 C.F.R. Part 42 and issued guidance in two main documents: The Title VI Legal Manual<sup>1</sup> and the Complaint Investigation Procedures Handbook.

Title VI authorizes and directs Federal agencies to enact "rules, regulations, or orders of general applicability" to achieve the statute's objectives. The U.S. Department of Transportation (USDOT) implemented its Title VI program in 49 C.F.R. Part 21. FHWA's regulations can be found in 23 C.F.R. Part 200.

Title VI is further defined by Executive Orders 12898 (Environmental Justice or EJ), Executive Order 13166 (Limited English Proficiency or LEP):

- Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.
- Executive Order 13166 - Improving Access to Services for Persons with Limited English Proficiency.

## **I. DISCRIMINATION UNDER TITLE VI**

There are two types of discrimination prohibited under Title VI and its related statutes: (1) disparate treatment (i.e. intentional discrimination) and (2) disparate impact/effects. An intent claim alleges that similarly situated persons are treated differently because of their race, color, or national origin.

The second type of discrimination is disparate impact or disparate effects. This type of discrimination occurs when a facially neutral policy, procedure, or practice results in different or

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<sup>1</sup> Title VI Legal Manual (Updated), U.S. Department of Justice website, <https://www.justice.gov/crt/fcs/T6manual>.

inferior services or benefits to members of a protected group. In disparate impact, the focus is on the consequences of a decision, policy, or practice rather than the intent.

ODOT's efforts to prevent such discrimination must address, but not be limited to, a program's impacts, access, benefits, participation, services, contracting and training opportunities, investigation of complaints, allocation of funds, and prioritization of projects. It applies to all departments within ODOT, especially those with a direct effect on the public such as planning, project design, environmental review, right-of-way, construction, traffic operations, and communications.

#### Specific Forms of Discrimination Prohibited

- The denial of services, financial aid, or other benefits provided under a program.
- Distinctions in the quality, quantity, or manner in which a benefit is provided.
- Segregation or separation of persons in any part of the program.
- Restriction in the enjoyment of any advantages, privileges, or other benefits provided to others.
- Differing standards or requirements for participation.
- Methods of administration that directly or indirectly, or through contractual relationships would defeat or impair the accomplishment of effective nondiscrimination.
- Discrimination in any activities or services related to a highway, infrastructure or facility built or repaired in whole or in part with federal funds.

In addition, ODOT, as a state agency administering a continuing program which receives federal financial assistance, must establish a Title VI compliance program for all sub-recipients that obtain federal assistance through it.<sup>2</sup>

## **II. KEY DEFINITIONS**

**Beneficiary:** Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, (e.g. relocatees, impacted citizens, communities, etc.)

**Disparate Impact:** Discrimination that occurs when a facially neutral policy, procedure, or practice results in different or unequal treatment, and such policy or practice lacks a substantial legitimate justification. Under USDOT regulations, recipients may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.<sup>3</sup>

**Disparate Treatment:** Intentional discrimination, or disparate treatment, happens when a recipient acts, at least in part, because of the actual or perceived race, color, or national origin of the alleged victims of discriminatory treatment.<sup>4</sup> Discriminatory intent need not be the only motive, but a violation occurs when the evidence shows that the entity adopted a policy at issue

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<sup>2</sup> 28 C.F.R 42.410.

<sup>3</sup> 49 C.F.R. § 21.5(b)(2).

<sup>4</sup> *Doe ex rel. Doe v. Lower Merion Sch. Dist.*, 665 F.3d 524, 548 (3d Cir. 2011).

“‘because of,’ not merely ‘in spite of,’ its adverse effects upon an identifiable group.”<sup>5</sup> While one must show that the recipient was motivated by an intent to discriminate, the recipient’s decision makers do not have to have acted in “bad faith, ill will or any evil motive....”<sup>6</sup>

**Federal financial assistance and Federal-aid** (49 C.F.R. § 21.23(c)) includes:

- (1) Grants and loans of Federal funds;
- (2) The grant or donation of Federal property and interests in property;
- (3) The detail of Federal personnel;
- (4) The sale and lease of, and the permission to use (on 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.

**Local Public Agency (LPA) (23 C.F.R. § 635.102):** any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with ODOT in highway matters.

**Metropolitan Planning Organization (MPO):** The policy board of an organization created and designated to carry out the metropolitan transportation planning process for each urbanized area with a population of more than 50,000 individuals (e.g. the Association of Central Oklahoma Governments (ACOG))—

- (a) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or
- (b) in accordance with procedures established by applicable State or local law.

**Minority:** ODOT uses the race and ethnicity categories established by the Office of Management and Budget in its October 30, 1997 Federal Register Notice: *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*. The race and ethnicity categories below are included in the definition of “Minority” provided by: the Council on Environmental Quality *Environmental Justice Guidance Under the National Environmental Policy Act*, the U.S. Department of Transportation (USDOT) Order 5610.2(a), and FHWA Order 6640.23A.

*American Indian or Alaska Native.* A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

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<sup>5</sup> *Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979).

<sup>6</sup> *Elston*, 997 F.2d at 1406 (quoting *Williams v. City of Dothan*, 745 F.2d 1406, 1414 (11th Cir. 1984)).

*Asian.* A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

*Black or African American.* A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."

*Hispanic or Latino.* A person of Cuban, Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

*Native Hawaiian or Other Pacific Islander.* A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**Programs or Programs and Activities (49 C.F.R. § 21.23(e)):** all of the operations of any of the following entities, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described above.

**Recipient (49 C.F.R. § 21.23(f)):** any State, territory, possession, the District of Columbia, or Puerto Rico, or any political subdivision thereof, or instrumentality thereof, any public or private

agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary.

**Statewide Transportation Improvement Program (STIP):** A statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and TIPs, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.”

**Sub-recipient:** A recipient entity that receives federal funding from a Primary recipient (e.g. ODOT to carry out a federal program.

**Transportation Improvement Program (TIP):** A prioritized listing/program of transportation projects covering a period of four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the metropolitan transportation plan, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.

### III. NONDISCRIMINATION STATEMENT OF POLICY

The Oklahoma Department of Transportation (ODOT) and its Executive Director are committed to full compliance with Title VI of the Civil Rights Act of 1964 and all related regulations, laws, executive orders and directives. The Executive Director, as the ultimate responsible person for Title VI compliance, and the ODOT, ensures 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 ODOT services, programs or activities.

