

Pennsylvania Department of Transportation

Title VI Compliance and Implementation Plan



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I. Title VI Plan Purpose and Application

The Pennsylvania Department of Transportation (PennDOT) Title VI Plan is prepared in accordance with Title 23, CFR Part 200.9(b) (11) with guidance and assistance provided by the Federal Highway Administration (FHWA), Pennsylvania Division Office. This plan provides interested individuals with specific information that explains the Department's Title VI activities pertaining to organization and staffing, monitoring and review processes, complaint procedures, Title VI assurances, annual work plan, and a list of State Federal-aid highway program procedures, manuals, and directives.

The provisions of this Title VI Plan apply to all recipients of Federal assistance with and throughout PennDOT. A recipient includes any public or private entity or any individual receiving the benefits of any Federal-aid highway assistance program. The program applies to all phases of PennDOT operations.



II. Glossary of Terms

Affected Community – A person or persons served or likely to be directly or indirectly affected by a program or activity receiving Federal financial assistance from the Department.

Affirmative Action – A good faith effort to eliminate past and present discrimination in all Federally assisted programs and to ensure future nondiscriminatory practices.

Applicant – A person who submits an application, request, or plan required to be approved by a Department official, or by a primary recipient, as a condition to eligibility for federal financial assistance, and the term “application” means such an application, request, or plan.

Assurance – A written statement or contractual agreement signed by the agency head in which a recipient agrees to administer Federally assisted programs in accordance with civil rights laws and regulations.

Beneficiary – Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any Federally assisted program, i.e., relocates, impacted citizens, communities, etc.

Citizen Participation – An open process in which the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met, with an opportunity for them to be involved and to express their needs and goals.

Compliance – When a recipient has implemented all of the Title VI requirements effectively and there is not any evidence of discrimination.

Compliance Reviews – Regular systematic inspections of agency programs conducted to determine regulatory compliance with civil rights laws and regulations. Compliance reviews determine compliance and non-compliance in the delivery of benefits and services in federally assisted programs. They identify problems, such as denial of full benefits, barriers to participation, different treatment, lack of selection to advisory boards and planning committees, lack of information, and denial of the right to file a civil rights complaint. Compliance reviews will be conducted on-site or through desk audits.

Complaint – A formal notification of alleged discrimination to the proper authority. The complaint should contain enough information to permit an investigation and is usually considered filed when it is delivered to the proper official or office. It does not always have to be in writing and the charging party does not have to identify him or herself.

Conciliatory Agreement – A voluntary agreement between a Federal agency and the state or between the State and a sub-recipient that provides for corrective action to be taken by a recipient to eliminate discrimination in any program receiving Federal assistance.

Contractor – A person or entity that agrees to perform services at a specified price.

Deficiency Status – The interim period during which the recipient State has been notified of deficiencies, and has not voluntarily complied with the Title VI Program guidelines, but has not been declared in noncompliance by the FHWA.

Department (DOT) – Means the Department of Transportation and includes each of its operating bureaus and other organizational units.

Director – Title VI Administrator.

Discrimination – An act (action or inaction), whether intentional or unintentional, the effect of which is that a person, because of race, color, or national origin, age, sex or disability, has been excluded from participation in, denied the benefits of, or has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Federal Highway Administration under Title 23 U.S.C. 24

Facility – Includes all or any part of structures, equipment, or other real or personal property or interests therein and the provisions of facilities include the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

Federal Financial Assistance – this includes the following:

1. Grants and loans of Federal funds;
2. A grant or donation of Federal property and interests in property;
3. The detail of Federal personnel;
4. The sale and lease of, or permission to use (on other than a casual or transient basis), Federal property, or interest in such a property without consideration, or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or is in recognition of the public interest to be served by such sales 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.

Minority – A person or groups of persons who is:

1. Black (having origins in any of the black racial groups of Africa);
2. Hispanic (of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

3. Asian American (having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
4. American Indian and Alaskan Native (having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition).

Non-Compliance – Failure or refusal to comply with Title VI of the Civil Rights Acts of 1964, other applicable civil rights laws, and implementing departmental regulations.

Office – The Office of Civil Rights.

Person – Includes all individuals residing in the U.S. including its possessions and territories.

Primary Recipient – Any recipient that is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

Program – Includes any highway project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education and/or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Public Notification – Process of publicizing information on the availability of programs, services and benefits to affected groups and statements of non-discrimination. This is attained through the use of newspapers, newsletters, periodicals, radio and television, the Internet, community organizations, and grassroots and special needs directories, brochures, posters, and pamphlets.

Qualified Handicapped – Includes individuals who meet the following criteria:

1. Recorded disability;
2. Regarded as being disabled
3. Suffers from an uncorrected physical or mental condition that impairs one or more life activities (Note: does not include sexual behavior disorders or irresistible desires to commit crime, gamble, etc.)

Recipient – Any State, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or 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 assistance is extended either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term “recipient” does not include any ultimate beneficiary under any such program.

Respondent – An applicant, recipient, sub-grantee, or contractor alleged to be in noncompliance or probable noncompliance with the Title VI program.

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-4) – Federal law prohibiting discrimination based on race, color, or national origin. It covers all forms of Federal aid except contracts of insurance and guaranty. It does not cover employment, except where employment

practices result in discrimination against program beneficiaries or where the purpose of the Federal assistance is to provide employment. The program covers the requirements, procedures, actions and sanctions through which the Department of Transportation enforces Title VI and the regulations effectuating it. The program ensures that discrimination does not occur in connection with programs and activities that receive Federal financial assistance from this Department.

Department Title VI Coordinator/Specialists – The “hub” of the Title VI implementation program at the State Department of Transportation. Notwithstanding the fact that implementation and monitoring of Title VI activities are generally a collaborative effort between the Department and District Coordinator. The Title VI Coordinator/Specialist performs a pivotal role in the actual implementation of the program.

Title VI Program – The system of requirements, procedures, actions and sanctions through which the Department of Transportation enforces Title VI and the regulations effectuating it and ensures that discrimination does not occur in connection with programs and activities which receive Federal financial assistance from this Department.

Note: Other terms used herein shall have the meaning as defined in 49 C.F.R. 21.23.



III. PennDOT Policy Statement and Selected Nondiscrimination Authorities



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
HARRISBURG, PENNSYLVANIA 17101-1900

OFFICE OF
SECRETARY OF TRANSPORTATION

Title VI Policy Statement

It is the policy of the Pennsylvania Department of Transportation (Department), in accordance with Title VI of the Civil Rights Act of 1964, related Nondiscrimination authorities, and the Assurances set forth in the Department's Title VI Compliance and Implementation Plan to ensure that "no person in the [Commonwealth of Pennsylvania] shall, on the basis of race, color, national origin, gender, age, disability, low-income, or limited English proficiency (LEP); be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity" for which the Department receives Federal financial assistance. Furthermore, it shall be the policy of the Department to ensure that as a recipient of Federal-aid funding, it will ensure nondiscrimination in all of its programs and activities whether Federally funded or not. The Department is steadfast in its commitment to ensure the uniform adoption of this policy.

Accordingly, to ensure compliance with Title VI of the Civil Rights Act and related Nondiscrimination authorities, the Pennsylvania Department of Transportation commits to:

1. Conducting and operating each of its programs and facilities in compliance with all requirements imposed by, or pursuant to, Title VI of the Civil Rights Act and related Nondiscrimination authorities;
2. Providing nondiscriminatory methods of administration for programs and to give reasonable guarantee that the Pennsylvania Department of Transportation, sub-recipients, sub grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal Financial Assistance under such programs will comply with all requirements imposed by Title VI of the Civil Rights Act and related Nondiscrimination authorities; and
3. Promptly taking any measures necessary to effect compliance with Title VI of the Civil Rights Act and related Nondiscrimination authorities.

Further, the Department's efforts to prevent discrimination will address, but not be limited to, a program's impact upon access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigation of complaints, allocation of funds, prioritization of projects and the functions of right of way, research, planning, design, construction and environmental.

In accordance with Federal Highway Administration Regulation 23 CFR 200.9, and Title 49 CFR, Department of Transportation, Subtitle A, Office of the Secretary Part 21, and FTA Circular 4702.1B the Pennsylvania Department of Transportation, and the Federal Motor Carrier Safety Administration, 49 CFR Subtitle B Chapter III Subchapter A Part 303 Section 303.1 has developed procedures for prompt processing and disposition of the Title VI complaints. Any

person believing the Department or any of its sub-recipients has violated Title VI in the administration of its programs or activities may file a complaint with the Department's Bureau of Equal Opportunity.

Overall responsibility for this policy is assigned to the Deputy Secretary for Administration located in the Commonwealth Keystone Building, Eighth Floor, Harrisburg, PA, Telephone 717.787.5628. The Director, Bureau of Equal Opportunity, is appointed as the Title VI Administrator and is responsible for the implementation the Department's Title VI Program in coordination with all Department Managers/Directors and Title VI Program designees.

Individuals with questions or requiring additional information relating to this policy or the implementation of the Pennsylvania Department of Transportation's Title VI Program should contact the Director of the Bureau of Equal Opportunity located on the Fifth Floor of the Commonwealth Keystone Building, Harrisburg, PA, Telephone 717.787.5891 or 800.468.4201.



Leslie S. Richards
Secretary of Transportation

3-24-16

Date

SELECTED NONDISCRIMINATION AUTHORITIES

Title VI of the 1964 Civil Rights Act as amended, (42 U.S.C. 2000d et seq)

Provides in Section 601 that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” This Act prescribes discrimination impacts, services, and benefits of access to, participation in, and treatment under a Federal aid recipient’s programs or activities.

23 CFR Part 200 – Title VI Program and Related Statutes – Implementation and Review Procedures

23 CFR Part 230 – External Programs

49 CFR Part 21 – Nondiscrimination in Federally Assisted Programs of the Department of Transportation- - Effectuation of Title VI of the Civil Rights Act of 1964.

The Age Discrimination Act of 1975 as amended, (42 U.S.C. 6101)

Provides that “No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.” This Act prohibits discrimination based on age.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)

Provides “For the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance.” This Act provides for fair treatment of persons displaced by Federal and Federal aid programs and projects.

Section 504 of the Rehabilitation Act of 1973 as amended, (29 U.S.C. 790)

Provides that “No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.” This Act prohibits discrimination on the basis of being handicapped.

49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

Federal Aid Highway Act of 1973, as amended, (23 U.S.C. 140 and 324)

Provides that “No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal

assistance under this title or carried on under this s title.” This U.S. Code prohibits discrimination on the basis of sex.

The Civil Rights Restoration Act of 1987 (P.L. 100-209)

Provides for the clarification of the original intent of Congress in Title VI of the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. This Act restores the broad, institution-wide scope and coverage of the non-discrimination statutes to include all programs and activities of Federal aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not.

The Surface Transportation Assistance Act of 1982 (Sec. 105 (f))

Provides that not less than 10 percent of funds apportioned to States would be contracted with firms owned and controlled by socially and economically disadvantaged individuals.

Pennsylvania Act 120 of 1970

Pennsylvania Act 120 was passed by the Legislature and signed by Governor Shaffer in 1970. It established the Department of Transportation, State Transportation Commission and the 12-Year Transportation Program. The Act directs the Pennsylvania Department of Transportation in the completion of its duties and responsibilities as the providers of the Commonwealth's transportation network.

Act 120 requires that the Department consult with a variety of other Commonwealth agencies regarding the natural, social and cultural effects of any planned transportation project. Section 2002 of Act 120 requires PennDOT to issue specific findings whenever lands from recreation areas, wildlife and waterfowl refuges, historic sites, forest, wilderness, game lands and public parks are needed for highway or transportation purposes. The Act also requires PennDOT to "prepare and submit every even numbered year prior to the first day of September, to the State Transportation Commission for its consideration, a program which it recommends to be undertaken by the Department of Transportation during the following twelve fiscal years."

The Surface Transportation and Uniform Relocation Assistance Act Amendments of 1987 (P.L. 101-246)

Provides “For fair, uniform, and equitable treatment of all affected persons; ... (and) minimizing the adverse impact of displacement ... (to maintain) ... the economic and social well-being of communities; (and) ... to establish a lead agency and allow for State certification and implementation.” This Act updated the 1970 Act and clarified the intent of Congress in programs and projects that cause displacement.

Sec. 106(c) extends the provisions of Section 105(f) of the Surface Transportation Assistance Act of 1982, includes women as presumptively disadvantaged, and specifies criteria to be relied upon in making certification decisions.

The Americans with Disabilities Act of 1990 (P.L. 101-336)

Provides that “No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or a local government.” This Act provides enforceable standards to address discrimination against individuals with disabilities.

28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services

29 CFR Part 1630 – Regulations to Implement the Equal Employment Provisions of the American with Disabilities Act

49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

49 CFR Part 37 – Transportation Services for Individuals with Disabilities

49 CFR Part 38 – Americans with Disabilities Act Accessibility Specifications for Transportation Vehicles

The Civil Rights Act of 1991 (P.L. 102-166)

In part, amended Section 1981 of the 42 U.S.C. by adding two new sections, which provides “(b) for the purpose of this section, the term ‘make and enforce contracts’ includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.” The rights protected by this section are protected against impairment by non-governmental discrimination and impairment under color of State law.”

“Federal Actions to Address Environmental Justice in Minority and Low Income Populations” (Executive Order 12898)

The Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, signed in February 1994, requires Federal agencies to achieve environmental justice as part of its mission by identifying disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. It is the intent of FHWA to carry out its environmental justice responsibilities as part of its overall Nondiscrimination Program.

49 CFR 21 DOT’s Title VI regulation.

49 CFR 24 DOT's regulation implementing the Uniform Relocation and Real Property Acquisition Act for Federal and Federal-assisted programs requiring compliance with Nondiscrimination Statutes and Executive Orders.

The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 476)

Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601 et seq., fair housing provisions)

Title IX of the Education Amendments Act of 1972, (20 U.S.C. 1981)

Intermodal Surface Transportation Efficiency Act of 1991, (ISTEA) (Pub. L. 102-240, Stat. 1919, section 103)

The Transportation Equity Act for the 21st Century (TEA-21) (Sec 1101(b))

Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.)

28 CFR 42, Subpart C DOJ's regulation implementing Title VI, Civil Rights Act of 1964.

28 CFR 50.3 DOJ's Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

29 CFR 1691 Joint DOJ and EEOC regulation governing the processing of complaints filed by employees of recipients.

Department of Transportation General Duties and Powers, (49 U.S.C. 306)

Additional authorities and citations include:

- Property Management 23 CFR 710-740 and Title 67 Pa. Code Chapter 495
- Section 503 of the Rehabilitation Act of 1973
- National Environmental Policy Act (NEPA) of 1969
- 23 CFR 771.111 Federal Highway Administration – Environmental Impact and Related Procedure

Enforcement of Title VI of the civil Rights Act of 1964- National Origin Discrimination Against Persons with Limited English Proficiency, (Executive Order 13166)



IV. PennDOT Departmental Overview

ORGANIZATIONAL HISTORY

PennDOT was created in 1970 when the former Department of Highways was merged with transportation-related functions from the Departments of Revenue, Commerce, Community Affairs and Military Affairs. With an annual budget of over \$4 billion in State and Federal funds, PennDOT oversees programs and policies affecting highways, urban mass transit, rural public transportation, airports, railroads, ports and waterways.

More than two-thirds of PENNDOT's annual budget is invested in Pennsylvania's total of 119,000 miles of State and local highways and 55,000 State and local bridges. PennDOT is directly responsible for about 40,000 miles of highway and roughly 25,000 bridges, a system first established in 1911.

More than 10,500 of PENNDOT's complement of about 12,000 men and women are engaged in the maintenance, restoration and expansion of the state highway system. They work in central headquarters in Harrisburg and 11 engineering districts, with facilities in all 67 counties.

PennDOT administers the State's 10.2 million vehicle registrations and 8.3 million licensed drivers and oversees safety and emissions inspection programs. The agency also operates 11 Welcome Centers along the interstate highways near the State's borders. Pennsylvania's Welcome Centers greet nearly 3 million visitors a year.

PENNDOT'S STRATEGIC DIRECTION

PennDOT has worked hard to improve Pennsylvania's highways – assuring motorists a smooth ride and safe travel. In 2000, PennDOT invested \$1.3 billion for highways and bridge projects Statewide, and spent nearly \$1 billion on highway maintenance. Even PennDOT's toughest critics – the nation's truckers – agree that Pennsylvania's highways are smoother than ever.

PENNDOT's commitment to "Friction-Free" government has revolutionized the way it serves its customers. PennDOT has harnessed the speed, convenience and security of the Internet to enable motorists to renew drivers' licenses and vehicle registrations on-line – in minutes rather than days. PennDOT employees have also continued to look for innovative ways to do their jobs better and more efficiently. Whether it is through smooth roads or top-quality customer service, PennDOT employees are constantly looking for ways to make motorists' experiences within the Commonwealth better.

Throughout Pennsylvania's history, transportation innovation has propelled the Commonwealth forward. Be it with canals, railroads or highways, Pennsylvania set the example for the nation and the world. PennDOT has been building upon this legacy and are working to ensure continued commitment into the 21st century.

One of the key characteristics of high-performance organizations is that they have a clear picture of what they are trying to achieve and how they will accomplish it. Their vision, mission, and goals form the core of their identity. PennDOT uses strategic planning as a tool to help make decisions consistent with its approach to achieve the following *vision, mission, values* and strategic goal areas:

Vision – A transportation system and services exceeding customer expectations.

Mission – Through the active involvement of customers, partners and employees, PennDOT provides a transportation system and services that exceed the expectations of those who use them.

Guiding Values

Service – We are committed to providing the best possible service to every customer.

Integrity – We conduct ourselves responsibly and honestly to earn the public's trust every day.

People – We value and respect each other. We promote continual learning and individual growth.

Performance – We work each day to improve our individual and collective performance.

STRATEGIC FOCUS AREAS

PennDOT strategic plan includes eight strategic focus areas – maintenance first, quality of life, mobility and access, customer focus, innovation and technology, safety, leadership at all levels and relationship building. All are critically important to PENNDOT’s continued, success. Below is the listing of these priorities:

Maintenance First – A “maintenance first” commitment guides the management of our assets and processes with funding and resources prioritized for the preservation and betterment of all systems and services.