Any person who is not an employee of the State of Oklahoma, and who believes that they have been discriminated against because of ODOT's programs, policies or activities, may file a written complaint with the Title VI Coordinator at the address and telephone number listed below:

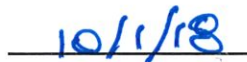
**Oklahoma Department of Transportation  
Title VI Coordinator  
200 NE 21<sup>st</sup> Street, Room 1-C1  
Oklahoma City, Oklahoma 73105-3204  
(405) 521-3379 Office  
(405) 522-2136 Fax**

ODOT's Title VI Program is managed by its Title VI Coordinator, who is a member of the Department's Civil Rights Division and reports directly to the Executive Director on Title VI issues. The Title VI Coordinator will work closely with the Title VI Designees, Division Managers, and Division Engineers to perform the routine data collection/data analysis and process reviews required under Title VI.

ODOT's Executive Director is committed to providing the Title VI Coordinator with the resources, authority and responsibility to effectively carry out his/her duties.



Executive Director  
Michael J. Patterson



Date

## **IV. ORGANIZATION AND STAFFING OF CIVIL RIGHTS DIVISION**

### **Overview**

The Civil Rights Division (CRD) reports directly to the ODOT Deputy Director and has been established in accordance with federal guidelines. The CRD administers and oversees the Department's Title VI, Americans with Disabilities Act (ADA), Disadvantaged Business Enterprise (DBE), and Contractor Compliance Programs. The Title VI Coordinator is the Title VI Coordinator for ODOT and reports directly to the ODOT Executive Director for Title VI matters, as indicated in the attached organizational chart. **(See ATTACHMENT 1)**

### **Organization**

**Executive Director** – The Executive Director of the ODOT is responsible for ensuring implementation of the Department's Title VI Plan. The Executive Director, pursuant to 23 CFR § 200.9(a)(3), is responsible for ODOT's implementation of and compliance with Title VI and provides leadership, guidance, direction, and support for ODOT's Title VI program.

**Deputy Director** – Assists the Executive Director in the implementation of a proactive and comprehensive Civil Rights Program and provides leadership, support and guidance to the CRD.

**Title VI Coordinator** – The Title VI Coordinator answers directly to the CRD Manager and to the Executive Director on Title VI issues. The Title VI Coordinator has the responsibility for the strategic direction of ODOT's Title VI Program including program and activity delivery and oversight, evaluation of Title VI program activities and reports, community and interagency coordination, technical guidance and assistance, training, policy development and revision, and coordination of all agency-wide Title VI program implementation and information.

The Title VI Coordinator's primary functions include the following:

- Oversee, guide, and direct ODOT's Title VI program;
- Participate in the development of ODOT's policy and strategic plans to ensure initiatives and goals are consistent with ODOT's Title VI Program;
- Serve as a liaison between ODOT and Federal and state officials regarding civil rights issues;
- Work closely with community leaders and other stakeholders to ensure their concerns are heard regarding Title VI issues;
- Monitor, review and evaluate the effectiveness of ODOT's programs, policies, and activities for Title VI compliance;
- Develop Title VI information for dissemination to the general public and, in languages other than English;
- Monitor the CRD Title VI activities and call resource or program deficiencies to the Executive Director's attention;
- Provide guidance and instruction regarding compliance reviews and investigations and assist other divisions with Title VI compliance;
- Develop procedures to identify and eliminate discrimination and impediments to nondiscriminatory practices where such impediments are found;

- Establish procedures for promptly resolving Title VI deficiency status and reducing to writing the remedial action needed, within a period not to exceed 90 calendar days from the submission of the annual goal accomplishment report;
- Develop and implement procedures for the collection of statistical data (i.e., with respect to race, color, and national origin, of participants in, and beneficiaries of, State highway programs);
- Develop procedures for Title VI compliance reviews of program areas (communications, environmental, planning, project development, right-of-way, traffic operation and control, construction, and research) to determine the program area's effectiveness;
- Prepare or cause to be prepared, annual assurances for FHWA and Title VI activities and accomplishments report; and
- Represent ODOT, at the direction of ODOT senior leadership, at the Oklahoma State Legislature and other official bodies providing expert advice and testimony regarding the highly complex and involved Title VI-related issues.

**Title VI Designees** – Each ODOT division (Central Office and Field) has a designee responsible for communicating and coordinating with the Title VI Coordinator on activities impacted by Title VI. These individuals are responsible for monitoring and implementing required policies and practices within his or her respective area(s) of responsibility, to ensure ODOT's programs, policies, procedures and practices are applied fairly, equitably, and in a nondiscriminatory manner in accordance with Title VI and the related nondiscrimination laws detailed earlier in this Plan. These individuals provide program activity information to the Title VI Coordinator upon request. The required accomplishment is monitored by the Title VI Coordinator. The Title VI Coordinator will schedule an annual meeting with each designee to make sure Title VI requirements and notices are in compliance. The Title VI designees will receive information via video or written materials to minimize travel for the field divisions. The role/responsibility of being a Title VI designee will fall under the category of "all other duties as assigned".

**Division Managers** - Division Managers are responsible for familiarizing themselves with the requirements of Title VI and the related nondiscrimination laws detailed earlier in this Plan, and for complying with ODOT's Title VI Program. They are responsible for assuring that issues or complaints regarding Title VI and related statutes are promptly reported to the Title VI Designee to report to the Title VI Coordinator. They are also responsible for assisting the Civil Rights team members in their efforts to implement Title VI requirements related to their divisions, both internally and externally. The accomplishment of these requirements is monitored by the supervisor of the responsible individuals through ODOT's employee performance management program.

**Division Engineers** - ODOT is comprised of eight divisions. Each division is served by one Division Engineer. Each Division Engineer will be responsible for appointing a Title VI Designee for their field division. That Title VI Designee will provide guidance to their division on Title VI compliance issues, ensuring that Title VI complaints received in the Divisions are referred to the Title VI Coordinator, and assist in ensuring that ODOT Division programs, services, and activities are administered fairly in compliance with Title VI.

## **V. PROGRAM AREA MONITORING AND INTERNAL REVIEW PROCESS**

### **A. Environmental Programs Division**

The Environmental Programs Division (EPD) Manager is responsible for providing communication outreach activities for environmental considerations for ODOT projects and activities. The Public Information Officer in this Division is responsible for arranging all public hearings and meetings for ODOT. EPD plays a critical role in how ODOT communicates with the media and how we reach out to the public and stakeholders. The EPD Manager and EPD Public Information Officer will ensure that every effort will be made to prevent discrimination through the impact of its programs, policies, and activities on minority populations, and that reasonable steps will be taken to provide meaningful access to ODOT's public participation process for persons with Limited English Proficiency. The Division will appoint a Title VI Designee to report to the Title VI Coordinator. EPD's Title VI responsibilities include, but are not limited to, the following tasks:

1. Promptly refer Title VI complaints to the Title VI Coordinator and assist with the investigation of these complaints;
2. Respond to Title VI Coordinator data requests timely;
3. Develop data-driven public involvement strategies to consider Environmental Justice (EJ) and Limited English Proficient (LEP) persons in transportation decision-making;
4. Evaluate ODOT's public involvement process and develop strategies to assess the effectiveness of outreach to consider EJ and LEP persons, including analysis for, and elimination of, potential barriers to participation; and
5. Develop and implement methods to ensure nondiscrimination in the inclusion of formal and informal public comments from stakeholders and individuals in the transportation decision-making process in consideration of EJ and LEP.