- Smoother roads – Improve ride quality by incorporating smooth road strategies into a comprehensive pavement program.
- Cost effective highway maintenance investment – Refine winter services practices to achieve more timely and efficient response. Use life cycle criteria as a tool for asset management and investment to reduce outstanding maintenance needs.

Quality of Life – Social, economic and environmental concerns are balanced in transportation programs and projects that improve the quality of life in Pennsylvania.

- Balance social economic and environmental concerns – Improve customer experiences of our facilities by enhancing beautification efforts and reducing roadside debris. Develop timely transportation plans, programs and projects that balance social, economic and environmental concerns.
- Demonstrate sound environmental practices – Implement a strategic environmental management program that adopts best practices as our way of doing business.

Mobility Access – Innovative management of our transportation system and services improves access and mobility ensuring that people and goods can move efficiently.

- Delivery of transportation products and services – Meet project schedules and complete work within budgeted costs.
- Efficient movement of people and goods – Implement congestion management strategies that limit work zone restrictions address incident management and reduce corridor travel days. Implement Keystone Corridor rail passenger improvements as a pilot multi-modal initiative.

Customer Focus – Our customers see that their particular needs and concerns are addressed. We ask our customers for their opinions to help us improve. Customer input and needs drives our direction. Customers evaluate our performance.

- Improve customer satisfaction – Implement a systematic process to continue to improve customer satisfaction.
- Improve customer access to information – Improve information access by providing quality customer contracts across the organization with special attention to driver and vehicle inquiries.

Innovation Technology – Technology, technical expertise and process improvement are harnessed to provide better service to customers.

- World-class process and product performance – Map key processes and improve those with the most strategic impact on business results. Deliver business results through planned enterprise-focused information technology.

Safety – Safety is maximized for customers and employees through educational activities, infrastructure improvements and enforcement.

- Safer travel – Implement cost-effective highway safety improvements at targeted high crash/fatality locations.
- Safer working conditions – Implement prevention strategies to reduce the employee injury rate. Implement prevention strategies to reduce the vehicle accident rate.

Leadership Levels – PennDOT grows as a transportation leader when all employees use their expertise, decision-making, teaching and role-modeling skills to build stronger teams and make our common vision a reality.

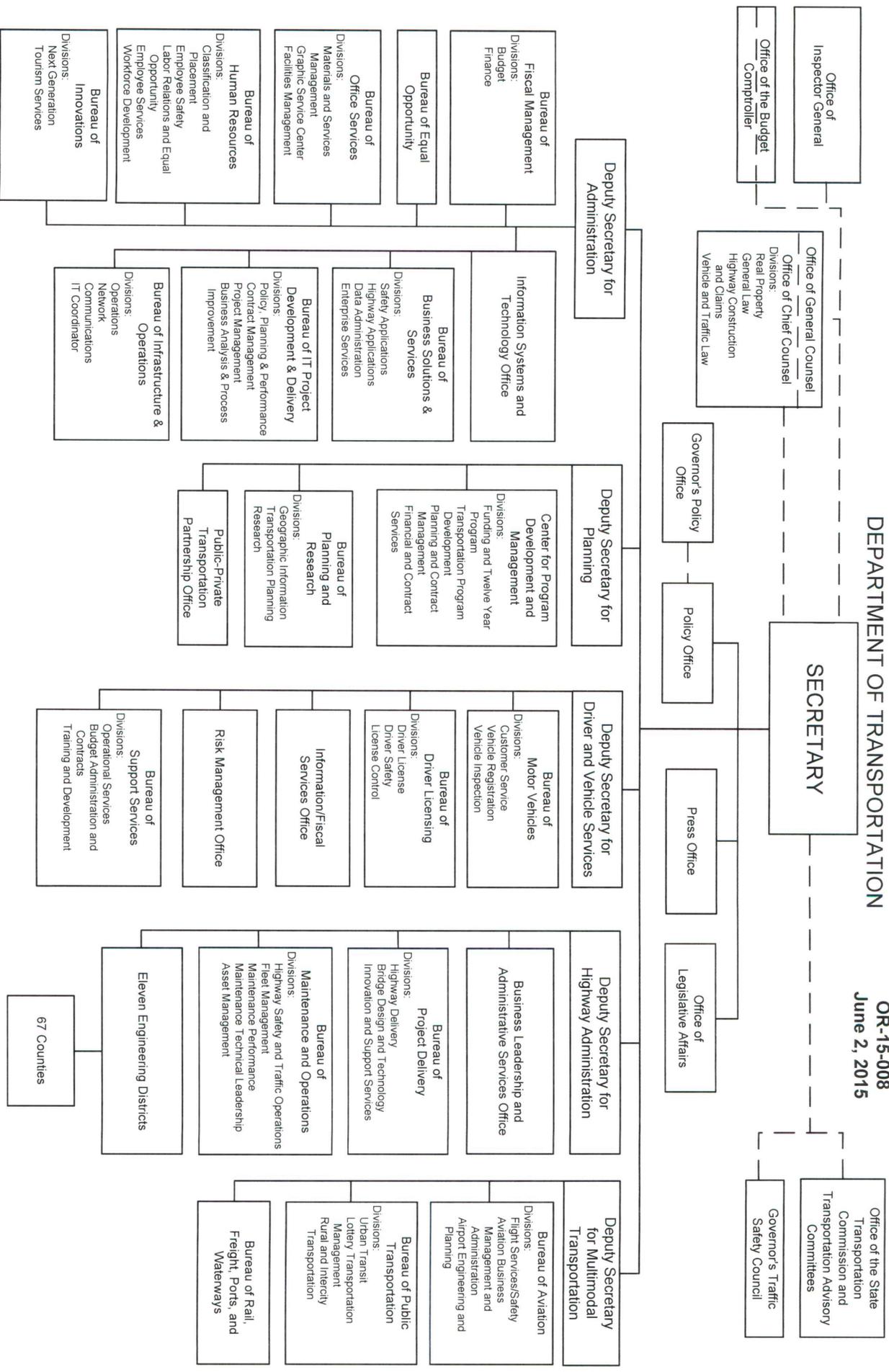
- Improve leadership capabilities and work environment – Provide employees with tools and expectations to communicate effectively in order to facilitate leadership at all levels. Develop employee skills and capabilities through a structured process of instruction, practice and leadership opportunities.

Relationship Building – Mutual success is achieved through improved relationships with partners, customers, suppliers and each other.

- Cultivate effective relationships – Implement a methodology to involve partners and stakeholders more meaningfully in PennDOT activities. Strengthen the efficiency and effectiveness of transportation grant programs utilizing the methodology for partners and stakeholders.

DEPARTMENT OF TRANSPORTATION

OR-15-008
June 2, 2015



PennDOT's Organizational Structure

PennDOT is one of the nation's leading public works organizations. It owns and operates the nation's fourth largest State-owned highway system (larger than the combined State highway systems of New Jersey, New York and all of New England) and administers one of the nation's largest grant programs for mass transit, rail freight and aviation. The Department also processes 26 million driver and vehicle customer service transactions each year. PennDOT employs just under 12,000 people and its annual budget exceeds \$4 billion.

PennDOT is divided into six main areas, known as Deputates (see PennDOT Organizational Structure, page 21). Each has authority over one of several transportation functions as follows:

Highway Administration Deputate

With more than 10,500 employees, this is the largest Deputate. It includes design, construction, maintenance, materials testing, environmental review, and safety and traffic engineering. The Commonwealth is divided into 11 engineering districts, and each district has responsibility for highways in its respective region. A district engineer or administrator manages each district and reports to the Deputy Secretary for Highway Administration. PennDOT contracts with private industry for major construction projects while using in-house staff for routine maintenance and winter services.

Safety Administration Deputate

With more than 1,000 employees, this Deputate manages the licensing of more than 8 million drivers and the registration of more than 10 million motor vehicles. In 2001, for the first time, license and registration renewals could be completed over the Internet. In addition, it operates more than 70 driver license centers and nearly 100 photo license centers and has partnered with nearly 80 private sector on-line messengers to provide a wide variety of over-the-counter services across the Commonwealth. This Deputate also manages the Commonwealth wide vehicle safety inspection system and the enhanced emissions inspection program.

Planning Deputate

This Deputate works with the Federal government and local planning organizations to develop the Twelve-Year Transportation Program, which serves as the blueprint for highway, bridge, aviation, rail freight and mass transit improvements. Planning also manages the cash flow of improvement projects. Planning also has sections working on long-range research and map making.

Aviation and Rail Freight Deputate

This Deputate oversees grant programs for airports and freight railroads. As of 2000, Pennsylvania ranks first in the United States in the number of operating railroads (70) and fifth in track mileage (5,600 miles). The Commonwealth also has 137 public-use airports, 346 private-use airports and 306 private-use heliports.

Local and Area Transportation Deputate

This Deputate oversees nearly \$1 billion a year in grants for passenger rail service and mass transit. PennDOT is working closely with Amtrak to improve service on the Keystone Corridor between Philadelphia and Harrisburg. Pennsylvania ranks third in the nation in direct support of mass transit. This Deputate also manages relationships with municipalities and the distribution of \$243 million a year in liquid fuels revenue to municipalities.

Administration Deputate

This Deputate includes the bureaus that oversee fiscal management, computer systems, equal opportunity, training, office services, and human resources. The Bureau of Equal Opportunity (BEO) which oversees the Title VI regulations resides in the Administration Deputate.

Other

PennDOT has offices with responsibility for policy, legislative and communication issues. In addition, there are four offices and one council that serve in an advisory capacity to the Secretary.



V. Title VI Program Oversight

TITLE VI ORGANIZATION AND STAFFING

Organization and Staffing – General

The Secretary of the PennDOT is responsible for ensuring the implementation of the Department’s Title VI programs. The Director of the Bureau of Equal Opportunity (BEO), on behalf of the Secretary, is responsible for the overall management of the Title VI programs. The day-to-day administration of the program lies with the Department Title VI Coordinator (hereafter referred to as “Coordinator”) under the direct supervision of the Title VI Administrator (see PennDOT Title VI Reporting Structure, page 32). The Title VI Specialist works with the Coordinator, ensuring that Special Targeted Program Areas and District Coordinators comply with Title VI.

Bureau of Equal Opportunity Responsibilities

BEO is staffed by the Equal Opportunity Specialist 3 (Bureau Chief), four Equal Opportunity Specialists 2 and one shared Clerk Typist 2. The Bureau of Equal Opportunity is responsible for ensuring the Department’s compliance with Federal and State regulations regarding affirmative action, equal employment opportunity, and the Americans with Disabilities Act (**see Bureau of Equal Opportunity Organization Chart, page 21**).

BEO oversees the following program areas:

- Equal Employment Opportunity (Title VI Employment Discrimination Complaints)
- PennDOT Annual Affirmative Action Plan (State/Federal)
- PennDOT Title VI Compliance Program
- Compliance with the Americans with Disabilities Act
- Contract Compliance Program
- Disadvantaged Business Enterprise/Supportive Services Program

The primary Title VI responsibilities of the Bureau include:

- Attend public hearings
- Review Environmental Impact Studies
- Meet with concerned groups (minority, religious, etc.)
- Review activities of program areas to ensure compliance with Title VI
- Review and investigate discrimination complaints
- Review Metropolitan Planning Organizations (MPOs) to ensure compliance
- Develop and submit Title VI Plan
- Review facilities and program areas for ADA accommodation/process
- Consult DBE firms using a comprehensive questionnaire to identify possible barriers to their participation in contracts. (Obtained information shall be gathered and analyzed for the elimination of such barriers)
- Review Semi-annual Update reports
- Review quarterly compliance reports

The abovementioned BEO Title VI responsibilities will be explained in more detail in the following sections of this report.

Title VI Administrator Responsibilities

The Director of BEO serves as the Title VI Administrator. The Title VI Administrator reports directly to the Deputy Secretary for Administration, through whom s/he advises the Secretary of Transportation and the Executive Staff concerning statements of policy, dissemination of information with respect to the policy, identification of problem areas and methods for solving identified problems. The Director is the coordinator of the Pennsylvania Department of Transportation's Equal Employment Opportunity Program. The Director is also responsible for support staff in areas of Title VI, equal opportunity, contract compliance, Disadvantaged Business Enterprise (DBE), Americans with Disabilities Act, and other special program areas.

The Title VI Administrator acts as the responsible Departmental official in matters relating to Title VI and assists the Secretary of Transportation in carrying out the Title VI responsibilities of the Department. Specifically, the Title VI Administrator has the responsibility to:

- (1) Recommend, develop, disseminate, monitor, and vigorously pursue Departmental policies on the implementation of Title VI and assist the operating elements in the establishment of Title VI programs.
- (2) Prepare uniform Departmental Title VI regulations and issue guidelines and programs directives.
- (3) Advise the Secretary concerning significant developments in the implementation of the Department's Title VI programs.
- (4) Review, evaluate, and vigorously monitor operating elements' activities and programs relating to Title VI and effectuate changes to assure consistency and program effectiveness.

- (5) Monitor compliance with DOT Order 1050.2, Standard DOT Title VI Assurances, including the review of any expansion or addenda to the Assurance by the operating elements.
- (6) Provide leadership, guidance, and technical assistance to the operating elements in the carrying out of their Title VI responsibilities.
- (7) Ensure that all complaints of discrimination alleging noncompliance with Title VI, this Order, and the regulations of the Department implementing Title VI, are processed, investigated and resolved in a fair and timely manner in accordance with Title VI and the regulations and orders of the Department.
- (8) Take appropriate, fair and timely action with regard to all findings of noncompliance under Title VI, by initiating or participating in attempts at informal resolution, hearings, and reports to the Deputy Secretary for Administration.
- (9) Provide primary coordination and liaison with other agencies, offices, and public and private organizations outside the Department and with the U.S. Department of Justice, in conjunction with the Office of Chief Counsel, to achieve program objectives.
- (10) Disseminate information to, and provide continuous and meaningful consultation with, the public concerning the Department's Title VI program, including, in appropriate situations, the provision of material in languages other than English.

Project Management and Business Assistance Division Responsibilities

The Project Management and Business Assistance Division is staffed by one Equal Opportunity Specialist 3 (Division Chief), eight Equal Opportunity Specialists 2, one Clerk Typist 3, and one Data Analyst 2. The Project Management and Business Assistance Division is responsible for monitoring and enforcing the Contract Compliance and the DBE Programs along with their respective supportive services programs. Title VI responsibilities are also administered and coordinated through this division.

Department Title VI Coordinator Responsibilities

The Department Title VI Coordinator, Chief of the Project Management and Business Assistance Division, is charged with the responsibility for implementing, monitoring, and ensuring PENNDOT's compliance with Title VI regulations. The Coordinator is involved with various stages of planning and project development to assist in preventing and/or correcting discriminatory practices. The duties of the Coordinator include, but are not limited to, the following:

- (1) Conduct Title VI reviews of program area activities when necessary to cover aspects not covered through the day-to-day approach. Only those parts of programs where Title VI issues are involved should be reviewed. The Title VI Coordinator will review quarterly reports prepared and submitted by the District and Program Area Title VI Coordinators located in Central and District Offices.

- (2) Review findings of program area reviews, which address Title VI issues to ensure findings of discrimination or nondiscrimination are adequately supported.
- (3) Review each MPO to ensure compliance with the provisions of Title VI.
- (4) Review PENNDOT's buildings and facilities (including rest areas and other facilities open to the public) to ensure compliance with the Americans with Disabilities Act.
- (5) Establish procedures to resolve determinations of non-compliance.
- (6) Process the disposition of Title VI complaints received by PennDOT.
- (7) Collect statistical data (race, color, sex and national origin) of participants in, and beneficiaries of State highway programs (i.e., relocates, impacted citizens, and affected communities). Review Environmental Impact Statements for Title VI and Environmental Justice compliance.
- (8) Conduct annual Title VI reviews of Special Targeted program areas (i.e., right-of-way, planning, design, etc.) to determine the effectiveness of program activities at all levels.
- (9) Work with program officials to correct identified Title VI problems or discriminatory practices or policies.
- (10) Review State program directives in coordination with Title VI liaisons and program officials for Special Targeted program areas and, where applicable, include Title VI language and related requirements.
- (11) Conduct training programs on Title VI and related statutes for State program officers, civil rights officials, and PennDOT sub-recipients of Federal funds.
- (12) Prepare the annual Title VI Update Report presenting the accomplishments for the past year and goals for the next year.
- (13) Work with program officials to develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English.
- (14) Conduct post-grant approval reviews of State programs and applicants for compliance with Title VI requirements (i.e., highway location, design and relocation, and persons seeking contracts with the Commonwealth).
- (15) Identify, investigate and eliminate discrimination when found to exist.
- (16) Establish procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary, all within a period not to exceed ninety (90) days.
- (17) Provide technical assistance and advice to program area officials on Title VI matters.

- (18) Update Title VI Plan as necessary to reflect organizational policy or implementation changes.

The Coordinator reports to the Title VI Administrator and is responsible for initiating and monitoring the Title VI Specialist's activities. In addition, the Coordinator advises the Administrator of developments on the front-end that may have an impact on the Title VI program's implementation. Furthermore, as a monitor and initiator of activities, the Coordinator provides an element of checks and balances to the Title VI program's implementation.

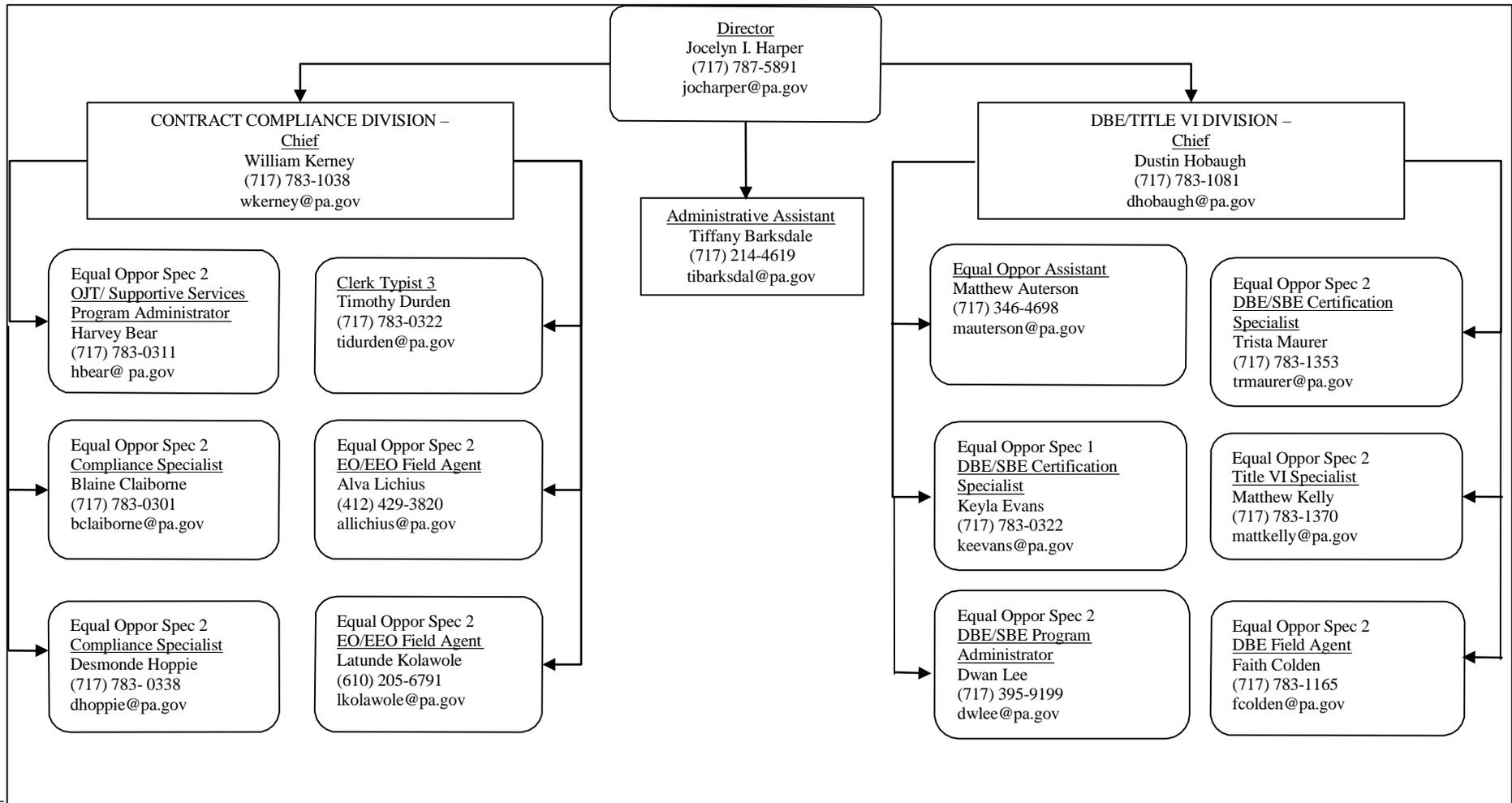
Title VI Specialist Responsibilities

The Title VI Specialist, a BEO Equal Opportunity Specialist 2, reports to the Department Title VI Coordinator. The Specialist's duties include all activities that involve front-end implementation of the Title VI program. Annual reviews of program areas and preparation of required reports also fall within the Title VI Specialist's area of responsibility. This Specialist will assist the Title VI Coordinator in the investigation of Title VI complaints, compliance reviews and approval of compliance documents from PennDOT sub-recipients of Federal funds.

Project Management and Business Assistance Division

Staffed by one Equal Opportunity Specialist 3 (Division Chief), three Equal Opportunity Specialists 2, one Clerk Typist 2, and one Data Analyst 2. The Contract Compliance Division is responsible for assisting the Title VI Specialist in conducting annual compliance reviews and developing the Department's annual Title VI work plan.

Bureau of Equal Opportunity
 Pennsylvania Department of Transportation
 400 North Street
 5th Floor, Keystone Building
 Harrisburg, PA 17120
 Phone: (717) 787-5891 or 1(800) 468-4201
 Fax: (717) 772-4026



PennDOT Title VI Reporting Structure



Title VI Program Area and District Coordinators

In addition to the Title VI Coordinator and Specialist, each of the bureaus, (otherwise known as Special Targeted program areas), and districts shall have a designated Title VI Coordinator. Each Title VI Program and District Coordinator shall be responsible for ensuring compliance, program monitoring, reporting, and education within their respective Special Targeted program areas or districts. The program area and district coordinators serve in a complementary role to the Title VI Specialist. The coordinator areas covered are listed below:

Title VI Special Targeted Program Areas

- Research and Planning
- Construction and Maintenance
- Environmental Quality
- Consultant Services (Office Services)
- Design
- Education and Training
- Right-of-Way
- Highways and Municipal Services
- All 11 PennDOT districts

Title VI Districts

The Department Title VI Coordinator and Specialist will meet semi-annually with all the district and Special Targeted program area Title VI coordinators to discuss issues regarding program implementation and compliance monitoring within PennDOT. The purpose of the meeting is to ensure that all Title VI procedures are being implemented and to correct any deficiencies, which might result in the Department being placed in a deficiency, or non-compliance, status by FHWA.

Special Emphasis Program Area (Bureaus) Title VI Coordinators List*

Bureau of Office Services

(wk.#) (717) 783-8869

Bureau of Aviation

(wk.#) (717) 705-1223

Bureau of Rail, Freight, Ports, & Waterways

(wk.#) (717) 783-8567

Bureau of Design

(wk.#) (717) 787-8298

Bureau of Construction & Materials

(wk.#) (717) 787-7032

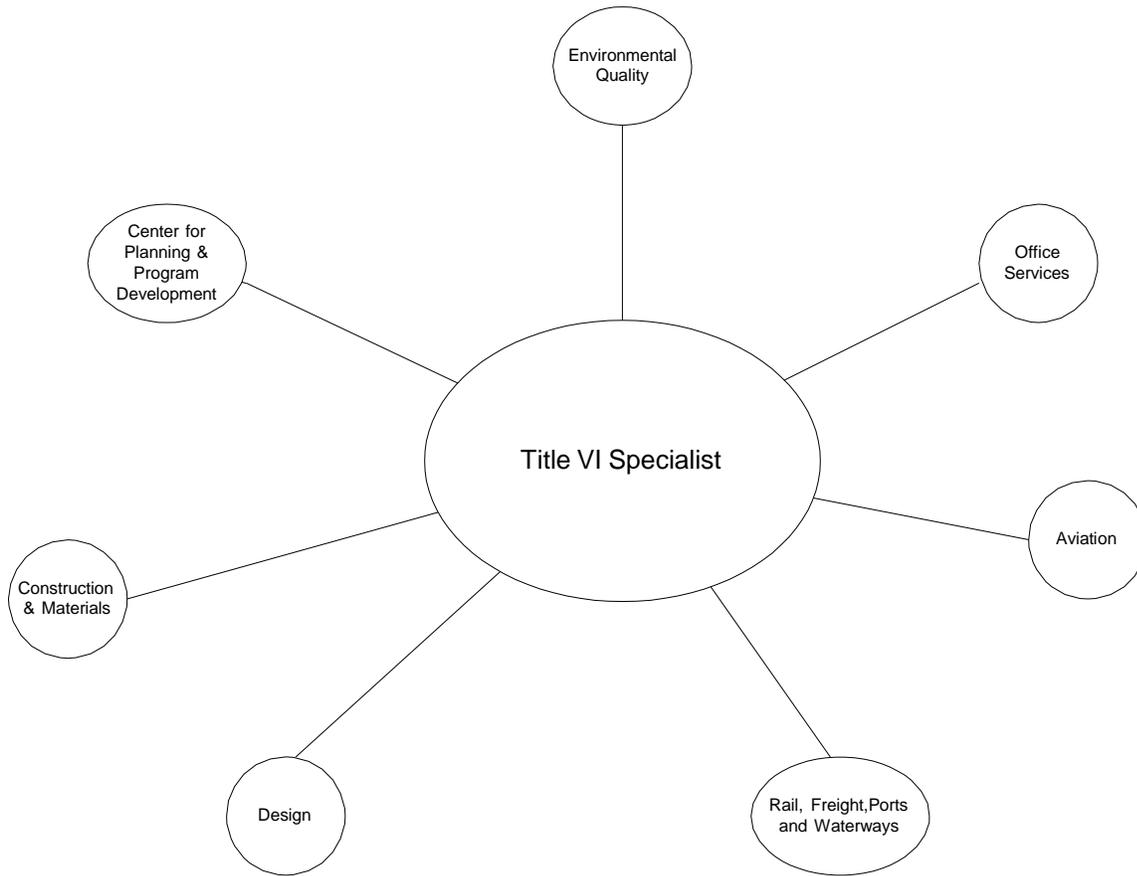
Center for Planning & Program Development

(wk.#) (717) 787-7335

Bureau of Environmental Quality

(wk.#) (717) 705-1481

Special Targeted Program Area (Bureau) Coordinators' Relationship to Title VI Specialist*



District Title VI Coordinators List

District 1-0
(wk.#) (814) 678-7077

District 10-0
(wk.#) (724) 357-2982

District 2-0
(wk.#) (814) 765-0437

District 11-0
(wk.#) (412) 429-5084

District 3-0
(wk.#) (570) 368-4361

District 12-0
(wk.#) (724) 439-7364

District 4-0
(wk.#) (570) 963-4045

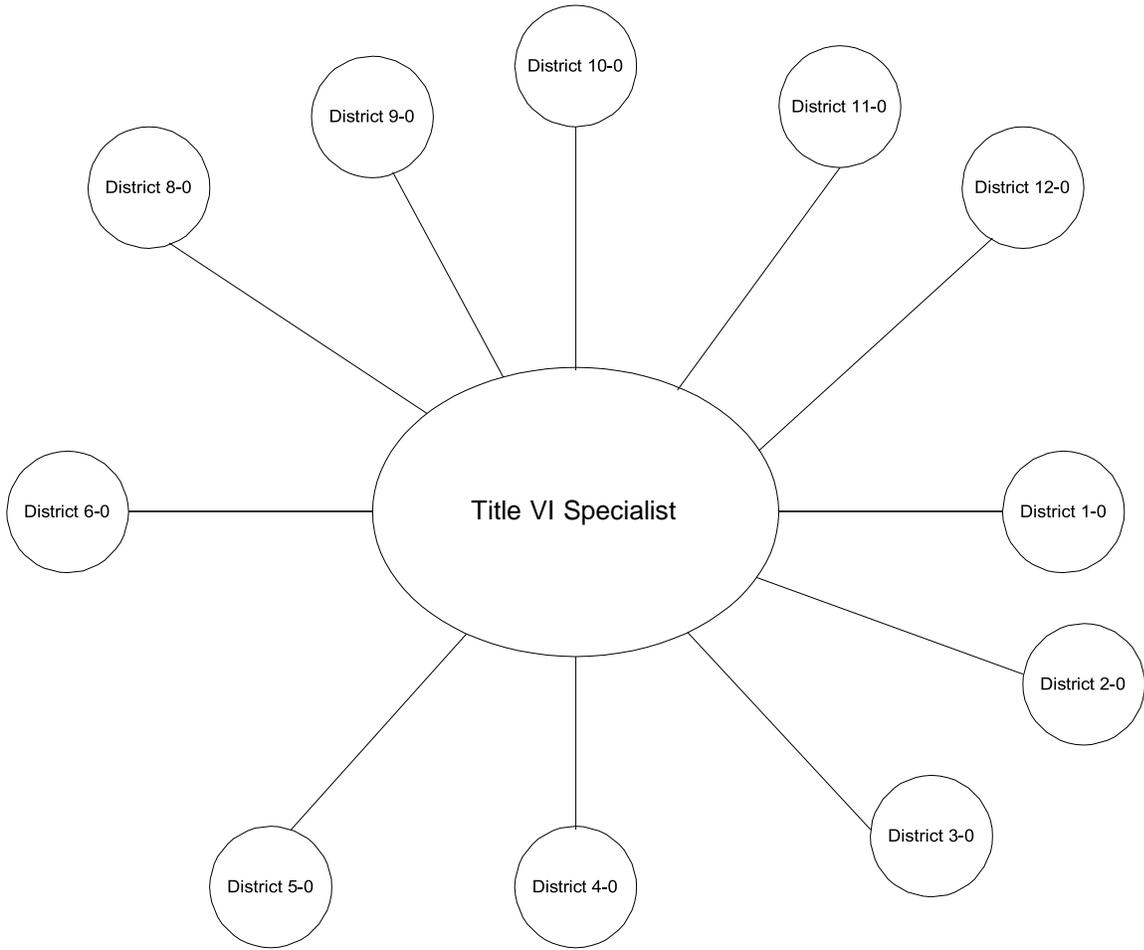
District 5-0
(wk.#) (610) 791-4258

District 6-0
(wk.#) (610) 205-6850

District 8-0
Bureau of Design
(wk.#) (717) 787-5241

District 9-0
(wk.#) (814) 696-7223

District Coordinators' Relationship to Title VI Specialist





VI. Title VI Program Administration

TITLE VI PROGRAM ADMINISTRATION – GENERAL

BEO shall be responsible for coordinating the overall administration of the Title VI program, plan, and assurances. The Title VI Coordinator, under the direct supervision of the Title VI Administrator, will be responsible for the program day-to-day administration.

Complaints – If any individual believes that s/he or any other program beneficiaries have been subjected to unequal treatment or discrimination as to the receipts of benefits and/or services on the grounds of race, color, national origin, sex, age, or disability, s/he may exercise their right to file a complaint with PennDOT. Every effort will be made to resolve complaints informally at the regional/division, sub-recipient, and contractor’s level.

Data Collection – Statistical data on race, national origin and sex of participants in and beneficiaries of PennDOT programs (e.g., relocates, impacted citizens, and affected communities), will be gathered and maintained by each District and Special Targeted Area Title VI Coordinator. Each of the Title VI Special Targeted program areas and districts will maintain data to be incorporated in the Title VI Annual Update. The Department Title VI Coordinator will ensure that information is collected and maintained. The data gathering process will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of the Title VI program administration.

BEO Internal Title VI Program Reviews – BEO’s Title VI Program reviews will be performed by the Department Title VI Coordinator to assess the PennDOT office’s administrative procedures, staffing, and resources available for the Title VI compliance.

PennDOT Annual Reviews – All Special Targeted programs will be reviewed with the Title VI liaisons annually to assure effectiveness in their compliance of Title VI provisions. This will be developed based on the day-to-day monitoring conducted by the Program Area and District Title VI Coordinators. The Title VI Coordinator and program representatives will also coordinate efforts to ensure the equal participation in all their programs and activities at all levels.

Title VI Reviews on Sub-recipients – The Department Title VI Coordinator will conduct Title VI compliance reviews annually in coordination with districts and program areas as outlined. Priority for conducting reviews will be given to those local governments, the MPOs, and other recipients of Federal highway funds with greatest potential of impact to those groups covered by the Act. The reviews will entail examination of the recipients’ adherence to all Title VI requirements. The status of each review will be reported in the annual update and the written report shared with FHWA upon completion.

Operational Guidelines – All operational guidelines to districts, contractors and Special Targeted program areas will be reviewed annually to include Title VI language and provisions and related requirements, where applicable.

Training Program – Title VI training will be made available at least annually to contractors, sub-recipients, PennDOT Special Targeted program areas and districts. The training will provide comprehensive information on Title VI provisions, its application to program operations, and identification of Title VI issues and resolution of complaints. A summary of training conducted will be reported in the annual update.

Semi-annual Reports – A semi-annual report will be submitted to the Director of BEO (Title VI Administrator) reviewing Title VI accomplishments achieved during the period. Reports will be required for each district and program area. The Department Title VI Coordinator will be responsible for coordination and preparation of the report.

Title VI Plan Update – An annual Title VI Plan Update will be submitted to FHWA on October 1st of each year. The update will report on any accomplishments and changes to the program occurring during the preceding year. The Update Report will also include goals and objectives for the upcoming year.

Public Dissemination – BEO will disseminate Title VI Program information to PennDOT employees, sub-recipients, contractors, and beneficiaries, as well as the general public. Public dissemination will include the posting of public statements, inclusion of Title VI language in contracts, and publishing annually the Title VI Policy Statement in newspapers having a general circulation in the vicinity of proposed projects and announcements of hearings and meetings in minority publications.

Post-grant Approvals – Post-grant Title VI Compliance reviews will be conducted annually on consultants and other contractors seeking contracts with PennDOT. The reviews will determine the contractor’s compliance with Title VI contractual provisions. Post-grant reviews are conducted on those sub-recipients that have already received PennDOT Federal funds.

Elimination of Discrimination – Procedures will be implemented to identify and eliminate discrimination when found to exist. This includes but is not limited to, issues of utilization of DBE contractors, public involvement, and property acquisition.

Remedial Action – PennDOT will actively pursue the prevention of Title VI deficiencies and violations and will take necessary steps to ensure compliance with all program administrative requirements, both within PennDOT and its sub-recipients of Federal highway funds. When

irregularities occur in the administration of the Federal-aid highway program's operation, corrective action will be taken to resolve the Title VI issues. When conducting Title VI compliance reviews on its sub-recipients, PennDOT will develop a remedial action plan agreed upon by the department and FHWA. This plan, once agreed to, will be implemented within a period not to exceed ninety (90) days.

PennDOT will seek the cooperation of the sub-recipient in correcting deficiencies found during the review. PennDOT will also provide the technical assistance and guidance needed to aid the sub-recipient to comply voluntarily. Sub-recipients placed in a deficiency status will be given a reasonable time, not to exceed ninety (90) days after receipt of the deficiency letter, to voluntarily correct deficiencies. When a sub-recipient fails or refuses to voluntarily comply with requirements within the time frame allotted, PennDOT will submit to the FHWA two copies of the case file and a recommendation that the sub-recipient be found in noncompliance.

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

Procedures Manual – All day-to-day administration of the Title VI Program will be incorporated in a PennDOT-BEO Procedures Manual that will be developed and updated regularly to incorporate changes and additional responsibilities.

TITLE VI RESPONSIBILITIES FOR SPECIAL EMPHASIS PROGRAM AREAS (BUREAUS)

Unlike other laws and executive orders that focus on employment discrimination, Title VI affects all PennDOT Special Targeted program area activities at varying degrees. Impact of these programs on minorities, women, the disabled, the elderly and non-minorities are monitored to provide equitable treatment in the provision of benefits, services, and opportunity to all beneficiaries of the programs. This section of the plan identifies the Special Targeted program areas, by Deputate, with which Title VI has the most impact and the responsibilities associated with it.