The Division Manager for the Environmental Programs Division (EPD) is responsible for analyzing the environmental effects, resulting impacts, mitigating measures of planned projects and ensuring they are executed in accordance with the National Environmental Policy Act (NEPA) and EJ. The Title VI impacts other than EJ and LEP must be consulted with the Title VI Coordinator to ensure compliance. This process requires consideration of the social, economic, and environmental effects of a proposed project, to identify possible discriminatory issues of EJ and LEP, meet the identified transportation needs and goals of a community, and ensure the protection and enhancement of the environment. The EPD will appoint a Title VI Designee to report to the Title VI Coordinator. The Division's Title VI responsibilities include, but are not limited to, the following tasks:

1. In coordination with EPD, the Public Involvement Officer and the Title VI Coordinator shall cooperate regarding nondiscrimination in the public involvement process, including the analysis and removal of potential barriers to participation.
2. Ensure that the scoping process sufficiently considers potential impacts to EJ and LEP populations.
3. Ensure that potential impacts to EJ and LEP populations are considered in the selection of the type of environmental review for each project.
4. Ensure that a reasonable study area is selected regarding community impacts.
5. Ensure that adequate mitigation is implemented when potentially disproportionate and adverse effects to EJ populations are identified.

6. In concert with the EPD – Public Involvement Officer, monitor compliance with E.O. 13166, Limited English Proficiency (LEP), to ensure access and understanding of transportation programs and activities for those with Limited English Proficiency (LEP).
7. Promptly refer Title VI complaints to the Title VI Coordinator and assist with the investigation of these complaints.
8. Respond to Title VI Coordinator data requests timely.

#### **Title VI Considerations for Internal Review:**

The following items in the EPD will be periodically reviewed by the Title VI Coordinator as part of ODOT's internal Title VI review process:

1. The Public Involvement strategies, programmatic and project-based, used by the EPD including strategies for engaging EJ and LEP populations in transportation decision-making and for reducing participation barriers. This includes written procedures as well as implementation.
2. Data and information regarding specific public meetings, including:
  - The number and locations of public hearings/informational meetings held;
  - Any handouts distributed at the meetings;
  - The approximate number of persons attending the meetings;
  - The demographics of the attendees; and
  - The demographic profiles of the project areas involved.
3. Information on coordination with the Public Involvement Officer to ensure that formal and informal public comments are incorporated into the transportation decision-making process. A description of the methods used to ensure that issues/concerns raised by minority and Limited English Proficiency (LEP) populations were appropriately considered in the transportation decision-making process. This includes formal and informal records of public comments and integration into environmental documents.
4. The numbers and types of assistance provided to other Divisions to help with their outreach efforts.
5. Information regarding any formal or informal comments from EJ and/or LEP individuals through public meetings/hearings, how they were recorded and received, and how they were communicated to other Divisions.
6. Data concerning consultant contracts entered into for EPD activities, including the award amounts and demographic data on firm ownership.
7. Data and information regarding services requested and/or provided to LEP persons, programmatically as well as per meeting.
8. The number and types of environmental reviews.
9. The methods for identifying EJ and LEP populations for Title VI purposes. Communication with the Title VI Coordinator regarding other Title VI matters for consideration.

10. Data and information regarding the potential impacts on minority populations with regard to:

- Air quality
- Noise
- Community cohesion
- Relocations
- Community services
- Mitigation measures

11. Title VI complaints received regarding the environmental review process.

12. Ensure that all notices, policies, and complaint procedures required by Title VI are appropriately displayed on the ODOT website.

## **B. Strategic Asset and Performance Management Division**

The Strategic Asset and Performance Management (SAPM) Division Manager has the primary responsibility for ensuring that multi-modal planning and the results of that planning are executed in accordance with Title VI. This process requires consideration of social, economic, and environmental effects of a proposed plan or program on identified groups to avoid biased or discriminatory programs. The Division also monitors the transportation planning activities of the various Metropolitan Planning Organizations (MPO'S) to ensure compliance with Title VI. The accomplishment of these requirements is monitored by the supervisor of the responsible individuals through ODOT's employee performance management program. The SAPM Division will appoint a Title VI Designee to report to the Title VI Coordinator. SAPM's Title VI responsibilities include, but are not limited to, the following tasks:

- Implementing methods to collect and analyze demographic information regarding transportation benefits for both the Long-Range Transportation Plan (LRTP) and Statewide Transportation Improvement Program Plan (STIP).
- Cooperating with the Environmental Programs Division – Public Involvement Officer and the Title VI Coordinator regarding nondiscrimination in the public involvement process, including the analysis and removal of potential barriers to participation.
- Ensure that MPOs are in compliance with Title VI during the recertification review process.
- Ensuring that MPOs solicit and consider the views of minority populations in the Transportation Improvement Plan (TIP) process.
- Promptly refer Title VI complaints to the Title VI Coordinator and assist with the investigation of these complaints.
- Respond to Title VI Coordinator data requests timely.

### **Title VI Considerations for Internal Review:**

The following items regarding the SAPM Division will be periodically reviewed by the Title VI Coordinator as part of ODOT's internal Title VI review process:

1. The process or strategies used to ensure Title VI issues are addressed in the planning process. This includes written procedures as well as implementation of those procedures.
2. Information on coordination with the Environmental Programs Division – Public Involvement Officer to address the needs of individuals with Limited English Proficiency (LEP).
3. Information on coordination with the Environmental Programs Division – Public Involvement Officer to ensure that formal and informal public comments are incorporated into the transportation decision-making process.
4. Data and information regarding MPO certification reviews, including:
  - Minority population concentrations and issues identified;
  - Standards, measures and benchmarks are reasonable to demonstrate significant disparity of impacts in accessibility to and delivery of transportation facilities/services;
  - Groups provided with various opportunities to meaningfully engage in the regional transportation planning process;
  - Strategies to address the needs of individuals with Limited English Proficiency (LEP); and
  - Strategies to ensure that formal and informal public comments are incorporated into the transportation decision-making process.
5. Information regarding project prioritization procedures for MPOs as well as rural projects.
6. Title VI complaints received regarding transportation planning or the public involvement process.
7. Data concerning consultant contracts entered into for SAPM Division activities, including the award amounts and demographic data on firm ownership.