1.Planning Deputate

The Planning Deputate is responsible for planning and programming in each transportation mode and serves as the centralized focal point to coordinate and track progress on improvement projects throughout the state. Professional planners, administrators, and engineers analyze and update Pennsylvania's transportation needs, establish strategies to meet planned objectives, develop and prioritize improvement projects consistent with available resources, monitor and expedite project implementation for the Department's other operational units, and coordinate those activities with other local, State, and Federal agencies.

Center for Program Development and Management

The Center for Program Development and Management is responsible for developing and managing the Commonwealth's Twelve Year Program for highways and bridges, mass transit systems, airports and rail freight. The Center works together with the 25 regional planning agencies in Pennsylvania, which are centered on the major metropolitan areas, to establish a long-range plan to improve regional and statewide transportation issues.

The Center performs studies to determine which improvement projects are necessary and which need to have top priority. The Center then looks to find funding for the various projects—usually the projects are 80% covered by Federal funds and the remaining 20% would come from state or local sources. The Center also works with rural planning, land use studies, major economic development projects in metro and rural areas, Transportation Management Associations assistance, and national/regional transportation association support.

The Center for Program Development and Management is charged with the following Title VI activities:

- Maintain documentation and statistical data on race, color, national origin, and sex on staff as well as participants and beneficiaries of PennDOT programs.
- Perform project management reviews to ensure local agencies' adherence to Title VI administrative requirements for Special Targeted programs. An internal report with the findings and recommendations will be provided by the Department Title VI Coordinator. The report will be discussed with the local agencies for corrective action.
- Advise and assist the local agencies in the management of Title VI complaints.

- Gather program area data for the Semi-annual Title VI Report.
- Assist local agencies in developing their Title VI Plan.
- Attend Meetings of Metropolitan Planning Organization (MPO) and Local Development Districts (LDD).
- Conduct citizen participation process meetings.
- Review Transportation Improvement Programs (TIPs).
- Analyze PennDOT MPO Long Range Plan.

The Center for Program Development and Management has oversight responsibilities to ensure that cities, counties, and MPOs comply with the administrative requirements of Title VI. The Center for Program Development will perform project management reviews to ensure local agencies' adherence to Title VI administrative requirements. The Center will also advise and assist local agencies in the management of Title VI complaints. There are two categories of projects conceived and initiated in the planning phases: 1) those initiated by regional, county or local officials and/or organizations, and 2) those initiated by the Commonwealth.

The projects, which usually have the greatest potential for Title VI impacts, are those within urbanized areas. Planning and programming for the urbanized areas is the responsibility of the local officials through a MPO. The MPO is designated by the Governor, comprised of regional, county and local officials and is responsible for cooperatively developing the unified planning work program, transportation long range plan and transportation improvement program. In addition, the MPO shall coordinate the development of the plan and TIPs with other users and providers of transportation. The Metro Modal Division within PENNDOT's, Center for Program Development and Management, is the division responsible for coordination of planning activities with the MPO.

The Metro Modal Division is responsible for working with each MPO to develop a long-range transportation plan for each urban area. The division is responsible for the development of a long-range statewide policy plan, which incorporates the urbanized and rural areas. It is also responsible for the development of corridor and project specific needs studies.

Planning studies have Title VI consequences as a result of impact to the public. Therefore, citizen input is an integral part of the transportation planning and programming process. The LDD handles citizen input to this process. The public is included from the beginning of the planning stages through actual construction. Because of the potential for adverse impact to protected classes that may be caused by construction projects and/or programs, it is important to ensure that the needs of all citizens are addressed throughout the transportation planning and construction stage.

Minorities and other protected classes may be adversely affected by transportation improvements being routed through their neighborhoods when an alternate route could be utilized. Also protected classes may be adversely affected when their requests for highway and transit improvements are continuously denied, and the requests of non-minorities are honored. Note, that in either case, the discrimination need not be intentional, but may result from disproportionate effects known as "adverse impact." Listed below are the Title VI responsibilities relating to the MPO and LDD within the Center for Program Development and Management:

Metropolitan Planning Organizations (MPO)

- Attend meetings of MPOs
- Perform annual compliance reviews
- Review newsletters and other publications and reports
- Monitor public involvement process
- Monitor organizational structure and make up of committees (ensure diversity)
- Review Transportation Improvement Programs (TIPs)
- Review long range MPO plans

- Local Development Divisions

(LDD)

- Attend meetings of LDD
- Review newsletters and other publications and reports
- Monitor public involvement process
- Monitor organizational structure and make up of committees (ensure diversity)
- Review rural portions of the Statewide Transportation Improvement Program (STIP)
- Review LDD long range plans

Bureau of Planning and Research

Planning Division

The Transportation Planning Division is responsible for all highway travel information including the collection, analysis and reporting of traffic volumes, vehicle classification (automobile and commercial vehicles), and truck weight. Traffic information services include project level traffic analysis, highway traffic trend development, and services associated with traffic oriented business location decisions. The Transportation Planning Division is also responsible for the Department's Highway Performance Monitoring System (HPMS). The Division serves as the Department's source of highway and travel statistics including travel speed data. The Division also has responsibility for Pennsylvania's National Highway System and other functional classification activities.

Research Division

The Research Division's primary task for Title VI involves conducting transportation-related research projects that may be funded with Federal-aid funds. The research may be conducted by State personnel or contracted to universities or consultants who have the capabilities and staff to perform the research. PennDOT will ensure that discrimination is avoided by making sure that the RFP process is fair and partial and not bias towards one particular consultant or university.

Highway Administration Deputate

The Highway Administration Deputate is comprised of a chief engineer, eleven engineering districts, and the Strategic Environmental Management Program Office, the Bureau of Maintenance and Operations, the Bureau of Design, the Bureau of Construction and Materials and the Bureau of Highway Safety and Traffic Engineering. The customers of the Highway Administration Deputate are more than eight million Pennsylvanians who own or drive cars and trucks as well as the millions of visitors who travel the Commonwealth by road.

Strategic Environmental Management Program (SEMP)

The SEMP team will develop, guide, monitor, and report on the implementation of the Department's environmental policy and goals and objectives on an annual basis. Implementation of the Governor's Green Government Council Green Plan, a Department Recycling and Waste Reduction/Minimization Plan, and the ISO 14001 Environmental Management System Certification Program, will be functions of SEMP.

Bureau of Construction and Materials

The Bureau of Construction and Materials is responsible for the administration of new construction projects. The Bureau is also responsible for the preservation and upkeep of the state transportation system. The Bureau develops an efficient program for highway maintenance by utilizing the resources of people, equipment, and materials in the most economical way. The Bureau sets policy and provides guidance and oversight for the decentralized administration of transportation construction projects by the districts and the district engineers.

The Bureau of Construction and Materials primary compliance duties with Title VI involve ensuring uniformity in pre-qualification requirements and award of construction contracts. The Bureau is charged with the following activities:

- Monitor all maintenance operations to ensure nondiscrimination
- Review activities and programs to assure that maintenance and construction efforts and resources are applied uniformly and fairly
- Ensure through reviews that prime contractors with DBE requirements award previously committed work to proper DBEs and that DBEs actually perform a commercially useful function on the contracts
- Assist BEO in providing supportive services to DBEs
- Coordinate the gathering of construction information regarding DBE participation for the Title VI Semi-annual Update Report

The following are divisions within the Bureau and their Title VI responsibilities:

Contract Management Division

The Contract Management Division establishes and administers statewide construction and contracting policies and criteria and provides expertise to executive management and legal staff with issues related to construction contracting. The Division ensures uniformity and consistency in developing plans, specifications and estimates and is responsible for the bid package compilation, advertising and issuing addenda. The Division also determines minority goals for uniformity and compliance with the State and Federal requirements.

In order to be eligible to bid for PennDOT contracts, contractors and subcontractors must first “prequalify,” which consists of submitting information that shows a firm’s ability to do the work. Prospective bidders must complete and submit an “Application and Experience Questionnaire” which includes a “Confidential Financial Statement” to PENNDOT’s Prequalification Office.

The bids which are submitted in accordance with the bidding requirements and conditions are opened and read publicly at the time and place indicated in the notice to bidders and bid proposals. Construction contracts are awarded to the lowest and responsive bidders.

Materials and Testing Division

The Materials and Testing Division uses the services of commercial testing and inspection laboratories periodically, as technical and resource needs dictate, to perform special job testing and inspection of highway construction and maintenance materials, and to conduct forensic analysis of transportation system failure. The laboratories work for PennDOT under competitive (bidding required) third party contracts.

Bureau of Design

The Bureau of Design is charged with the delivery of highway and bridge projects to maintain Pennsylvania's highway infrastructure. The Bureau also has the responsibility for development of bridge and highway design criteria. The Bureau of Design develops bridge and highway design policy and criteria, ensuring State and Federal requirements are followed in developing bridge and roadway construction projects, and then bids and awards these projects.

The Bureau is involved in the complete design process by providing surveying and mapping, acquiring consultant services, setting standards and reviewing highway and bridge projects, managing right-of-way acquisition, managing utilities for transportation projects, providing transportation projects for construction contractors to bid on, awarding and executing construction contracts, and providing information technology to support and automate the design functions.

The design process begins when the Project Management Committee distributes a list of possible contracts that are approved to move to the design phase. The district offices analyze the list and decide which projects can be done in-house and which will require a contracted consultant. The Bureau of Design considers their part of the process complete once a contract has been awarded and executed.

The Bureau of Design performs a variety of additional functions in support of the Department's overall Mission and Vision. The Bureau is tasked with developing bridge and highway design policy and criteria, ensuring state and federal requirements are met in the delivery of highway

and bridge design projects to construction. The Bureau provides training and computer support services to the entire Design Community, which includes consultant engineers and district personnel.

The Bureau is responsible for the Department's design standards, specifications, policies, procedures, and engineering computing programs that are developed and maintained by the Divisions. The Bureau consists of seven Divisions and an Administrative Section. Each Division is structured according to its functional area to facilitate alignment with our partners in the District Office.

The Bureau of Design is charged with the following Title VI responsibilities:

- Ensure that all aspects of the location selection process complies with the Title VI requirements
- Review activities and programs to assure that maintenance and construction efforts and resources are applied uniformly and fairly
- Review all projects for application of (Disadvantaged Business Enterprise) DBE program requirements
- Include DBE general special provisions in those projects with assigned goals.
- Include Title VI language in contract advertisements and award letters to encourage the utilization of DBE firms. Award of construction contracts shall be granted on the basis of the lowest responsive bidder including DBE requirements
- Review highway plans and alternate routes
- Review Environmental Impact Studies (EIS)
- Title VI language shall be included in every contract to ensure nondiscrimination in contract awards due to race or gender
- Consult and seek input from affected populations
- Develop mechanisms to identify affected populations
- Assure public participation in the selection process
- Provide notice of public hearings and meetings in minority newsletters and newspapers
- Maintain required Title VI compliance documentation and statistical data on hearing attendees
- Monitor program components for compliance with the Title VI requirements
- Review activities associated with public hearings to enhance the participation of target communities
- Develop and update operational manuals and directives to ensure the inclusion of Title VI language and provisions
- Gather program area data to be included in the Title VI Semi-annual Update Report

The Bureau of Design ensures that all proposal documents contain all required equal opportunity provisions. PennDOT provides contractors with quarterly lists and supplement rosters of certified DBE firms. The Bureau of Design establishes DBE goals according to preliminary project estimates. The following divisions' makeup the Bureau of Design:

Highway Quality Assurance Division

The Highway Quality Assurance Division (HQAD) develops and implements policies, standards, criteria and procedures for highway design. The Division coordinates extensively with other Bureaus, Districts, State and Federal agencies, State Departments of Transportation, consultants and other external customers in developing policy and procedures, and guiding projects through the various steps of the project development process. HQAD coordinates extensively with the Federal Highway Administration and the Pennsylvania Turnpike Commission on project and policy related matters. HQAD provides expert technical guidance and provides training for Districts and District consultants.

The Division performs Right-of-Way and Construction plan checks to ensure that Department procedures and policies have been incorporated into design projects. Quality assurance reviews are conducted by visiting the construction sites to further ensure that design procedures have been carried through into construction. HQAD also works to update design manuals with new Federal guidelines; they prepare handbooks and train district personnel on the new regulations.

HQAD is involved with the following items as they relate to Title VI of the Civil Rights Act of 1964:

1. Review of Environmental Impact Studies – Includes analysis of EIS, Environmental Assessments (EA), or Category Exclusion Evaluations (CEE). PennDOT incorporates the issue of Environmental Justice (Presidential Executive Order 12898 dated 2/11/94) into its existing environmental clearance process. The impact of minorities and low-income populations, as well as certain races, colors of people, and other nationalities, is fully considered when the location and design of highway and bridge projects are determined. PennDOT believes that discrimination should not occur under its existing procedures for review of environmental documents. The social and economic effects and of projects on parks and recreational facilities, health and educational facilities, police, fire and emergency services, public transportation, residential and neighborhood characters and stability, community cohesion, minority and other special interest groups, the handicapped and elderly, the local tax base and property values, business and residential displacements, employment gains and losses, aesthetics, regional and community growth and development patterns, and available replacement housing for displacers is addressed in Department Publication 278 (EIS Handbook), Publication 294 (CEE Handbook), and Strike-off Letter 4300- 88-76 (Environmental Assessment Procedures, soon to be replaced by an Environmental Assessment Handbook).
2. Public Involvement Process – PENNDOT's Public Involvement Process is covered in Publication 295, the Public Involvement Handbook. Publication 295 stresses the need to involve/engage all local citizens in an open process early and often in project development so that informed location and design decisions can be made while addressing the community concerns. The process involves an exchange of thoughts and ideas between citizens and the Department in an attempt to balance transportation needs with community needs/concerns. Open public plans displays are often held to all citizens to interact one-on-one with project team members. Public meetings and open houses are advertised in local newspapers in press releases from our District offices in project newsletters, etc., in an effort to engage the local citizens before project location of design decisions are made.

3. Public Hearings – Public hearings are legally advertised as per the instructions in Publication 295, Publication 278, and Strike-Off letter 43008-88-76 in local newspapers, generally twice in advance of public hearings. PennDOT legal advertisements routinely state that the public hearing location is accessible to people with disabilities, and any special accommodations need to be brought to the attention of the individual project manager. Those special needs will then be accommodated at the public hearings.
4. Meetings with Concerned Groups – Publication 295 (Public Involvement Handbook) endorses this concept. The project team is encouraged to engage concerned groups at special meetings to identify their concerns. Subsequently, the project team will attempt to address these concerns in the location and design of that particular project.

Bridge Quality Assurance Division

The Bridge Quality Assurance Division (BQAD) develops policies, criteria, and standards reflecting state-of-the-art practices in bridge and structure designs. Responsibilities include reviewing and approval of all aspects of the bridge design process to ensure compliance with Department design policies; providing expert technical guidance to the Districts in complex bridge structure matters (including resolutions of construction problems), hydrologic and hydraulic report generation, and ensuring that District staff receives proper training in all phases of bridge engineering.

The Division is also responsible for establishing engineering criteria and policies for bridge engineering computing software development and acceptance testing. Other activities include product evaluation, managing a variety of activities and operations pertaining to the statewide bridge inspection program, ownership of the Bridge Management System, providing technical guidance for bridge research, bridge inspection training and certification, and coordination with FHWA.

Violations in these areas would likely be related to consultant and contractor compliance with Title VI. Thus, the Division reviews and rates consultant services as to their compliance with Title VI specifications.

Engineering Management Resource and Automation Division

The Engineering Management Resource and Automation (ERMA) Division's primary tasks for Title VI purpose involve engineering computer applications, document and data management services, and automated drafting. The Title VI areas, which involve the ERMA Division, are related primarily to consultant services.

Engineering Computing Management Division

The Engineering Computing Management Division (ECMD) works to support the Bureau of Design and the District Offices by providing for their hardware and software needs. The Division uses the RFP and ITQ processes to select vendors to create computer applications, develop and conduct training courses and provide computer aided drafting and design software

for the Highway Administration. ECMD manages the contracts and staffs a support helpdesk to assist with any problems or questions with the computer applications.

Utilities and Right-of-Way Section

The Utilities and Right-of-Way Section is responsible to ensure that PennDOT policies and procedures comply with applicable laws and regulations for the acquisition of right-of-way, relocation of utilities and alterations to railroad facilities as required by highway and bridge projects. The Section acts as a liaison between the district offices and the Public Utility Commission when changes need to be made to railroad grade crossings. When PennDOT obtains right-of-way and utility lines must relocate, the Section processes requests for monetary assistance for municipal gas, water and sewer facility relocations.

The right-of-way is composed of three separate functions: appraisal, acquisition, and property management. Consultants and district staff complete the appraisals and section personnel review them to ensure the fair market value determination.

Department staff acquires property in a manner structured to ensure that owners of real property to be acquired are treated fairly and consistently; encourage and expedite acquisition by agreements with such owners; minimize litigation and relieve congestion in the courts; promote public confidence in the acquisition program; and ensure that persons displaced as a result of a project are treated fairly, consistently and equitably so that they will not suffer disproportionate injuries as a result of projects designed for the benefit of the public.

Once PennDOT has acquired property, they have the responsibility of maintaining the property in accordance with any municipal codes. This includes mowing the grass or shoveling the sidewalk. The property management section also processes all billboard permits for limited access facilities.

Title VI responsibilities for the Utilities and Right-of-Way Section include:

- Ensure participation by Minority/Women/Disadvantaged Business Enterprises in Personal Service Contracts. The contracts are typically appraisal contracts but can cover all services of real estate including negotiation, relocation, and property management.
- Ensure participation by minority/women disadvantaged business appraisers by updates to fee appraisers' directories identifying minority and female appraisers.
- Apprise affected property owners, tenants, and others involved of their rights and options regarding negotiation, relocation, condemnation and other aspects of the acquisition process.
- Conduct semi-annual implementation reviews of Title VI provisions within the entire real estate acquisition process.
- Incorporate Title VI language and assurance statements in all surveys of property owners and tenants after the conclusion of all business.
- Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process.

- Coordinate the preparation of deeds, permits, and leases to ensure the inclusion of the appropriate Title VI clauses (see Appendices B & C to Title VI Assurances).
- Gather statistical data required for completion of Department's Semi-annual Title VI Update Report, including awards to minority and female appraisers, number of relocations, by race sex etc.