## **1. Roadway Design Division and Bridge Division**

The Division Manager for the Roadway Design Division and the Division Engineer for Bridge Division has the responsibility for assuring that all aspects of the design phase and the resulting final design are executed in accordance with Title VI. This process includes solicitation for proposals, consultant selection, preliminary design work, development of alternatives, and final design and requires an effective outreach strategy to solicit and incorporate the input of minority populations into design. The Roadway Design Division and the Bridge Division will appoint a Title VI Designee to report to the Title VI Coordinator. Each Division's Title VI responsibilities include, but are not limited to, the following tasks:

- In conjunction with the Procurement Division, ensure that all consultant and subconsultant agreements include Title VI contract provisions.
- Ensure nondiscrimination with regard to procurement for consultant design agreements.
- Promptly refer Title VI complaints to the Title VI Coordinator and assist with the investigation of these complaints.

- Respond to Title VI Coordinator data requests timely.

#### **Title VI Considerations for Internal Review:**

The following items regarding the Roadway Design Division and Bridge Division will be periodically reviewed by the Title VI Coordinator as part of ODOT's internal Title VI review process:

1. Data concerning consultant contracts entered into for design activities, including the award amounts and demographic data on firm ownership.
2. The number of public hearings/informational meetings held during the design phase and in what locations.
3. Description of your internal procedures that illustrate where and how Title VI compliance is integrated.
4. Title VI complaints received regarding transportation planning or the public involvement process.

## **2. Right-of-Way & Utilities Division**

The Right-of-Way & Utilities Division (ROW) Chief has the responsibility for assuring that all Right-of-Way functions and the results of those activities are executed in accordance with Title VI. These activities include property appraisals, negotiations with property owners, acquisition of properties, and relocation of people and businesses. The Chief of ROW will be responsible for implementing any changes that may be necessary to insure Title VI compliance. The ROW will appoint a Title VI Designee to report to the Title VI Coordinator. The Division's Title VI responsibilities include, but are not limited to, the following tasks:

- Ensure nondiscrimination with regard to procurement for appraisers and other right-of-way related agreements.
- Ensure equitable treatment of businesses and persons displaced by highway projects, regardless of race, color, or national origin. This includes appraisals, offers of just compensation, relocation counseling, relocation assistance packages, and other ROW activities.
- Ensure that necessary steps are taken to overcome language barriers during the right-of-way process regarding Limited English Proficiency (LEP) persons.
- Ensure that Title VI compliance is integrated into ROW internal procedures and are reviewed and updated as necessary to maintain compliance during the right-of-way process.
- Promptly refer Title VI complaints to the Title VI Coordinator and assist with the investigation of these complaints.
- Respond to Title VI Coordinator data requests timely.

#### **Title VI Considerations for Internal Review:**

The following items regarding the ROW Division will be periodically reviewed by the Title VI Coordinator as part of ODOT's internal Title VI review process:

1. Data and information related to the demographics of relocatees and other beneficiaries of the ODOT Right-of-Way Division. This includes persons and businesses that receive relocation counseling and who attend informational meetings.
2. Data and information related to the appraisal process, including just compensation offers and supporting documentation.
3. Demographic data on the ownership of consultant firms used in the right of way/relocation process. This includes bidders, awardees, and contracts.
4. Efforts made to provide information in appropriate languages and/or number of times interpreters used.
5. Title VI complaints received regarding the right-of-way process, i.e., appraisals, negotiations, relocation assistance, and payments.

### **3. Office Engineer Division**

The Division Engineer for the Office Engineer Division has the primary responsibility for assuring that highway-contracting procedures are executed in accordance with Title VI. The Office Engineer Division will appoint a Title VI Designee to report to the Title VI Coordinator. The Office Engineer Division's Title VI responsibilities include, but are not limited to, the following tasks:

- Monitor Federal-aid construction contracts and subcontracts to ensure that they contain all required Title VI provisions and attachments;
- Ensure nondiscrimination with regard to prequalification procedures;
- Identify potential concerns/barriers for prequalification within the bounds of state, federal, and local laws and regulations;
- Ensure that Title VI compliance is integrated into the Office Engineer Division's internal procedures and is reviewed and updated as necessary to maintain compliance;
- Promptly refer Title VI complaints to the Title VI Coordinator and assist with the investigation of these complaints.
- Respond to Title VI Coordinator data requests timely.

#### **Title VI Considerations for Internal Review:**

The following items regarding the Office Engineer Division will be periodically reviewed by the Title VI Coordinator as part of ODOT's internal Title VI review process:

1. The number of construction contracts awarded and the award amounts;
2. Access to all contract documents, including change orders and bids/proposals;
3. Description of internal procedures that illustrate where and how Title VI compliance is integrated; and

4. Title VI complaints received regarding the contracting process.

#### **4. Procurement Division – Contract Administration**

The Division Manager for the Procurement Division has the primary responsibility for assuring that consultant-contracting procedures are executed in accordance with Title VI. The Procurement Division will appoint a Title VI Designee to report to the Title VI Coordinator. The Division's Title VI responsibilities include, but are not limited to, the following tasks:

- Ensure that Title VI compliance is integrated into the Procurement Division's internal procedures and is reviewed and updated as necessary to maintain compliance;
- Promptly refer Title VI complaints to the Title VI Coordinator and assist with the investigation of these complaints.
- Respond to Title VI Coordinator data requests timely.

#### **Title VI Considerations for Internal Review:**

The following items regarding the Procurement Division will be periodically reviewed by the Title VI Coordinator as part of ODOT's internal Title VI review process:

1. The number of professional services contracts awarded and the award amounts;
2. A demographic breakdown of the business owners for all professional services contracts and on-demand lists;
3. Access to all contract documents; and
4. Title VI complaints received regarding the contracting process.

#### **5. Construction Division**

The Division Engineer for the Construction Division has the primary responsibility for assuring that highway-construction practices adhere to Title VI requirements. The Construction Division will appoint a Title VI Designee to report to the Title VI Coordinator. The Construction Division's Title VI responsibilities include, but are not limited to, the following tasks:

- Monitor construction project work to ensure compliance with Title VI requirements;
- Ensure that policies and procedures for monitoring construction activities, reviewing and approving change orders, and inspections are applied in a nondiscriminatory manner;
- Ensure that Title VI compliance is integrated into the Construction Division's internal procedures and is reviewed and updated as necessary to maintain Title VI compliance, including the assurance that Appendices A and E of The standard FHWA Assurances for Title VI and Other Nondiscrimination Statutes and Regulations document are included in all prime contracts and that prime contractors are ensuring the Appendices are included in all sub-contracts regardless of tier;

- Administer and enforce the terms of construction contracts in a nondiscriminatory manner; and
- Promptly refer Title VI complaints to the Title VI Coordinator and assist with the investigation of these complaints.
- Respond to Title VI Coordinator data requests timely.

#### **Title VI Considerations for Internal Review:**

The following items regarding the Construction Division will be periodically reviewed by the Title VI Coordinator as part of ODOT's internal Title VI review process:

1. Data and information regarding mitigation commitments made during the environmental process and progress toward completion of the commitments;
2. Data and information regarding temporary traffic and pedestrian routing during the course of construction, as well as a demographic profile of the project area;
3. Description of your internal procedures that illustrate where and how Title VI compliance is integrated within such procedures; and
4. Title VI complaints received regarding the construction process.

## **VI. INTERNAL MONITORING PROGRAM**

### **Review Plan Development**

ODOT maintains a robust, risk-based approach to internal compliance. The Title VI Coordinator will reach out each year to the Title VI Designees to solicit information regarding potential reviews for the upcoming year. The Title VI Coordinator will determine what areas to review during the course of the year.

When determining program areas for review, the Title VI Coordinator will prioritize reviews based on a number of criteria including, but not limited to:

- The magnitude of the activity/program's impacts on the public;
- The size and complexity of the activity/program;
- The available resources necessary to conduct the review;
- The length of time necessary to conduct the review; and
- Any information available regarding current compliance regarding the activity/program.

### **Other Internal Monitoring Efforts**

The Title VI Coordinator will meet with each Title VI designee annually to discuss how their programs operation and potential Title VI impacts in their program areas. Together the Title VI Coordinator and Title VI designee will determine how those potential impacts should be handled in a proactive manner.

## **Review Methodology**

Whenever possible, the Title VI Coordinator will ensure its reviews are as comprehensive and efficient as possible. To that end, the Title VI Coordinator's reviews will involve three phases.

1. First, the Title VI Coordinator will conduct a desk audit, which entails a review of all relevant internal policies and procedures. The Title VI Coordinator will create a data and information request in writing that is communicated to the relevant program office Title VI Designee or Program Manager with a reasonable time to respond.
2. Second, the Title VI Coordinator will assess the implementation of those policies and procedures through a random sampling of results on actual projects or project development activities. The Title VI Coordinator will create a written data and information request for the relevant program office Title VI Designee or Program Manager with a reasonable timeframe.
3. Finally, the Title VI Coordinator will create a written report of its findings and potential recommendations for ODOT. The draft report will be sent to the relevant program offices for review. When final, the Title VI Coordinator will submit the report to the ODOT Executive Director to implement the recommendations. The Title VI Coordinator will ensure that affected program offices are given a reasonable amount of time to implement any recommendations. After the Title VI Coordinator is satisfied that its recommendations are complete, the Title VI Coordinator will close the review.

## **VII. EXTERNAL REVIEW PROGRAM**

### **Metropolitan Planning Organizations**

The Metropolitan Planning Organizations (MPOs) are responsible for the transportation planning process within their urbanized areas. Each MPO must develop a four (4)-year Transportation Improvement Program (TIP) and develop and implement an annual Unified Planning Work Program (UPWP). The Strategic Asset and Performance Management Division assists the MPOs in the transportation planning activities that require Title VI compliance and advises them on Title VI compliance issues.

The following are the MPOs for State of Oklahoma:

**Association for Central Oklahoma Governments (ACOG)** – representing Oklahoma City and the surrounding cities and townships

**Indian Nation Central Oklahoma Governments (INCOG)** – representing Tulsa and the surrounding cities and townships

**Frontier Metropolitan Planning Organization (Frontier MPO)** – representing Ft. Smith, Arkansas and the surrounding cities and townships in Oklahoma across the border from Ft. Smith.

**Lawton Metropolitan Planning Organization (LMPO)** – representing the Lawton urbanized area.

## **Compliance Monitoring – MPO**

- ODOT uses the Statewide Long-range Transportation Plan, the Transportation System Projects, Statewide Transportation Improvement Program, the Regional Transportation Plans (RTP), and the Transportation Improvement Plans (TIP) developed by the four Metropolitan Planning Organizations to monitor strategies and goals of the transportation planning process to ensure Title VI compliance.
- ODOT monitors the MPOs utilization of demographic information to identify minority populations and examine the distributions of the benefits/burdens of the transportation plans and activities on these groups.
- ODOT and the MPOs developed public outreach and participation plans that outline processes and strategies to ensure the service equities of the planning data collection and analyses for members on different socio-economic groups.
- ODOT conducts public meetings and hearings and has numerous boards and committees that are open to participation during the development of plans, programs, and projects that may involve various modes of travel. Federal, state, local government and private industry representatives are included in these processes to improve performance and eliminate participation barriers for minority populations.
- ODOT monitors MPO compliance with E.O. 13166, Limited English Proficiency (LEP), to improve access and understanding of transportation planning processes for those in the population confronted with language barriers.
- ODOT's and the MPO's plans contain goals, strategies, and performance measures to assist in identifying and addressing accomplishments and problem areas.
- ODOT and the MPOs develop travel demand models for the large and small urban areas of State to analyze travel patterns by demographics.
- Statewide county and Tribal workshops and tours are conducted and allow these groups to participate in the decision-making process.

### **Periodic Reviews:**

A quadrennial review of the MPOs will be conducted in coordination with the quadrennial TMA certification process. Reviews of the TMAs Title VI process are reviewed and commented on by FHWA. Title VI Coordinator responsibilities include:

- Strategies used to ensure that all components of the transportation planning process comply with Title VI;
- Demographic profile of each MPO's metropolitan planning area that includes identification of minority populations;
- Process used by each MPO to identify the needs of populations and the demographic information used to assess the distribution of benefits across those populations;
- Process used by each MPO to identify the needs of minority populations and the demographic information used to assess the distribution of benefits across those populations;
- The process used by each MPO to assess the benefits/burdens of transportation system investments on minority populations on an analytic basis and the data source and tools used to support that analysis;

- Whether a public involvement strategy for engaging minority populations in transportation decision-making is in place for each MPO and the steps being taken to eliminate participation barriers;
- Examination of the public involvement process, whether it is evaluated and whether there have been efforts to improve performance, especially relative to minority populations;
- Examination of what efforts have been made to engage minority populations in the public outreach effort and whether the public outreach effort utilizes media targeted to underserved groups;
- What procedure each MPO has established for using issues/concerns raised by minority populations in the decision-making process;
- The demographics of attendees at public meetings/hearings as well as information regarding all aspects of public involvement to include advertising and Limited English Proficiency (LEP) access;
- Data and information regarding Title VI training for internal staff and LPAs;
- Review of each MPO's internal Title VI complaint procedure/policy;
- Procedures regarding the coordination of complaints filed with the MPO or the member LPAs;
- Whether annual report submitted by each MPO included any significant accomplishments during the review period and any significant actions planned for the coming year; and

## **VIII. COMPLAINT DISPOSITION PROCEDURES**

The following procedures cover complaints filed under Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987. Any person who believes they, or any specific class of persons, to be subjected to prohibited discrimination prohibited may by themselves or by a representative file with a written complaint.<sup>7</sup> A complaint must be filed not later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the FHWA. ODOT will ensure that all complaints are sent to the appropriate authority for disposition.