The Utilities and Right-of-Way Section is an area with many facets of Title VI compliance. The Division's duties are performed through four different processes:

1. Appraisal Process

Utilities and Right-of-Way Section activity involves review of appraisal of properties that are impacted by highway construction. The appraisal provides the basis for payment to a property owner.

The appraiser estimates the fair market value of real property on the basis of objective information and analysis. Objectivity requires that data collection, analysis and reconciliation be conducted in an unbiased manner. The estimate of fair market value must reflect market activity. It represents the price that a property would sell under typical circumstances. The appraisal presumes that no undue pressure exists for either the buyer or seller.

Appraisal activity must comply with Title VI, Nondiscrimination in Federally Assisted Programs and Title VII, Equal Employment Opportunity when federal funds are used for a highway project.

When contract appraisers are hired, the contracting and assignment process must be done without restriction as to race, color, national origin, sex, age, or disability. Available and qualified minority and/or disadvantaged appraisers must be included. Appraiser qualification standards are now set by the State Board of Certified Appraisers, which was mandated by Act #1990-98 and is out of the control of the Utilities and Right-of-Way Section.

Information gathering, analysis and reporting must be objective, without regard to race, color, national origin, sex, age or disability.

2. Acquisition Process

Acquisition is one of the most sensitive parts of the Department's effort in construction of a highway since it involves direct personal contact with the public and may have a substantial impact on people's lives. The property acquisition process follows the Right-of-Way Manual and all applicable laws and regulations, including Title VI and Section 504 of the Rehabilitation Act. The right-of-way acquisition process entails appraisal of property, negotiation of terms and conditions for acquisition, and assistance in the relocation of displaced individuals, business, farm operations, and nonprofit organizations, as well as property management.

To complete the acquisition process, PennDOT must fulfill the following requirements by law:

- (a) Make a prompt written offer to the property owner for the full amount the agency believes is just compensation.
- (b) Provide the owner with the offer in a written statement that must include the amount established by the agency as just compensation along with a summary of the basis for the offer.
- (c) Before requiring the property owner to surrender possession of their property, the agency shall pay the agreed purchase price or deposit with the court, for the benefits of the owner, an amount no less than the agency's approved appraisal of the fair market value or the court award of compensation determined in the condemnation proceeding for the property.
- (d) Offer to acquire any uneconomic remnants.

The offers to purchase property are established by appraisals and are generally made in person. The agency must make every reasonable effort to acquire the property by negotiation. The owner must be given reasonable opportunity to consider the agency's offer and to present any information that is considered relevant to determining the property's value.

When an agreement on the sale of the property cannot be reached, the agency can institute formal condemnation proceedings to acquire the property by exercising the power of eminent domain.

After a settlement has been reached with the property owner either through negotiation or condemnation, the agency prepares the necessary documents required by law for transferring the title to close the transaction. This function is handled by the agency's staff attorney, fee attorney, or other qualified person.

The transfer may require the payment of some incidental expenses generally reimbursable by the agency. Right-of-Way acquisition consultant contracts are secured through the ITQ Process for Right-of-Way Acquisition Consultant services.

3. Relocation Process

The Relocation Process often involves providing not only financial assistance to displacees, but also various relocation services such as:

- Providing listings of properties for rent or sale.

- Providing information about low-rent housing
- Aiding displaced with house inspections to determine if replacement housing meets all state and federal standards.
- Providing information on suitable locations for businesses, farms, and non-profit organizations.
- Arranging for transportation to replacement properties, if necessary.

Replacement housing must be made available to displaced individuals before FHWA will authorize advertising for construction bids. If comparable replacement housing is not available, or is not available within the financial means of the person displaced, PennDOT may provide “Last Resort Housing”. The following are examples of Last Resort Housing:

- (a) Purchase of an existing residential property, which meets decent, safe, and sanitary requirements.
- (b) Purchase of residential building sites and construction of new dwellings or relocation of dwellings on the sites or relocation of dwellings on the sites.
- (c) Utilization of excess right-of-way or other surplus lands for the development of replacement housing.

4. Property Management

Issuance of 90-day notices, final notices, and extensions of occupancy are uniformly applied to all persons being relocated by a project. Rental rates are uniformly applied and delinquent tenants are treated in the same manner. The Right-of-Way designee periodically reviews randomly selected files to ensure compliance with all required regulations.

Consultant Agreement Division

The Consultant Agreement Division accepts district requests for consultants and works to execute consultant contracts. The Division establishes a goal for each Disadvantaged Business Enterprise (DBE) and tracks the progress. The Division ensures that the advertised DBE participation goal is met prior to the preparation of the agreement/supplement. DBE participation goals are included in the engineering agreement, if applicable.

Environmental Quality Assurance Division

Environmental Quality Assurance Division (EQAD) is charged with the responsibility of providing Department management and staff with the environmental-related policy, procedural and technical services required to plan, design, construct, maintain and operate transportation and related facilities in an environmentally sound manner.

EQAD assists the districts in integrating environmental considerations and regulatory requirements into PENNDOT's transportation program. The Bureau provides technical expertise for project analyses. EQAD develops environmental policies, procedures, manuals, and training. The Division also works with regulatory agencies to streamline the environmental permit process.

All environmental issues as they impact Department transportation activities are the purview of the EQAD. Environmental issues under Federal law embrace cultural, historical and archeological resources, and socio-economic and land use considerations (i.e.: Man-made objects and situations) as well as natural resources and the quality and integrity of the natural environment (i.e.: Objects and situations that are not man-made).

In terms of Title VI compliance, the EQAD is responsible for ensuring that all resource impacts, to include social and economic, that could result from transportation projects are studied, analyzed, mitigated and documented. Social and economic impacts are addressed in various laws and regulations, all of which the Department is committed to follow as part of its environmental mission. The key laws and regulations relating to social and economic impacts are; the National Environmental Policy Act (NEPA); 23 CFR 771.111; Executive Order 12898, Environmental Justice; Americans with Disabilities Act, and PA Act 120. All of these mandates help protect against discrimination and/or disproportionate impacts towards minority or low-income segments of the population. The EQAD is responsible for ensuring that any impact resulting from a transportation project is properly studied, documented, and mitigation measures addressed before decisions are made.

Specific Title VI responsibilities for EQAD include the following:

- Monitor compliance with Title VI requirements in all aspects of the environmental process.
- Conduct meetings to review the project impact.
- Disseminate to the public their rights to call or write the Department to view plans and discuss environmental problems.
- Coordinate the gathering of environmental information for the Semi-annual Title VI Update Report including awards to DBE firms.
- Notify and make accessible to affected protected group residents public meetings or hearings regarding a proposed project.
- Develop mechanisms to identify population affected by a project.
- Ensure public participation in the location selection process.
- Ensure Title VI/Environmental Justice compliance in all Environmental Impact Statements in coordination with the Department's Title VI Coordinator.

- Class II – Categorical Exclusions (CE): A CE is probably the most commonly used environmental processing option. The CE is not an environmental document, but a determination that a project will have no significant individual or cumulative SEE impacts. Therefore, there is no requirement for the preparation of an environmental document (EA or EIS). These are generally minor activities and normally do not require any further NEPA approvals.

Some of these activities, for example, are: utility installations; bicycle and pedestrian lanes, paths and facilities; installation of fencing, signs, and pavement markings; small passenger shelters; traffic signals; railroad warning devices; emergency repairs; improvements to rest areas and truck weigh stations; reconstruction or modification of an existing bridge structure on essentially the same alignment or location; minor modifications of an existing highway; and highway safety or traffic operation improvement projects.

- Class III – Environmental Assessments (EA): This class contains the medium range of projects in which significance of the impact on the environment is not clearly established and requires the preparation of an Environmental Assessment.

Both the EIS and EA must describe all reasonable (feasible) alternatives available for a given construction project. The Environmental Analysis Division is aware that adverse impacts on minority neighborhoods or areas with a predominantly elderly population present potential Title VI violations (e.g., loss of convenient access, increased traffic, high amount of dislocation).

3.Administration Deputate

The Administration Deputate is comprised of six bureaus: the Bureau of Fiscal Management, the Bureau of Information systems, the Bureau of Equal Opportunity, the Center for Performance Excellence, the Bureau of Office Services and the Bureau of Human Resources. The customers of the Administration Deputate include the Department's 11,961 employees and the contractors and consultants who provide goods and services to the Department. PennDOT personnel in central administration positions provide centralized services for the entire Department of Transportation.

Bureau of Office Services

The Bureau of Office Services is one of six administrative support organizations within the Department of Transportation comprising the Administrative Deputate. The bureau of 95 employees is responsible for supporting all department organizations in purchasing, facilities, mail, forms and publications, graphic arts, printing, inventory management, warehousing, and map, publication and highway bid document sales.

The Bureau of Office Services is responsible for the following activities:

- Involvement in Research Process
- Review of contracts to ensure appropriate EEO/Title VI Provisions Added
- Review Consultant/Subcontractors for employment
- Fair Representation of Minorities in supplier base

Service Contracting Section

The Service Contracting Section primary task for Title VI involves conducting transportation related research projects, which may be funded with Federal funds. The research may be conducted by State personnel or contracted to universities or consultants who have the capabilities and staff to perform the research. The Bureau of Office Services will ensure that discrimination is avoided by making sure that the RFP process is fair and impartial and not bias towards one particular consultant and or university.

4. Aviation Deputate

The Aviation Deputate is comprised of the Bureau of Aviation and the Bureau of Rail Freight, Ports and Waterways. The Customers of the Aviation Deputate include 136 public use airports, 58 rail freight operators, Pennsylvania's inland port operations and the millions of Pennsylvanians who use and benefit from the Commonwealth's aviation or commercial freight network.

Bureau of Aviation

The Bureau of Aviation works to promote, preserve and develop Pennsylvania's airports. The Bureau assists Pennsylvania airports with all stages of future planning. Bureau engineers review proposed plans, provide technical guidance during the construction project, and perform final inspections when the projects are completed. The Bureau also works to secure the funding necessary to make airport improvements. Approximately \$8.5 million of federal funds from the FAA Block Grant Program are distributed annually by the Bureau of Aviation, as well as state funds amounting to approximately \$12 million. The Bureau of Aviation is also responsible for the ongoing inspection and licensing of Pennsylvania's 136 public use airports.

The Bureau of Aviation's primary compliance duties with Title VI involve ensuring that airports receiving Federal funds adhere to the provisions of Title VI. Compliance is monitored through an ongoing inspection process by both Bureau of Aviation personnel and representatives from the Federal Aviation Administration (FAA). Pennsylvania has recently been named a FAA Block Grant State, which means that Federal funds for General Service Airports and Business Service Airports will be given directly to the Bureau of Aviation for disbursement. This will result in even greater monitoring of Title VI provisions at those airports.

Bureau of Rail, Freight, Ports and Waterways

The Bureau of Rail, Freight, Ports and Waterways works to provide financial and technical assistance to Pennsylvania railroads. The Bureau provides each approved maintenance project with 75% funding; new construction projects are 50% funded. A Railroad Construction Specialist from the Bureau inspects each project two times before the funding is granted. Before funding is approved, each project must demonstrate that it will create new Pennsylvania jobs and reduce the amount of truck traffic on the highways. The Bureau of Rail, Freight, Ports and Waterways also provide funding for projects designed to improve the infrastructure of Pennsylvania ports and waterways. Bureau personnel also work as liaisons to work out conflicts between Pennsylvania citizens and railroad companies.

The Bureau reviews all projects to insure all participants are following Title VI requirements. Contracts involving federal monies contain all required non-discrimination provisions as specified by the FHWA and the Department.

Safety Administration Deputate

Safety Administration, with its headquarters at the Riverfront Office Complex, is comprised of five Bureaus and Offices. Safety Administration has approximately 1,200 employees.

Bureau of Motor Vehicles

The Bureau of Motor Vehicles (BMV) oversees the Department's programs for vehicle registration and titling, vehicle safety, vehicle emissions inspection and vehicle insurance enforcement. BMV is also responsible for the public counter area in the Riverfront Office Center.

Bureau of Driver Licensing

The Bureau of Driver Licensing (BDL) operates and manages the Department's driver licensing programs, including 72 Driver License Centers and 26 stand-alone Photo License sites. BDL is responsible for driver examinations, photo licenses and photo identification cards. BDL also administers the Department's driver safety programs.

Bureau of Driver and Vehicle Program Services

The Bureau of Driver and Vehicle Program Services (BDVPS) oversees the Deputate's human resource programs, partnering efforts, budget and procurement, training and Baldrige (quality and process improvement) activities.

Office of Information & Fiscal Services

The Office of Information & Fiscal Services (OIFS) provides all information systems services (mainframe and personal computer.) OIFS is also responsible for the reconciliation and depositing of all motor vehicle and driver license funds collected, including sales tax paid on the purchase of vehicles.

Office of Risk Management

The Office of Risk Management (ORM) assesses risks and develops solutions; discovers fraud and notifies the appropriate follow-up area; and partners with public and private enforcement personnel.

Local and Area Transportation Deputate

This Deputate provides a variety of services to local governments to assist them in the development, delivery and improvement of transportation services within their local jurisdictions.

Bureau of Public Transportation

The Bureau of Public Transportation administers grant programs that provide financial assistance and technical assistance to the State's public transportation providers. Approximately \$800 million in financial assistance is distributed annually to local providers of public transportation services to help to support day-to-day operating costs, and capital projects to construct or rehabilitate transit infrastructure, or acquire vehicles and support facilities. Technical assistance is also provided, both through staff assistance to local providers and through research and demonstration grants, to assist in feasibility studies for new or expanded services, and to explore new technologies and improved methods for service delivery. All modes of public transportation are supported including traditional fixed-route bus services, intercity bus service, local commuter rail service, intercity passenger rail service, demand responsive services, and programs designed to assist specific target groups such as older Pennsylvanians, persons with disabilities and unemployed or underemployed persons.

Title VI Responsibilities for PennDOT District Offices

The district offices have oversight responsibilities to ensure that all of their Special Targeted program areas comply with Title VI requirements within the district. The District Office Title VI Coordinators will coordinate efforts with the Department and the Special Targeted Program Area (Bureau) Title VI Coordinators for compliance.

Designated District Title VI Coordinators are responsible for the following Title VI activities:

1. Attempt to informally resolve Title VI issues within the District.
2. Refer complaints to the Department Title VI Coordinator in the event the Title VI issue is not satisfactorily resolved within the district, or if the complainant requests to file a formal complaint.
3. Randomly attend a minimum of one (1) public hearing per quarter to monitor citizen participation and compliance with other Title VI requirements.
4. Review all Environmental Impact Statements, Categorical Exclusions and Environmental Assessments to ensure that:
 - a. All feasible alternatives have been considered, including those alternatives that have the least adverse impact on minority groups.
 - b. Roadway alignments do not intentionally follow the path of the lowest property values that would affect principally low-income, minority communities, etc., without adequate study, responsible engineering, and economic and social justification.
 - c. Proposed improvements do not discriminate in providing access and egress to adjacent neighborhoods based on race, color, religion, sex, national origin, age and disability.
 - d. Minorities have not been subjected to relocation at a disproportionate rate as a result of a reluctance to relocate non-minorities.
 - e. The benefits and services provided as a result of Department projects are not planned and constructed with the intent to primarily serve non-minority communities.



VII. Complaint Procedures

PennDOT Title VI Notice to Public

PennDOT hereby gives notice that it is the policy of the Department to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, E.O. 12898, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States shall, on the grounds of race, color, national origin, sex, age or disability be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which PennDOT receives Federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with PennDOT. Any such complaint must be in writing and filed with the Department Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Charge of Title VI Discrimination Complaint Form can be obtained from the Bureau of Equal Opportunity by dialing 1-800-468-4201.

PROCESSING PROCEDURES FOR EXTERNAL COMPLAINTS OF DISCRIMINATION

PURPOSE

To specify the process employed by PennDOT to investigate complaints, while ensuring due process for complainants and respondents. The process does not preclude the responsible PennDOT from attempting to informally resolve complaints.

APPLICABILITY

The complaint procedures outlined herein apply to PennDOT and its sub-recipients in their administration of the Federal-aid highway program.

AUTHORITIES

NONDISCRIMINATION

Title VI of the 1964 Civil Rights Act as amended, (42 U.S.C. 2000d *et seq*)

Provides in Section 601 that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” This Act prescribes discrimination impacts, services, and benefits of access to, participation in, and treatment under a Federal aid recipient’s programs or activities.

23 CFR Part 200 – Title VI Program and Related Statutes – Implementation and Review Procedures

23 CFR Part 230 – External Programs

49 CFR Part 21 – Nondiscrimination in Federally Assisted Programs of the Department of Transportation- - Effectuation of Title VI of the Civil Rights Act of 1964.

The Age Discrimination Act of 1975 as amended, (42 U.S.C. 6101)

Provides that “No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.” This Act prohibits discrimination based on age.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)

Provides “For the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial

assistance.” This Act provides for fair treatment of persons displaced by Federal and Federal aid programs and projects.

Section 504 of the Rehabilitation Act of 1973 as amended, (29 U.S.C. 790)

Provides that “No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.” This Act prohibits discrimination on the basis of being handicapped.

49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

Federal Aid Highway Act of 1973, as amended, (23 U.S.C. 140 and 324)

Provides that “No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this s title.” This U.S. Code prohibits discrimination on the basis of sex.

The Civil Rights Restoration Act of 1987 (P.L. 100-209)

Provides for the clarification of the original intent of Congress in Title VI of the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. This Act restores the broad, institution-wide scope and coverage of the non-discrimination statutes to include all programs and activities of Federal aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not.

The Surface Transportation Assistance Act of 1982 (Sec. 105 (f))

Provides that not less than 10 percent of funds apportioned to States would be contracted with firms owned and controlled by socially and economically disadvantaged individuals.

Pennsylvania Act 120 of 1970

Pennsylvania Act 120 was passed by the Legislature and signed by Governor Shaffer in 1970. It established the Department of Transportation, State Transportation Commission and the 12-Year Transportation Program. The Act directs the Pennsylvania Department of Transportation in the completion of its duties and responsibilities as the providers of the Commonwealth’s transportation network.