Complaints alleging violations of Title VI by the ODOT should be filed in writing directly with the following FHWA agencies:

Federal Highway Administration – Oklahoma Division  
5801 N Broadway Ext. – Ste. 300  
Oklahoma City, OK 73118

Or

Federal Highway Administration  
Office of Civil Rights,  
HCR-20, Room E81-320  
1200 New Jersey Avenue, SE  
Washington, DC 20590

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<sup>7</sup> 49 C.F.R. § 21.11(b).

**NOTE:** Additional information regarding the Title VI complaint process will be made available to the public via ODOT's website at:

[https://ok.gov/odot/Doing\\_Business/Civil\\_Rights/Title\\_VI\\_Information.html](https://ok.gov/odot/Doing_Business/Civil_Rights/Title_VI_Information.html).

Complaint and investigation files are confidential and will be maintained by the ODOT Title VI Coordinator. The contents of such files will only be disclosed to appropriate ODOT personnel and federal authorities in accordance with Federal and State laws. ODOT will retain files in accordance with records retention schedules and all Federal guidelines.

## **IX. PROCESS TO IDENTIFY/ELIMINATE DISCRIMINATION**

ODOT reviews its programs for trends and patterns of discrimination from multiple sources:

- Outreach activities – internal and external input and feedback
- Compliance reviews
- Referrals from Title VI Designees

Similarly, we address the discriminatory practices with a multi-faceted approach.

- With complaints, we use the investigative process to determine whether there has indeed been discriminatory action.
  - If we find no discrimination under Title VI, we try to help the complainant understand why we arrived at that finding.
  - If we find discrimination may have occurred, we analyze whether it was intentional or unintentional.
  - We evaluate options for redress of discriminatory practices.
  - We work with the division/program to develop and implement an effective Corrective Action Plan.
- Training is a key tool we use to address discriminatory trends or patterns.
  - We provide training to the division/program engaged in the apparent discriminatory behavior to ensure that the trend or pattern does not continue.
  - We provide Title VI training to as many different audiences as possible, internal and external, to reduce the occurrence or likelihood of discrimination. That training includes a component that details the history and reason for the law to help those antagonistic to the law and its purpose to find it more acceptable. We believe that reduces the occurrence of discrimination.
  - We use examples, stripped of any identifying information, of behavior or practices we have observed that we believe to be potentially discriminatory with the division/program. This has been effective in letting them know that we are cognizant of those potentially discriminatory trends and patterns and they are advised not to engage in them.
- We are continuously monitoring our programs and projects to identify any instances of discrimination, at the earliest point.

## **X. LIMITED ENGLISH PROFICIENCY**

As part of its compliance with Title VI, ODOT must ensure that Limited English Proficient (LEP) individuals have meaningful access to ODOT programs and activities. As such, ODOT has developed procedures—in accordance with USDOT guidance—to effect compliance regarding

LEP.<sup>8</sup> More information can be found regarding LEP at this ODOT web address [https://www.ok.gov/odot/Doing\\_Business/Civil\\_Rights/Title\\_VI : Limited English Proficiency.html](https://www.ok.gov/odot/Doing_Business/Civil_Rights/Title_VI:_Limited_English_Proficiency.html) and reports are here [https://www.ok.gov/odot/Doing\\_Business/Civil\\_Rights/Civil\\_Rights - Publications, Posters and Brochures.html](https://www.ok.gov/odot/Doing_Business/Civil_Rights/Civil_Rights_-_Publications,_Posters_and_Brochures.html) and forms are available to the Title VI designees internally.

LEP individuals are those individuals for whom English is not their primary language and have a limited ability to speak, read, write, and understand English. Failure to provide meaningful access to such individuals may result in national origin discrimination, which is prohibited by Title VI. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the ODOT to people's lives; and
4. The resources available to ODOT and costs.

## **XI. ACCOMPLISHMENT REPORT**

By October 1st of each year, ODOT's Civil Rights Division (CRD) will provide the FHWA Oklahoma Division Office with a report of Title VI accomplishments for the past year and goals for the next year.<sup>9</sup> This report will include:

### Accomplishments

1. Title VI Reviews: A summary of Title VI reviews conducted, the results, and any actions taken as a result.
2. Title VI Complaints: A summary of all complaints received by ODOT, and the outcomes for those complaints.
3. Title VI involvement with other divisions of the ODOT and involvement with the ODOT's procedures interacting with sub-recipients and the public.
4. Training: A list of all Title VI training given by the ODOT's CRD, the topics covered, and the number of attendees.
5. Critical changes in the ODOT's CRD staff.
6. A summary of all issues raised by ODOT's Title VI Designees.

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<sup>8</sup> Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons, 70 Fed. Reg. 74087 (Dec. 14, 2005), <https://www.gpo.gov/fdsys/pkg/FR-2005-12-14/html/05-23972.htm>.

<sup>9</sup> 23 C.F.R. §200.9(b)(10).

## Goals

1. Conduct at least 4 Title VI Compliance Reviews during each calendar year. The reviews should focus on program areas both internally at the ODOT and externally at the ODOT's sub-recipients. The program areas should be chosen based on potential Title VI issues and time since the last review.
2. The Title VI Coordinator will receive and handle all Title VI complaints and determine the authority/jurisdiction. Investigate all complaints within the ODOT's jurisdiction. All complaints will be handled in compliance with the required time frames.
3. The Title VI Coordinator will be included in the process on all Environmental Assessments (EAs), and Environmental Impact Statements (EISs) to ensure Environmental Justice concerns are documented and addressed, before the EA or EIS is finalized, to ensure compliance with Title VI requirements.
4. Attend at least 2 public meetings and 2 planning meetings that occur to discuss public involvement on the ODOT projects, for purposes of monitoring those projects that include Environmental Justice (EJ) or Limited English Proficient (LEP) individuals.
5. Review and update the ODOT Limited English Proficiency (LEP) Plan to ensure that the LEP Plan meets or exceeds Federal requirements within the FFY 2019.
6. Review and update the LEP Guide with FFY 2019. Disseminate information to ODOT employees regarding how to handle an LEP encounter.
7. Provide mandatory training to at least 2 Title VI Designees every quarter with the objective to have a mandatory training session for every Title VI Designee annually.

## **XII. PROCESS TO RESOLVE DEFICIENCIES IDENTIFIED BY FHWA**

Despite our best efforts, we will sometimes fall short of the expectations established by Title VI and the implementing regulations. This is especially the case given our very limited staffing. In those cases, we will work with FHWA, to clearly identify the causes of the deficiency and establish a timeframe for correcting the deficiency.

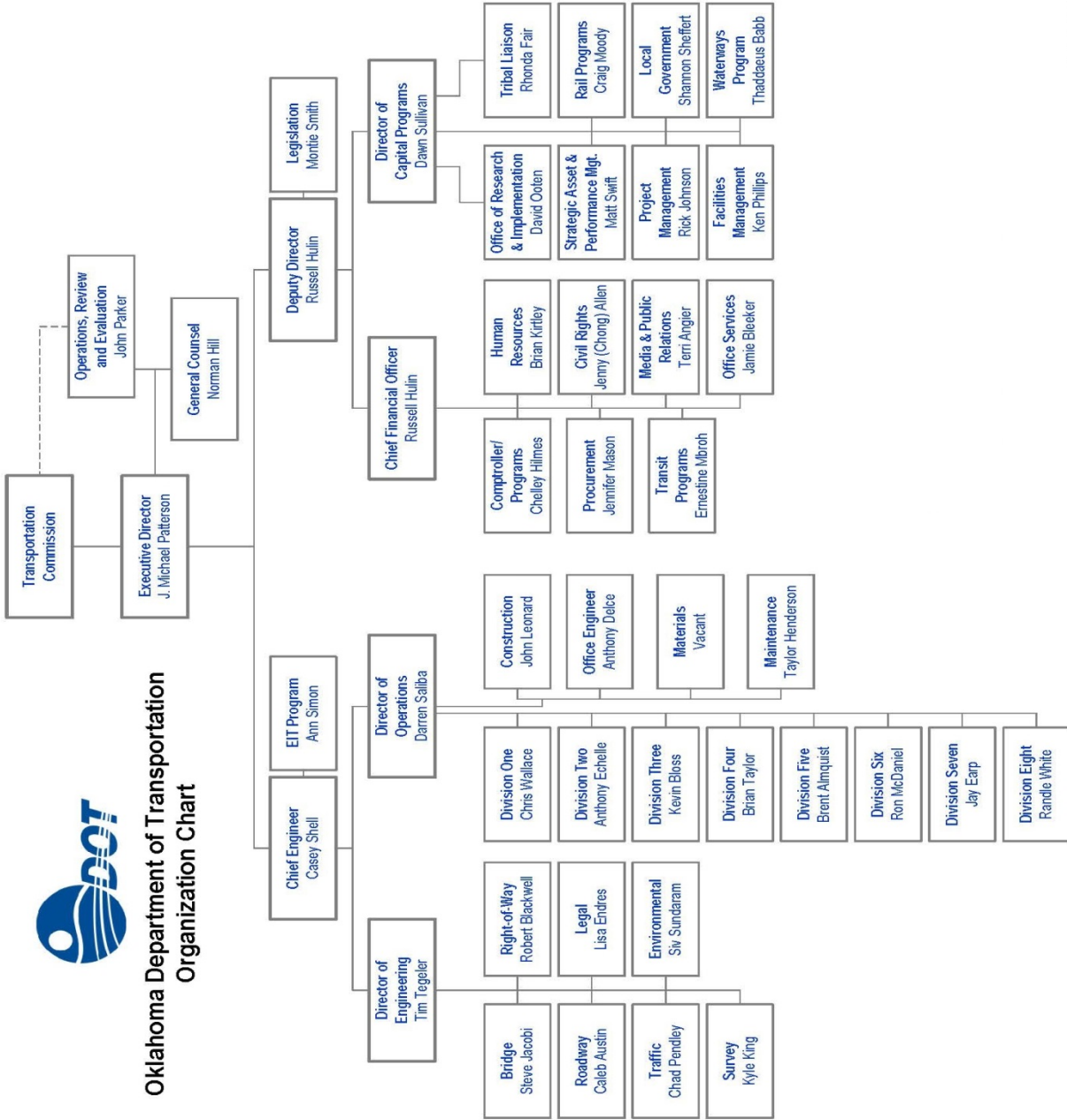
## **XIII. LIST OF ATTACHMENTS**

- **ATTACHMENT 1:** Organizational Chart
- **ATTACHMENT 2:** Standard USDOT Title VI Assurances
- **ATTACHMENT 3:** Title VI Complaint Form
- **ATTACHMENT 4:** Public Participation Plan

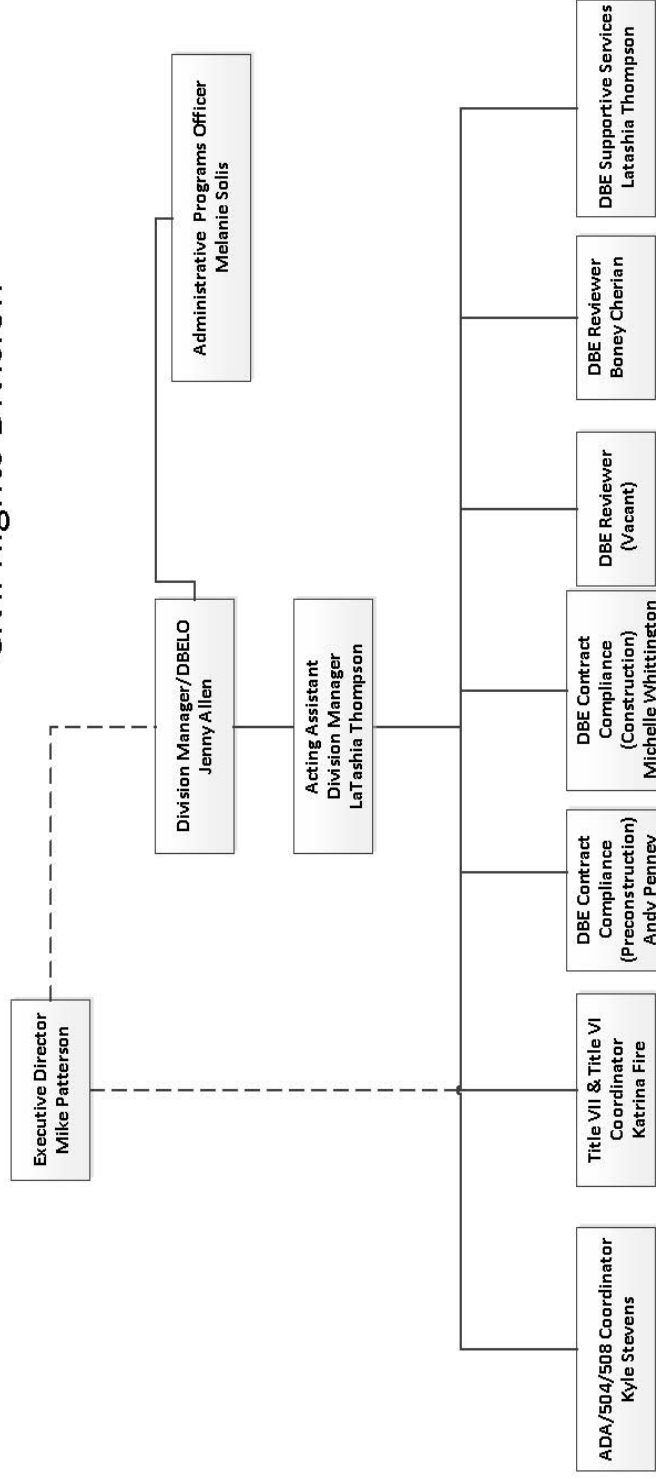
**ATTACHMENT 1: Organizational Chart**  
ODOT and Civil Rights Division