Act 120 requires that the Department consult with a variety of other Commonwealth agencies regarding the natural, social and cultural effects of any planned transportation project. Section 2002 of Act 120 requires PennDOT to issue specific findings whenever lands from recreation areas, wildlife and waterfowl refuges, historic sites, forest, wilderness, game lands and public parks are needed for highway or transportation purposes. The Act also requires PennDOT to "prepare and submit every even numbered year prior to the first day of September, to the State Transportation Commission for its

consideration, a program which it recommends to be undertaken by the Department of Transportation during the following twelve fiscal years."

The Surface Transportation and Uniform Relocation Assistance Act Amendments of 1987 (P.L. 101-246)

Provides "For fair, uniform, and equitable treatment of all affected persons; ... (and) minimizing the adverse impact of displacement ... (to maintain) ... the economic and social well-being of communities; (and) ... to establish a lead agency and allow for State certification and implementation." This Act updated the 1970 Act and clarified the intent of Congress in programs and projects that cause displacement.

Sec. 106(c) extends the provisions of Section 105(f) of the Surface Transportation Assistance Act of 1982, includes women as presumptively disadvantaged, and specifies criteria to be relied upon in making certification decisions.

The Americans with Disabilities Act of 1990 (P.L. 101-336)

Provides that "No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or a local government." This Act provides enforceable standards to address discrimination against individuals with disabilities.

28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services

29 CFR Part 1630 – Regulations to Implement the Equal Employment Provisions of the American with Disabilities Act

49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

49 CFR Part 37 – Transportation Services for Individuals with Disabilities

49 CFR Part 38 – Americans with Disabilities Act Accessibility Specifications for Transportation Vehicles

The Civil Rights Act of 1991 (P.L. 102-166)

In part, amended Section 1981 of the 42 U.S.C. by adding two new sections, which provides "(b) for the purpose of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual

relationship.” The rights protected by this section are protected against impairment by non-governmental discrimination and impairment under color of State law.”

“Federal Actions to Address Environmental Justice in Minority and Low Income Populations” (Executive Order 12898)

The Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, signed in February 1994, requires Federal agencies to achieve environmental justice as part of its mission by identifying disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. It is the intent of FHWA to carry out its environmental justice responsibilities as part of its overall Nondiscrimination Program.

49 CFR 21 DOT’s Title VI regulation.

49 CFR 24 DOT’s regulation implementing the Uniform Relocation and Real Property Acquisition Act for Federal and Federal-assisted programs requiring compliance with Nondiscrimination Statutes and Executive Orders.

The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 476)

Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601 et seq., fair housing provisions)

Title IX of the Education Amendments Act of 1972, (20 U.S.C. 1981)

Intermodal Surface Transportation Efficiency Act of 1991, (ISTEA) (Pub. L. 102-240, Stat. 1919, section 103)

The Transportation Equity Act for the 21st Century (TEA-21) (Sec 1101(b))

Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.)

28 CFR 42, Subpart C DOJ’s regulation implementing Title VI, Civil Rights Act of 1964.

28 CFR 50.3 DOJ’s Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

29 CFR 1691 Joint DOJ and EEOC regulation governing the processing of complaints filed by employees of recipients.

Department of Transportation General Duties and Powers, (49 U.S.C. 306)

Additional authorities and citations include:

- Property Management 23 CFR 710-740 and Title 67 Pa. Code Chapter 495
- Section 503 of the Rehabilitation Act of 1973

- National Environmental Policy Act (NEPA) of 1969
- 23 CFR 771.111 Federal Highway Administration – Environmental Impact and Related Procedure

Enforcement of Title VI of the civil Rights Act of 1964- National Origin Discrimination Against Persons with Limited English Proficiency, (Executive Order 13166)

DEFINITION

Discrimination—involves any act or inaction, whether intentional or unintentional in any program or activity of a Federal-aid recipient, sub-recipient, or contractor, which results in disparate (unfavorable) treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, sex, national origin, low-income, age, disability or in the case of disability, failing to make a reasonable accommodation.

An act (or action) whether intentional or unintentional, through which a person in the United States, based on race, color, low-income, sex, age, national origin, or disability has been subjected to unequal treatment under any program or activity receiving financial assistance from the FHWA under title 23 U.S.C.

FILING OF COMPLAINTS

A. Persons Eligible to File

Any person who believes that he or she or any specific class of persons has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities and/or based upon race, color, low-income, sex, age, national origin, or disability may file a written complaint. The complaint may be filed by the affected individual or a representative and must be reduced to writing.

B. Time Limits for Filing

A complaint must be filed no later than 180 days after the following:

1. The date of the alleged act of discrimination; or
2. The date when the person(s) became aware of the alleged discrimination; or
3. Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.

C. Form of Complaints

1. Complaints shall be in writing and signed by the complaining person(s), or representative, and include the complainant(s) name, address and telephone number. Allegations of discrimination received by fax or e-mail will be acknowledged and processed. Allegations received by phone will be reduced to

writing and provided to the complainant for confirmation or revision before processing. (**Appendix A --Complaint Form**)

2. The Complainant will be provided with a Notice of Investigatory Uses of Personal Information, which outlines the complainant's rights and protections during an investigation. The complainant will also be provided with a Complainant Consent/Release Form, which requests the complainant's consent to release information about the complainant's identity during the course of the investigation (**Appendix H1 and H2**)

D. Agencies Authorized to Receive Complaints

Complaints may be submitted to FHWA, PennDOT sub-recipients, the United States Department of Transportation (USDOT), and the U.S. Department of Justice (USDOJ).

VI. **PROCESSING COMPLAINTS**

Receipt and Acceptance

1. The Chief, Investigations and Adjudications in the Headquarters Civil Rights Service Business Unit (HCR) will acknowledge receipt of all complaints filed with Headquarters, the resource centers or the division offices. The allegation will be analyzed and the complainant notified of those aspects accepted for investigation.
 - a. All complaints filed with PennDOT shall be forwarded to HCR for a determination of jurisdiction.
 - b. Complaints filed with a sub-recipient will be processed in accordance with the approved PennDOT Title VI Investigative Process.
2. Upon receipt of a complaint by the FHWA, the Chief, Investigations and Adjudication will determine jurisdiction and whether there is the need for additional information. Acceptance of a complaint will be determined by:
 - a. Whether the complaint is timely filed;
 - b. Whether the allegations involve a covered basis such as race, color, sex, age, national origin, disability, or retaliation;
 - c. Whether the allegations involve a program or activity of a Federal-aid recipient, sub-recipient, or contractor; or, in the case of ADA allegations, an entity open to the public. The HCR has sole authority for accepting complaints for investigation. All complaints received by the resource centers or the division offices will be forwarded to HCR for appropriate action. Complaint numbers will be assigned by the DOCR;
3. Complaints received by HCR filed against Federal-aid sub-recipients and contractors of PennDOT will be sent to PennDOT for investigation.

4. ADA complaints filed against sub-recipients, and filed with an agency authorized to receive complaints, will be referred to PennDOT Bureau of Equal Opportunity for resolution or investigation.
5. Complaints filed with PennDOT Bureau of Equal Opportunity shall be processed in accordance with FHWA approved complaint procedures as required under 23 CFR 200.
6. The Bureau of Equal Opportunity will maintain a log for all complaints.
7. In accordance with the regulations at 23 CFR 200.9(b)(3), a copy of the complaint, together with a copy of PENNDOT's report of the investigation shall be forwarded to the FHWA Division Office within 60 days of the date the complaint was received by PENNDOT Bureau of Equal Opportunity. Extensions may be granted by FHWA for justifiable reasons.
8. In special cases warranting intervention to ensure justice, the FHWA may assume jurisdiction and either complete or obtain services to review or investigate a matter. Materials already obtained by PennDOT investigators may be relied upon or supplemented or the matter may be re-investigated.
 - a. FHWA has the option of reviewing or investigating class action and pattern and practice complaints of employment discrimination filed against recipients of Federal financial assistance subject to Title VI of the Civil Rights Act of 1964 in accordance with the Department of Justice and the Equal Employment Opportunity Commission (EEOC) regulations at 29 CFR 1691, Procedures for Complaints of Employment Discrimination filed Against Recipients of Federal Financial Assistance. All individual complaints of employment discrimination shall be referred directly to the EEOC; and
 - b. The FHWA in cases involving allegations of program management with discriminatory impacts may opt to conduct a program review to ascertain facts, and, if the need is indicated, rely on the compliance process to obtain needed corrections.
9. PennDOT remains the responsible entity for all investigations received by it or referred to it by the FHWA

Time Frames

- Complaints processed by PennDOT are bound by the time frames outlined in 23 CFR 200.9(b) (3).

Dismissals (APPENDIX C – REJECTION LETTER)

A complaint may be dismissed for the following reasons:

1. The complaint is untimely filed;
2. The complaint does not allege a basis covered by the statutes or regulations for which PennDOT is responsible;

3. The complaint does not allege any harm with regard to covered programs or PennDOT activities;
4. The complainant requests the withdrawal of the complaint;
5. The complainant fails to respond to repeated requests for additional information needed to process the complaint;
6. The complainant cannot be located after reasonable attempts;
7. The complainant fails to accept a reasonable resolution;
 - i. Reasonableness to be determined by the HCR
8. The complainant has filed a legal action in Federal District Court with the same basis(es) and issue(s) involved in the complaint;
9. The same complaint allegations have been filed with another Federal, State or local agency.

Final Agency Decisions

1. All final agency decisions (FADs) and dismissals will be issued by the HCR, including all ADA decisions.
2. The investigator will forward the investigative report, investigative file, and a recommended decision to the Chief, Investigations and Adjudication for review, approval, and issuance.
3. The PennDOT BEO will submit their investigative reports, investigative files, and recommended decisions to Chief, Investigations and Adjudication.

Note: The Department of Justice Civil Rights Division takes the position that a Title VI finding of violation or no violation is a Federal decision that cannot be delegated. Although a PENNDOT can conduct a Title VI investigation of its sub-recipients or contractors and make a recommended finding to the Federal decision-making authority, FHWA recipients must submit their proposed dispositions to FHWA for a Final Agency Decision. The HCR may request that further investigation be undertaken if the record of evidence is incomplete.

VII. INFORMAL RESOLUTION

It is in the best interest of all parties involved that issues raised in a complaint of discrimination be resolved informally. At each stage of the process the investigator will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities. The **Appendix F** contains an outline for recording the results of a successful informal resolution. The application of the Alternative Dispute Resolution (ADR) approach is required by the ADR Act. The FHWA recommends the use of mediation as a preferred alternative.

INVESTIGATIONS

Investigators assigned a complaint for investigation shall obtain written statements from witnesses and copies of records and other evidence needed to ascertain the validity of allegations raised in the complaint. Witnesses are required to cooperate. Any failure to cooperate must be documented to allow appropriate action to be initiated.

- a. Within 60 days of the completion of the investigation, investigators shall analyze the evidence, coordinate with disinterested program personnel as necessary, and complete and submit a report of findings of facts with recommendations to the Chief, Investigation and Adjudication.

Scope

Unless the evidence clearly shows the need to expand the issue, investigations shall be confined to the issues and facts relevant to the allegations in the complaint.

Cooperation with the Investigator

All PennDOT and contractor personnel must fully cooperate with the investigator in obtaining information necessary to the investigation. Failure of an agent to cooperate fully can be grounds for a determination of non-compliance on the part of the agent's employer.

1. Access to Sources

The investigator shall have access to all records, documentation, and other sources of information pertinent to the investigation.

2. Records in Possession of Third Party

In the event any requested information is in the exclusive possession of any other agency, institution or person which or who refuses or fails to furnish this information, the investigator shall set forth in the report the efforts made to obtain the information, including the identity of persons not cooperating in the investigation.

3. Failure to Cooperate

In the event any person, individually or as an agency or organization representative, fails or refuses to furnish information to an investigator, the investigator shall inform the Director of BEO that such failure may result in a finding of noncompliance. A finding of noncompliance can result in the imposition of administrative remedies pursuant to 23 CFR 1.36 or the imposition of sanctions pursuant 49 CFR 21.13. The investigator shall indicate in the Investigative Report that the contractor or agency refused to provide pertinent information, and shall set forth efforts made to obtain the information.

E. Findings of Non-Compliance/Compliance

1. Finding of Non-Compliance

In the event the FHWA concludes there is non-compliance with the laws/regulations as alleged, the investigative report will outline the recommendations for corrective action. The respondent will be provided adequate time to comply with the recommendations in accordance with the guidelines in 23 CFR 200.11.

2. Finding of Compliance

In the event the FHWA concludes that the respondent is in compliance with laws/regulations and the complainant disagrees, the complainant may, if dissatisfied, file an action in the appropriate U.S. District Court. Decisions issued by the FHWA are final.

F. Appeal Rights

Final agency decisions (FADs) issued by the FHWA are administratively final.

G. Records:

PENNDOT's:

PennDOT and its sub-recipients shall maintain records of external complaints filed with them, identifying each complaint by race, color, sex, age, religion/creed, disability, national origin or retaliation. The record should contain:

- a. The complaint;
- b. The agency with which the complaint was filed;
- c. The date the complaint was filed;
- d. The investigative plan;
- e. The investigative report;
- f. The complaint disposition and date; and
- g. Other pertinent information.

IX. INVESTIGATIVE PROCESS

A. Investigative Plan

The investigator shall prepare an Investigative Plan (IP) which is a working document intended to define the issues and lay out the blueprint to complete the investigation. The IP is an internal document for use by the investigator and the assigned case worker in HCR to keep the investigation on track and focused on

the issues and likely sources of evidence or corroboration. The IP should follow the outline below.

- I. COMPLAINANT(S) NAME AND ADDRESS
ATTORNEY FOR COMPLAINANT--NAME AND ADDRESS
- II. RESPONDENT(S) NAME AND ADDRESS
ATTORNEY FOR RESPONDENT--NAME AND ADDRESS
- III. APPLICABLE LAW(S)
- IV. BASIS/BASES
- V. ALLEGATION(S)/ISSUE(S)
- VI. BACKGROUND
- VII. NAME OF PERSONS TO BE INTERVIEWED AND ISSUES OF WHICH THEY HAVE FIRST-HAND KNOWLEDGE
QUESTIONS FOR COMPLAINANT
QUESTIONS FOR RESPONDENT
QUESTIONS FOR WITNESS (ES)
- VIII. EVIDENCE TO BE OBTAINED DURING THE INVESTIGATION

B. Investigative Log (**APPENDIX G – INVESTIGATIVE LOG**)

An investigative log shall be maintained which documents all activity related to the complaint.

C. Request for Information and Cover Letter (**APPENDIX D, B, & E**)

The investigator shall prepare the Request for Information (RFI) and cover letter. The RFI is taken directly from the evidence section of the IP.

The investigator shall make contact with Respondent to advise of the complaint and to determine the appropriate official(s) to interview and receive the RFI. The RFI and cover letter are sent to the appropriate Respondent official.

The cover letter shall be sent with the RFI and shall explain the process, provide the investigator's name, and provide information regarding any scheduled meetings.

D. Interviews (**APPENDIX I – FORMAL WITNESS STATEMENT**)

Interviews shall be conducted with the Complainant, the Respondent, and appropriate witnesses during the investigative process.

1. Preparing for the Interviews

The main objective during the interview is to obtain information from witnesses who can provide information that will either support or refute the allegations. A list of major questions should be prepared that address the issues involved in the complaint. During the course of interviews, different perceptions by witnesses will force other questions to be asked of earlier witnesses. Affidavits obtained and signed will have to be amended as necessary and changes initialed or the entire document re-cast. During the interview, the investigator should generally do the following:

- a. Introduce him/herself, provide identification, purpose of the interview and outline the interviewing process -- (indicate that a signed statement will be requested and that notes will be taken). Make it clear that interviews are not to be tape recorded;
- b. Put the individual being interviewed at ease;
- c. Explain that the information obtained will be reduced to an affidavit and that the testimony will be sworn and administer the oath;
- d. Ask open ended questions that will get you the witness perception - - who, what, where, when, and how;
- e. Listen actively and effectively during the interview;
- f. Distinguish factual information from opinions;
- g. Take clear and precise notes;
- h. Review the statement with the interviewee and allow time for changes or corrections; and
- i. Obtain a signed statement from the individual being interviewed. (If the person interviewed refuses to sign, explain that the statement may be modified as appropriate to accurately reflect their perspective and that if they still do not sign, that fact will be recorded and reported.)

2. Persons to be Interviewed

a. Complainant(s)

Complainants are interviewed to gain a better understanding of the situation outlined in the complaint of discrimination. Usually, complaints are received through the mail from complainants. The investigator should contact the complainant to make sure that he/she understands what the complainant is concerned about. Sometimes the complainant's concerns may be totally different from what was written in the complaint.

It is best to interview the complainant before completing the IP. However, if this cannot be done, the investigator must be ready to make any changes as appropriate to the IP based on any new information provided by the complainant.

b. Respondent(s)

Respondents are interviewed to provide an opportunity for response to the issues raised by the Complainant as well as to get an understanding of the Respondent operation or policies that the Complainant is citing in the complaint.

Respondents should always be advised that they have the right to submit a formal position statement addressing the Complainant allegations.

Respondents have the right to know the charges raised in the complaint and the right to have a representative or counsel in attendance during interviews.

The investigator should also question Respondent regarding resolution opportunities.

c. Witness(es)

The Complainant or Respondent may have persons they wish the investigator to contact. Interview individuals who have information relevant to the issues raised in the complaint of discrimination. The investigator will determine whether the testimony to be provided is relevant.

The investigator will also determine when enough interviews have been conducted.

E. On-Site Visit

An on-site investigation should be conducted when:

1. Personal contact with the complainant and the respondent may yield information and clarification that might not otherwise be discovered by reviewing written documents or speaking over the telephone;
2. It is necessary to review the physical environment;
3. More effective communication can be established with representatives and witnesses of the respondent and the complainant; and,
4. Documentation can only be examined on-site for reasons of convenience, cost, format, or volume.

F. Evidence

Evidence requested shall be related to the issues raised in the complaint. An evidence request shall contain some or all of the following:

1. The policies and procedures regarding the practice about which the Complainant is concerned;
 - a. All documents pertaining to the Respondent dealings with the Complainant in the situation complained of;
 - b. Documents which show how others, both similarly situated and not were treated;
 - c. Respondent reason for the action taken;
 - d. Statistical data related to the issues involving the complainant and similar and dissimilar individuals or groups; and
 - e. The identities and positions of persons whose actions gave rise to the complaint.

2. Analysis of Data

Often, data must be analyzed to determine whether a violation has occurred. When analyzing data, the investigator must:

- a. Review what happened to complainant;
- b. Compare complainant treatment with the appropriate policies and procedures;
- c. Compare complainant treatment with others in the same situation;
- d. Review respondent reason for the treatment afforded complainant; and
- e. Compare respondent treatment of complainant with the treatment afforded others. (Both the respondent and the complainant must be contacted for additional information to allow each of them to confirm or rebut the assertions of the other party.)

3. Writing the Investigative Report

The investigator shall prepare an investigative report setting forth all of the relevant facts obtained during the investigation. The investigative report shall include a finding for each issue and recommendations where necessary. The investigative report shall include:

- a. COMPLAINANT(S) NAME AND ADDRESS
- b. RESPONDENT(S) NAME AND ADDRESS
- c. APPLICABLE LAWS/REGULATIONS
- d. BASIS/BASES

- e. ISSUE(S)
- f. FINDINGS FOR EACH ISSUE
- g. CONCLUSION FOR EACH ISSUE
- h. RECOMMENDED DECISION
- i. RECOMMENDATIONS (IF APPLICABLE)

The investigative report shall be reviewed and a final agency decision issued by HCR. A copy of the investigative report shall be provided to both complainant and to the respondent.



VIII. PennDOT Special Targeted Program Area Title VI Application Requirements

Each Special Targeted program area within PennDOT shall require every applicant for Federal financial assistance to include in its application a section “**TITLE VI ASSESSMENT**”. These procedures shall contain information sufficient to permit an initial determination of whether the applicant will probably comply fully with the Title VI requirements. This section shall also contain the applicant’s analysis of the effects of the proposed use of Federal financial assistance upon Title VI concerns.

Information Required

Each Special Targeted program area shall prepare application guidelines setting forth, in detail, specific information required from applicants with respect to each of the operating element’s Federal financial assistance programs. The Director of the Bureau of Equal Opportunity (BEO) shall review and approve, disapprove or amend these guidelines. A copy of these guidelines will be provided to each applicant requesting Federal financial assistance under the Special Targeted program concerned. While these guidelines should be tailored to the needs of each specific Federal financial assistance program, they shall call for the following information:

- A. A statistical breakdown by race, age, color, sex, disability and national origin of:
 - (1) The population eligible or likely to be served or affected by the project;
 - (2) The projected users or beneficiaries of the project;
 - (3) The owners of property to be taken, and persons or businesses to be relocated or adversely affected, as a result of the project; and
 - (4) The present or proposed membership of any planning or advisory body, which is an integral part of the program or project.

- B. Information concerning employment.
- C. Information relating to Disadvantaged Business Enterprise participation.
- D. The proposed location, and alternative locations, of any facilities to be constructed or used in connection with the project, together with data concerning the composition by race, color, sex and national origin of the populations of the areas surrounding such facilities.
- E. A concise description of:
 - (1) Any lawsuits or complaints alleging discrimination on the basis of race, color, sex or national origin filed against the applicant or any of its proposed sub-grantees within the last five years of the date of application, together with a statement of the status or outcome of each complaint or lawsuit
 - (2) Any pending application by the applicant or any of its proposed sub grantees for Federal financial assistance to any Federal agency; and
 - (3) Any civil rights compliance review performed or being performed on the applicant or any of its proposed sub-grantees by any State, local or Federal agency within the last five years of the date of application, together with a statement of the status or outcome of such review.
 - (4) Any other information deemed necessary by the Director of BEO.

Analysis

Each Special Targeted program area shall require every applicant for Federal financial assistance part **“TITLE VI ASSESSMENT,”** to analyze its probable Title VI performance. The precise components of this analysis shall be made part of the **“application guidelines”** to be prepared by the Special Targeted program areas. The analysis in any case shall include the following items:

- A. The relative benefits, services and adverse impacts of the proposed project and its alternatives on persons and businesses of majority and minority racial and national origin groups;
- B. A statement of any problems, potential as well as actual, that will or may occur with respect to any Title VI concern;
- C. A statement of what action the applicant agrees to take to correct any such problems;
- D. A statement of the affirmative action that the applicant will take to ensure full compliance with all Title VI requirements, including, but not limited to, such matters as provisions for communicating with persons whose primary language is not English, nondiscrimination in covered employment, outreach at all stages of the planning and

implementation of the project to persons and communities affected thereby, equal access to services and benefits of the project, and Disadvantaged Business Enterprise participation;

- E. A description of how the applicant will enforce the Title VI requirements of its subgrantees and contractors; and
- F. Any additional analysis deemed necessary by the Director of BEO.

Additional Information and Analysis

If BEO determines that the “**TITLE VI ASSESSMENT**” is incomplete or that more information is needed to make a determination respecting probable compliance, the operating element shall require the applicant to provide such information within sixty (60) days of the request.

Failure by the applicant to provide such information in a timely fashion shall be a ground for a determination of probable noncompliance.

Initial Determination Respecting Probable Compliance

Based upon the “**TITLE VI ASSESSMENT**”, and within fifteen (15) days of receiving the application or additional information, BEO shall make a determination respecting probable compliance. This determination shall be one of the following:

- A. The applicant will probably comply in all respects with the Title VI requirements;
 - B. It cannot be determined without an on-site compliance audit whether the applicant will comply in all respects with the Title VI requirements; or
 - C. The applicant probably will not comply in all respects with the Title VI requirements.
- D. Outcome
- A. In the event that a determination of probable compliance is made, no further pre-award civil rights review shall be necessary.
 - B. In the event that an on-site compliance audit is required, the applicant shall be found as a result of this audit either to be in compliance or in noncompliance with all aspects of the Title VI requirements.
 - C. In the event that a determination of probable noncompliance is made, the applicant may, within sixty (60) days of receiving notice of the determination, ask for reconsideration, submitting therewith any additional information or analysis it believes to be relevant. The Director of BEO shall consider and decide any such request for reconsideration, within thirty (30) days of receipt.

- D. In the event of a determination of probable compliance after an application review or as the result of a pre-award on-site compliance audit, the Director of BEO shall concur in any approval of the application. The BEO shall not concur in the approval of the application where there is a finding of probable noncompliance resulting from an application review or resulting from a pre-award on-site compliance audit. A Special Targeted program area may not approve any application for Federal financial assistance without the concurrence of the Director of BEO.

Review by the BEO Director

Where a finding of probable noncompliance or noncompliance is made by the BEO, as the result of a complaint investigation, application review, or on-site audit, the Director shall decide within five (5) working days whether the BEO shall process the matter thereafter.



IX. Title VI On-site Compliance Audits and Reports

PURPOSE

The purpose of a Title VI/Nondiscrimination Compliance Review Program is to ensure that Recipients are compliant with Title VI and other Nondiscrimination Requirements. These Nondiscrimination Requirements include the following: The Federal-Aid Highway Act of 1973 (23 United States Code Part 324), The Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and Americans with Disabilities Act of 1990, as amended. Respectively, these Nondiscrimination Requirements prohibit discrimination in federally-assisted contracts and federal programs on the basis of sex, age, and disability. Together, a Title VI/Nondiscrimination Program prohibits discrimination on the basis of race, color, national origin, sex, age, and disability. Additionally, the Review will seek to identify how the recipients and subrecipients effectively implemented the Executive Orders for Environmental Justice and limited English Proficiency. Therefore, PennDOT is responsible for ensuring that FHWA Recipients are Title VI/Nondiscrimination compliant and that PennDOT is effectively monitoring the Title VI/Nondiscrimination compliance of their Sub-Recipients.

When Required

On-site compliance audits shall be required under the following circumstances:

- A. When a determination respecting probable compliance cannot be made on the basis of the applicant's 'Sub-Recipient Title VI Compliance Assessment Tool, (EO-500)''.
- B. When requested by the subrecipient or another State agency.

- C. Every three years an on-site will be done IAW the Bureau's policy that they get reviewed at their location. At this time along with the review a training session is scheduled to review any shortcomings they may have. BEO has the discretion to limit such audits to consideration of the deficiencies identified by the previous audit and the corrective measures undertaken as a result of conciliation.
- D. After a Joint Federal Review of the subrecipient and the findings are cause to find the agency in non-compliance.
- E. At any time when the BEO Director believes that such an audit is warranted with respect to any project, the staff of the Office shall perform all special on-site compliance audits.

Reports

The result of every compliance audit shall be set forth in a written report to be completed within thirty (30) days of the completion of the on-site visit. The report shall include a summary of the information obtained, specific findings of fact, and a determination of compliance or noncompliance, and recommendations, if any. A copy of this report will be sent to the organization that was reviewed and FHWA or FTA, depending on the agency affiliation.

Reconsideration

Within sixty (60) days of being notified of a finding of noncompliance, the applicant or recipient may request reconsideration of the findings by submitting to BEO any additional information or analysis it considers relevant. BEO shall consider the request within thirty (30) days.

Notification of the Federal Highway Administration

The Director of BEO shall promptly notify the Federal Highway Administration of every finding of noncompliance resulting from an on-site compliance audit.



X. LIMITED ENGLISH PROFICIENCY (LEP)

A. AUTHORITY

Pursuant to Title VI of the Civil Rights Act of 1964 and related statutes¹, the Department must ensure that no person shall on the grounds of race, color, national origin, sex, disability, and age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity it administers. The United States Supreme Court in *Lau v. Nichols*, 414 U.S. 563 (1974) stated that one type of national origin discrimination is discrimination based on a person's inability to speak, read, write, or understand English.

Executive Order 13166², “Improving Access to services for Persons with Limited English Proficiency” – was adopted to “...improve access to federally conduct and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English Proficiency...” This Executive Order is directed at implementing the protections afforded by Title VI of the Civil Rights Act of 1964 and related regulations. Accordingly, it prohibits recipients of Federal financial assistance from discriminating based on national origin by failing to provide meaningful access to services to individuals who are LEP. This protection requires that LEP persons be provided an equal opportunity to benefit from or have access to services that are normally provided in English.

B. MISSION

To build awareness of the need and methods to ensure that LEP persons have meaningful access to important federally assisted programs and to ensure implementation of language access, requirements under Title VI, the Title VI regulations, and Executive Order 13166 in a consistent and effective manner across agencies.

¹ 42 U.S.C. §2000d et seq.; 34 C.F.R. § 100.1 et seq.

² Exec. Order No. 13166, §2; 65 Fed. Reg. 50121 (August 16, 2000).

C. WHO IS LIMITED ENGLISH PROFICIENT?

LEP individuals, who do not speak English as their primary language and have a limited ability to read, write, speak, or understand English, as a result of national origin. These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

D. PUBLIC DISSEMINATION OF TITLE VI INFORMATION

United States Department of Justice regulations, Public Dissemination of Title VI Information, requires recipients of Federal financial assistance to publish or broadcast program information in the news media. Advertisements must state that the program is an equal opportunity program and/or indicate that Federal law prohibits discrimination. Additionally, reasonable steps shall be taken to publish information in languages understood by the population eligible to be served or likely to be directly affected by the program. Following is a sample notice used by the Department:

Pennsylvania Department of Transportation hereby gives public notice that is the policy of the Department to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 and related statutes and regulations in all programs and activities. It is our policy that no person in the United States of America shall, on the grounds of race, color, national origin, sex, disability or age be excluded from the participation in, be denied the benefits of or be otherwise subjected to discrimination under any of our programs or activities.

E. Monitor/Process

The Title VI Specialist annually reviews census data for any major changes in data and if significant updates the Department's "Four Factor Analysis." Currently, the areas of the state that has the largest concentration of individuals with LEP needs lay within are metropolitan areas and with the assistance employees that are bi-lingual and of a contractor hired by the Commonwealth, the Departments' and its subrecipients can use this contract to help with translations and interpretations. All services are at no cost.

Department personnel have begun to evaluate Census 2010 information. Data was collected from the Driver License and Motor Vehicle Centers across the Commonwealth. PennDOT's Driver Knowledge Test was made available in eight (8) additional languages:

- ❖ Arabic,
- ❖ Chinese (Mandarin),
- ❖ French,
- ❖ Hindi,
- ❖ Korean,
- ❖ Russian,
- ❖ Ukrainian,

❖ Vietnamese.

These are in addition to English and Spanish versions which are already available. Customers who speak the above languages can take the test using the same computers that are being used for the English version

LEP training is given in conjunction with on-site reviews or when requested by individual Districts, planning partners or any of the stakeholders. This activity is continually ongoing and training needs are identified and requested throughout the year. The Department will ensure at a minimum that all Districts' are provided training at least once every three (3) years. The language identification cards and interpretation procedures are posted at the front desk of all the Department's District Offices. Central Office program areas that are likely to encounter LEP individuals also maintain copies of the LEP resources and tools.

The Department's current Language Access Plan for LEP individuals, Publication # TBD, is in draft form and not yet available.



XI. Environmental Justice

The Department recognizes the importance of identifying Environmental Justice (EJ) populations, defined as low-income and minority, as these populations often have specific and unique transportation needs that must be considered, planned for, built, and maintained. EJ populations may be found in urban, suburban, and rural areas and are protected under Title VI of the Civil Rights Act as amended, as well as under executive orders and other legislation.

In order to ensure EJ is consistently and adequately addressed during the planning and programming process, the Department has developed “*Every Voice Counts: Environmental Justice Moving Forward*”, Pub. 737. The purpose of this publication is to provide flexible guidance rather than fixed prescriptions for addressing EJ in transportation planning and programming in order to meet the unique needs of every agency and jurisdiction in the Commonwealth. Agencies, including metropolitan planning organizations (MPOs) and rural planning organizations (RPOs), should be prepared to use this guidance to develop unique processes that address their distinct jurisdictions, and are appropriate for their area’s demographics, the size and character of their jurisdictions (rural, suburban, or urban), specific transportation needs and priorities, and the agency’s resources.

The procedures contained within “*Every Voice Counts*” are not an adjudication or regulation. There is no intent on the part of PennDOT to give those procedures reference weight or deference. Instead it establishes the framework within which PennDOT will exercise its administrative discretion in the future. PennDOT reserves the discretion to deviate from this document, if circumstances warrant.

The Pennsylvania Department of Transportation has an established policy and set of assurances related to compliance with Title VI. PennDOT’s Title VI Policy Statement lists three primary commitments in the execution of its basic mission:

1. Conducting and operating each of its programs and facilities in compliance with all requirements imposed by, or pursuant to, Title VI of the Civil Rights Act and other pertinent directives;
2. Providing nondiscriminatory methods of administration for programs and to give reasonable guarantee that the Pennsylvania Department of Transportation, other recipients, sub

grantees, contractors, subcontractors, transferees, successors in interests, and other participants of Federal financial assistance under such programs will comply with all requirements imposed by Title VI of the Civil Rights Act and other pertinent directives; and

3. Promptly taking any measures necessary to effect compliance with Title VI of the Civil Rights Act and other pertinent directives.

Environmental Justice within PennDOT's Program Development and Project Delivery Process

Transportation planning is a continuous process that begins with the identification of transportation problems (needs), leads to the development of a long-range plan, and ultimately results in the development and implementation of specific projects in the Transportation Improvement Program. Consideration of EJ populations' concerns is important during each step of the planning process. By addressing these opportunities and challenges at the beginning of the process, a planning organization improves its chances of developing a plan or program that provides an equitable distribution of transportation benefits.

Federal transportation policy frames the planning and programming process that is followed by PennDOT and the planning partners. PennDOT recently completed an update of its Transportation Program Development and Project Delivery Process, documented in Publication 10, *PennDOT's Design Manual 1*. This effort, called Linking Planning & NEPA (LPN), provides a consistent means of collecting key information relating to purpose and need, potential project limits and characteristics, public participation, and potential environmental resource impacts. In addition to LPN guidebooks, PennDOT developed a computerized screening form system to implement LPN. If EJ issues are known, they should be documented under the "public and agency involvement" section of the LPN form as early as practicable.

The complete EJ manual can be reviewed at:

<http://www.dot.state.pa.us/public/pubsforms/Publications/PUB%20737.pdf>

The complete public participation document can be reviewed at:

<http://www.dot.state.pa.us/public/bureaus/Cpdm/PennDOTPPP.pdf>

Overall the EJ efforts are monitored internally by the Departments Center for Program Development and Management.



XII. PennDOT Title VI Assurances



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
HARRISBURG, PENNSYLVANIA 17101-1900

OFFICE OF
SECRETARY OF TRANSPORTATION

**The United States Department of Transportation (US DOT)
Standard Title VI/Non-Discrimination Assurances
DOT Order No. 1050.2A**

The Commonwealth of Pennsylvania, Department of Transportation (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, 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 Federal Highway Administration..

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 “program”) conducted in compliance with all requirements imposed by, or pursuant to the Act 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 the Federally-assisted Highway Program. And in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The Commonwealth of Pennsylvania, Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§200d 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 service 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, the Commonwealth of Pennsylvania, Department of Transportation, 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 Federal Highway Administration's access to records, accounts, documents, information, facilities, and staff. The Commonwealth of Pennsylvania, Department of Transportation, also recognizes that it must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration. The Commonwealth of Pennsylvania, Department of Transportation, must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, or its designee in a timely, complete, and accurate way. Additionally, the Commonwealth of Pennsylvania, Department of Transportation, must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Commonwealth of Pennsylvania, Department of Transportation, 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 Federally-assisted Highway Program. This ASSURANCE is binding on the Commonwealth of Pennsylvania, Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federally assisted Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.



Leslie S. Richards
Secretary of Transportation

3-24-16

Date

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 Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, 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 Federal Highway Administration, 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 nondiscrimination provision of this contract, the Recipient will impose such sanctions as it or the Federal Highway Administration 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 Federal Highway Administration 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 Commonwealth of Pennsylvania, Department of Transportation, will accept title to the lands and maintain the project constructed thereon in accordance with Title 23, United States Code, the Regulations for the Administration of Federally-assisted Highway Program, and the policies and procedures prescribed by the Federal Highway Administration 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 Commonwealth of Pennsylvania, Department of Transportation, 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 Commonwealth of Pennsylvania, Department of Transportation, 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 Commonwealth of Pennsylvania, Department of Transportation, its successors and assigns.