## Oklahoma Department of Transportation Organization Chart



# Oklahoma Department of Transportation Civil Rights Division



**ATTACHMENT 2: Standard USDOT Title VI Assurances**

**The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination**

**Assurances**

**DOT Order No. 1050.2A**

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

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

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

**General Assurances**

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

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

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

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Highway Program):

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard

to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program activities and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

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

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

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

ODOT gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal Aid Highway Program. This ASSURANCE is binding on Oklahoma], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Oklahoma Department of Transportation  
(Name of Recipient)

By   
(Signature of Authorized Official)

DATED 10/1/18

## APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for

noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## **APPENDIX B**

### **CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the ODOT will accept title to the lands and maintain the project constructed thereon in accordance with 23 U.S. Code § 107, the Regulations for the Administration of Federal Aid Highway Program, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the ODOT all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### **(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto ODOT and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the ODOT, its successors and assigns.

The ODOT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the ODOT will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

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

## **APPENDIX C**

### **CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM**

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

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, ODOT will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the ODOT will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the ODOT and its assigns.\*

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

## **APPENDIX D**

### **CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM**

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

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, ODOT will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, ODOT will there upon revert to and vest in and become the absolute property of ODOT and its assigns.\*

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

## APPENDIX E

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

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

## ATTACHMENT 3: Title VI Complaint Form

### TITLE VI COMPLAINT FORM

The Oklahoma Department of Transportation is committed to ensuring that no person is excluded from participation in or denied the benefits of its services on the basis of race, color, or national origin, as provided by the Title VI of the Civil Rights Act of 1964, as amended. The Title VI complaints must be filed within 180 calendar days from the date of the alleged discrimination.



Date of Filing:	
Name:	
Address:	
City, State, Zip Code:	
Work Phone:	
Home Phone:	
E-mail Address:	

#### Oklahoma Department of Transportation

##### Civil Rights Division

200 N.E. 21st Street, Room 1-C1  
Oklahoma City, Oklahoma 73105

Phone: (405) 521-3379

Fax: (405) 522-2136

[http://ok.gov/odot/Doing\\_Business/ODOT\\_Forms/index.html](http://ok.gov/odot/Doing_Business/ODOT_Forms/index.html)

Indicate on what ground(s) you believe you have been discriminated against (check all that apply):

- |                               |                                     |                                      |  |  |
|-------------------------------|-------------------------------------|--------------------------------------|--|--|
| <input type="checkbox"/> Race | <input type="checkbox"/> Color      | <input type="checkbox"/> Sex         | <input type="checkbox"/> Religion            | <input type="checkbox"/> National Origin |
| <input type="checkbox"/> Age  | <input type="checkbox"/> Disability | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Genetic Information |  |

Indicate the person(s) who you believe discriminated against you:

Name(s):	
Work Location (if known):	
Work Phone:	
Date of alleged incident	

If you have an attorney representing you concerning the matters raised in this complaint, please provide the following:

Name:	
Address:	
Work Phone:	
E-mail Address:	

Explain why you believe discrimination has occurred. If there are witnesses, please provide names, addresses and telephone numbers. Be sure to include how other persons were treated differently than you. Attach additional pages as necessary and any written material pertaining to your case.

What remedy are you requesting? Please be specific:

Have you filed or do you intend to file a charge or complaint concerning the matters raised in this complaint with any other agencies (Federal, State, or local):

☐ Yes

☐ No

If so, please provide the following information:

Agency:	
Address:	
Name of Investigator (if known):	
Phone Number:	
E-mail Address:	
Date Filed:	
Status of case:	

I confirm that I have read the above charge(s) and it is true to the best of my knowledge.

Print or typed name of complainant:

Signature

Date

Completed forms must be submitted to the Oklahoma Department of Transportation's Civil Rights Division.  
If you require any assistance in filling out this form please contact the Title VI Coordinator at 405-521-3379.

The Oklahoma Department of Transportation (ODOT) ensures that no person or groups of persons shall, on the grounds of race, color, sex, religion, national origin, age, disability, retaliation or genetic information, 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 ODOT, its recipients, sub-recipients, and contractors. To request an accommodation please contact the ADA Coordinator at 405-521-4140 or the Oklahoma Relay Service at 1-800-722-0353. If you have any ADA or Title VI questions email [ODOT-ada-titlevi@odot.org](mailto:ODOT-ada-titlevi@odot.org).

Print Form

**ATTACHMENT 4:   Public Participation Plan**  
**Prepared by ODOT Environmental Programs Division – Public Information Officer**

The current Public Participation Plan (PPP) is available at ODOT's website:  
[https://ok.gov/odot/Programs\\_and\\_Projects/Public\\_Meetings\\_and\\_Hearings/index.html](https://ok.gov/odot/Programs_and_Projects/Public_Meetings_and_Hearings/index.html). It should be noted that this plan is several years old. The Public Information Officer (PIO) for the Environmental Programs Division is creating a new Public Involvement Plan (PIP). Once it is approved it will be published at the same website address as noted above. The PIO is ensuring that the PIP gets input from all aspects of ODOT, including the Civil Rights Division.