The Commonwealth of Pennsylvania, Department of Transportation, 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 Commonwealth of Pennsylvania, Department of Transportation, 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, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations 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 Commonwealth of Pennsylvania, Department of Transportation, pursuant to the provisions of Assurance 7(a):

1. 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:
 - a. 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.
2. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Commonwealth of Pennsylvania, Department of Transportation, 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.*
3. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Commonwealth of Pennsylvania, Department of Transportation, 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 Commonwealth of Pennsylvania, Department of Transportation, 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 Commonwealth of Pennsylvania, Department of Transportation, pursuant to the provisions Assurance 7(b):

1. 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 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 furnishings 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.
2. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the Commonwealth of Pennsylvania, Department of Transportation, 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.*
3. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the Commonwealth of Pennsylvania, Department of Transportation will there upon revert to and vest in and become the absolute property of Commonwealth of Pennsylvania, Department of Transportation, 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. §200d *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 the 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.*).



XIII. Title VI Program and Related Statutes (23 CFR – Part 200) Implementation and Review Procedures

Section:

200.1	Purpose
200.3	Application of this part
200.5	Definitions
200.7	Federal Highway Administration Title VI policy
200.9	State highway agency responsibilities
200.11	Procedures for processing Title VI reviews
200.13	Certification acceptance

Authority: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d – 4; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 3601 – 3619; 42 U.S.C. 4601 to 4655; 23 U.S.C. 109(h); 23 U.S.C. 324.

Source: 41 FR 53982, December 10, 1976, unless otherwise noted.

Section 200.1 Purpose:

To provide guidelines for: (a) Implementing the Federal Highway Administration (FHWA) Title VI compliance program under Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations; and (b) Conducting Title VI program compliance reviews relative to the Federal-aid highway program.

Section 200.3 Application of this part:

The provisions of this part are applicable to all elements of FHWA and provide requirements and guidelines for State highway agencies to implement the Title VI Program requirements. The related civil rights laws and regulations are listed under Section 200.5(p) of this part. Title VI requirements for 23 U.S.C. 402 will be covered under a joint FHWA/NHTSA agreement.

Section 200.5 Definitions:

The following definitions shall apply for the purpose of this part:

- (a) Affirmative action. A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.
- (b) Beneficiary. Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any Federally assisted program; i.e., relocates, impacted citizens, communities, etc.
- (c) Citizen participation. An open process in which the rights of the community to be informed, to provide comments to the Government, and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.
- (d) Compliance. That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.
- (e) Deficiency status. The interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI Program guidelines, but has not been declared in noncompliance by the Secretary of Transportation.
- (f) Discrimination. That act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex, or national origin, has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Federal Highway Administration under Title 23 U.S.C.
- (g) Facility. Includes all, or any part of, structures, equipment or other real or personal property, or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alternation or acquisition of facilities.
- (h) Federal assistance. Includes:
 - i. Grants and loans of Federal funds;

- ii. The grant or donation of Federal property and interests in property;
 - iii. The detail of Federal personnel;
 - iv. 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
 - v. Any Federal agreement, arrangement, or other contract, which has, as one of its purposes, the provision of assistance.
- (i) Noncompliance. A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all of the Title VI requirements.
 - (j) Persons. Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: “White not Hispanic origin”, “Black not of Hispanic origin”, “Hispanic”, “Asian or Pacific Islander”, “American Indian or Alaskan Native.” Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.
 - (k) Program. Includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of Federal assistance or provided by others through contracts or other arrangements with the recipient.
 - (l) State Highway Agency. That department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term “State” would be considered equivalent to State highway agency if the context so implies.
 - (m) Program area officials. The officials in FHWA who are responsible for carrying out technical program responsibilities.
 - (n) Recipient. Any State, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or 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 assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term “recipient” does not include any ultimate beneficiary under any such program.
 - (o) Secretary. The Secretary of Transportation as set forth in 49 CFR 21.17(g) (3) or the Federal Highway Administrator to whom the Secretary has delegated his/her authority in specific cases.

- (p) Title VI Program. The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, sex, or national origin in programs receiving Federal financial assistance of the type subject to Title VI itself. These Federal statutes are:
- i. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d – d4 (49 CFR part 21; the standard DOT Title VI assurances signed by each State pursuant to DOT Order 1050.2; Executive Order 11764; 28 CFR 50.3);
 - ii. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 – 4655) (49 CFR part 25; Pub. L. 91 – 646);
 - iii. Title VII of the Civil Rights Act of 1964, amended 1974 (42 U.S.C. 3601 – 3619);
 - iv. 23 U.S.C. 109(h);
 - v. 23 U.S.C. 109(h);
 - vi. Subsequent Federal-Aid Highway Acts and related statutes.

Section 200.7 Federal Highway Administration Title VI Policy:

It is the policy of the Federal Highway Administration to ensure compliance with Title VI of the Civil Rights Act of 1964; 49 CFR part 21; and related statutes and regulations.

Section 200.9 State Highway Agency Responsibilities:

- (a) State assurances in accordance with Title VI of the Civil Rights Act of 1964.
- i. Title 49, CFR Part 21 (Department of Transportation Regulations for the implementation of Title VI of the Civil Rights Act of 1964) requires assurances from States that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program or activity for which the recipient receives assistance from PENNDOT, including the Federal Highway Administration.
 - ii. Section 162a of the Federal-Aid Highway Act of 1973 (Section 324, Title 23 U.S.C.) requires there be no discrimination on the ground of sex. The Federal Highway Administration considers all assurances heretofore received to have been amended to include a prohibition against discrimination on the ground of sex. These assurances were signed by 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. The State highway agency shall submit a certification to the Federal Highway Administration indicating that the requirements of section 162a of the Federal-Aid Highway Act of 1973 have been added to its assurances.
 - iii. The State highway agency shall take affirmative action to correct any deficiencies found by the FHWA within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance

with State-signed assurances and required guidelines. The head of the State highway agency shall be held responsible for implementing Title VI requirements.

- iv. The State program area officials and Title VI Specialist shall conduct annual reviews of all pertinent program areas to determine the effectiveness of program area activities at all levels.

(b) State actions.

- i. 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 State highway agency. This unit shall contain a Title VI Coordinator and/or a Title VI Specialist, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports;
- ii. Adequately staff the civil rights unit to effectively implement the State civil rights requirements;
- iii. Develop procedures for prompt processing and disposition of Title VI and Title VII complaints received directly by the State and not by FHWA. Complaints shall be investigated by State civil rights personnel trained in compliance investigations. Identify each complainant by race, color, sex, or national origin; the recipient; the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition; the date of the disposition; and other pertinent information. Each recipient (State) processing Title VI complaints shall be required to maintain a similar log. A copy of the complaint, together with a copy of the State's report of investigation, shall be forwarded to the FHWA division office within sixty (60) days of the date the complaint was received by the State;
- iv. Develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in and beneficiaries of State highway programs (i.e., relocates, impacted citizens and affected communities);
- v. Develop a program to conduct Title VI reviews of program areas;
- vi. Conduct annual reviews of Special Targeted program areas to determine the effectiveness of program area activities at all levels;
- vii. Conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds;
- viii. Review State program directives in coordination with State program officials and, where applicable, include Title VI and related requirements;
- ix. The State highway agency Title VI designee shall be responsible for conducting training programs on Title VI and related statutes for State program and civil rights officials;
- x. Prepare a yearly report of Title VI accomplishments for the past year and goals for the next year;
- xi. Beginning October 1, 1976, each State highway agency shall annually submit an updated Title VI implementing plan to the Regional Federal Highway Administrator for approval or disapproval;
- xii. Develop Title VI information for dissemination to the general public, and, where appropriate, in languages other than English;

- xiii. Establishing procedures for pre-grant and post-grant approval reviews of State programs and applicants for compliance with Title VI requirements (i.e., highway location, design and relocation, and persons seeking contracts with the State);
- xiv. Establish procedures to identify and eliminate discrimination when found to exist; and
- xv. Establishing procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary, all within a period not to exceed ninety (90) days.

Section 200.11 Procedures for processing Title VI reviews:

- (a) If the regional Title VI review report contains deficiencies and recommended actions, the report shall be forwarded by the Regional Federal Highway Administrator to the Division Administrator, who will forward it with a cover letter to the State highway agency for corrective action.
- (b) The division office, in coordination with the Regional Civil Rights Officer, shall schedule a meeting with the recipient, to be held not later than thirty (30) days from the receipt of the deficiency report.
- (c) Recipients placed in a deficiency status shall be given a reasonable time, not to exceed ninety (90) days after the receipt of the deficiency letter, to voluntarily correct deficiencies.
- (d) The Division Administrator shall seek the cooperation of the recipient in correcting deficiencies found during the review. The Federal Highway Administration officials shall also provide the technical assistance and guidance needed to aid the recipient to comply voluntarily.
- (e) When a recipient fails or refuses to voluntarily comply with requirements within the time frame allotted, the Division Administrator shall submit to the Regional Administrator two (2) copies of the case file and a recommendation that the State be found in noncompliance.
- (f) The Office of Civil Rights shall review the case file for a determination of concurrence or non-concurrence with a recommendation to the Federal Highway Administrator. Should the Federal Highway Administrator concur with the recommendation, the file is referred to PennDOT, Office of the Secretary, for appropriate action in accordance with 49 CFR.

Section 200.13 Certification acceptance:

Title VI and related statutes requirements apply to all State highway agencies. States and Federal Highway Administration divisions operating under certification acceptance shall monitor the Title VI aspects of the program by conducting annual reviews and submitting required reports in accordance with guidelines set forth in this document.



XIV. Applicable Manual Procedures and Directives

The following is a listing of procedures, manuals and directives used by the Pennsylvania Department of Transportation, which are applicable to the Federal-Aid Highway program and Title VI.

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-d4)
- B. Title 49, Code of Federal Regulations, Part 21
- C. The standard DOT Title VI assurances signed by each State pursuant to DOT Order 050.2
- D. Title 28 CFR Section 503
- E. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 11970 (42 U.S.C. 4601-4621-4638, 4651-4655)
- F. Title VIII (Fair Housing) of the Civil Rights Act of 1968 amended 1974 (42 U.S.C. 3601-3619)
- G. Federal-Aid Highway Act of 1970 (23 U.S.C. 109(h) and 136(b))
- H. Federal-Aid Highway Act of 1973 (23 U.S.C. 162(a) and 324)
- I. Subsequent Federal-Aid Highway Acts and Related Statutes
- J. Implementation of the Department of Transportation Title VI program DOT 1000.2
- K. Standard Federal EEO construction contract specifications (Executive Order 11246) as amended 41 CFR 60-4.3(a)



XV. APPENDIX
Letters & Forms

APPENDIX A

Title VI Discrimination Complaint Form

Name		Phone		Name of Person(s) That Discriminated Against You			
Address (Street No., P.O. Box, Etc.)				Location and Position of Person (If Known)			
City, State, Zip				City, State, Zip			
Discrimination <input type="checkbox"/> Race/Color <input type="checkbox"/> Sex <input type="checkbox"/> Disability Because Of: <input type="checkbox"/> Age <input type="checkbox"/> National Origin <input type="checkbox"/> Retaliation				Date of Alleged Incident			
Explain As Briefly And Clearly As Possible What Happened And How You Were Discriminated Against. Indicate Who Was Involved. Be Sure To Include How Other Persons Were Treated Differently Than You. Also, Attach Any Written Material Pertaining To Your Case.							
Signature				Date			
Please submit this form to one of the following agencies:							
PennDOT <i>Bureau of Equal Opportunity</i> P.O. Box 3251 Harrisburg, PA 17105-3251 Phone: (717) 787-5891 or (800) 468-4201 Fax: (717) 772-4026 Email: pennnoteoreports@pa.gov		Federal Highway Administration <i>U.S. Department of Transportation</i> Pennsylvania Division Office 228 Walnut Street, Room 508 Harrisburg, PA 17101-1720 (717) 221-3705		Federal Transit Administration <i>Office of Civil Rights</i> <i>U.S. Department of Transportation</i> ATTN: Title VI Program Coordinator East Building, 5th Floor - TCR 1200 New Jersey Ave., SE Washington, DC 20590		U.S. Department of Justice <i>Office of Justice Programs</i> Office for Civil Rights 810 7th Street, NW Washington, DC 20531 (202) 307-0690 202-307-2027 (TDD)	

APPENDIX B--Acknowledgment Letters

ACKNOWLEDGMENT LETTER TO COMPLAINANT

LETTERHEAD

Complainant

Address

City, State, Zip Code

Dear

This acknowledges receipt of your complaint of discrimination filed against_____. We have reviewed your complaint and determined that an investigation is warranted. This office will process your complaint in accordance with the procedures outlined in the Department's Title VI Plan. The investigation will focus on the following issue:

Whether you were denied [contracting opportunities] by _____ because of your [**race, color, national origin, sex, or disability**].

Your complaint is assigned to _____ of my staff. _____will keep you

informed regarding the investigation of your complaint. If you have any questions, you may contact_____at_____.

Please be advised that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights laws we enforce. Any individual alleging such harassment or intimidation may file a complaint with this office. We would investigate such a complaint if the situation warrants. Any questions or concerns you have regarding the investigative process and your rights can be discussed with the investigator.

Sincerely,

Jocelyn I. Harper, Director
Bureau of Equal Opportunity

Enclosure

360/

cc:

APPENDIX C— Rejection Letter to Complainant

REJECTION LETTER TO COMPLAINANT

LETTERHEAD

Complainant

Address

City, State, Zip Code

Dear

This acknowledges receipt of your complaint of discrimination filed against _____. After thorough review of your complaint, it has been determined that the matters raised in your complaint are not related to the laws or statutes for which this agency has jurisdiction. Therefore, we have closed your case. No further action will be taken in this matter.

ADD THE FOLLOWING STATEMENT, IF APPROPRIATE:

However, we have referred your complaint to _____ since it appears that agency/division may have jurisdiction over the matter.

Sincerely,

Jocelyn I. Harper, Director
Bureau of Equal Opportunity

Enclosure
360/

cc:

APPENDIX D - Acknowledgment and Request for Additional Information from Complainant

ACKNOWLEDGMENT AND REQUEST FOR ADDITIONAL INFORMATION FROM COMPLAINANT

LETTERHEAD

Complainant

Address

City, State, Zip Code

Dear

This acknowledges receipt of your complaint of discrimination filed against _____. After a preliminary review of your complaint, it has been determined that additional information is needed from you in order to more fully understand the issues raised in your complaint. Please provide _____ to this office by (Date).

Anyone who intimidates, threatens, coerces, or engages in other discriminatory conduct against you or any witness because of actions taken or participation in, to secure rights protected by civil rights laws may be found in violation of these laws. Any individual who believes he or she has been subjected to harassment or intimidation may file a complaint with this office or concerns you have regarding the investigative process and your rights can be discussed with the investigator.

If you have any questions regarding this request or any of the information contained in this letter, you may contact _____ of my staff at _____.

Sincerely,

Jocelyn I. Harper, Director
Bureau of Equal Opportunity

Enclosure
360/

cc:

APPENDIX E - Acknowledgment Letter to Respondent

LETTERHEAD

Respondent

Address

City, State, Zip Code

Dear

A complaint of discrimination has been filed by _____ against _____.
The complaint alleges _____.

The complaint has been assigned to _____ of my staff for investigation. The complaint will be processed in accordance with the procedures outlined in the Department's Title VI Plan. _____ will contact you at a later date with more detailed information about the investigative process. If you have any questions, you may contact _____ at _____.

Sincerely,

Jocelyn I. Harper, Director
Bureau of Equal Opportunity

Enclosure
360/

cc:

APPENDIX F - Informal Settlement Agreement

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

Case Number:

Complainant

Respondent

INFORMAL RESOLUTION AGREEMENT

IT IS HEREBY AGREED by and between **(NAME)** hereinafter referred to as the Complainant, and the _____, herein after referred to as the Respondent as follows:

Section One: Purpose

This agreement is made between the parties for the complete and final settlement of their claims, differences, and actions with respect to the matters described below.

Section Two: Description of Allegation

The Aggrieved Person initiated the complaint of discrimination by a complaint filed on **(Date)**. The Complainant alleged that **(STATEMENT OF ALLEGATION)**

Section Three: Terms of Settlement

The Complainant and the Respondent enter into this agreement without any finding of discrimination having been determined. The parties agree to the following, which will resolve and settle all claims and issues arising from the above-mentioned allegation:

1. _____
2. _____
3. _____

C. The parties agree that this settlement shall not constitute an admission of discrimination or violation of any provision of law on the part of the Respondent.

- D. It is understood that if the Respondent fails to fulfill or rescinds any provision of this agreement, the Complainant, upon written request, shall be entitled to reinstate the matter for further processing from the point processing ceased.
- E. It is understood that if the Complainant fails to comply with the responsibilities under the terms of the agreement, the agreement may be terminated and any subsequent complaint based on the same issues will be rejected or canceled. The Respondent shall notify this office in writing of its intention to terminate the agreement within _____ days of the Complainant's failure to comply.
- F. The parties agree that this settlement constitutes the sole and complete understanding between them. No other promises or agreements shall be binding unless signed by them and made a part of this agreement.
- G. The parties agree that this settlement shall become effective on the date that the last signatory signs this agreement.

Complainant	Date
-------------	------

Respondent	Date
------------	------

Director, Bureau of Equal Opportunity	Date PennDOT
---------------------------------------	--------------

APPENDIX H1 - Complainant Consent/Release Form

Please read the information below, check the appropriate box, and sign this form.

Complaint number(s): (if known)

I have read the Notice of Investigatory Uses of Personal Information by the Federal Highway Administration (FHWA). As a complainant, I understand that in the course of an investigation it may become necessary for FHWA to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of FHWA to honor requests under the Freedom of Information Act. I understand that it may be necessary for FHWA to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by FHWA's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by FHWA.

CONSENT/RELEASE

CONSENT - I have read and understand the above information and authorize FHWA to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the FHWA to receive material and information about me pertinent to the investigation of my complaint. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.

CONSENT DENIED - I have read and understand the above information and do not want FHWA to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

SIGNATURE

DATE

APPENDIX H2 - Notice about Investigatory Uses of Personal Information

Your Name:
Address:

NOTICE OF COMPLAINANT/INTERVIEWEE RIGHTS AND PRIVILEGES

Complainants and individuals who cooperate in an investigation, proceeding or hearing conducted by FHWA are afforded certain rights and protections. This brief description will provide you with an overview of these rights and protections.

- A recipient may not force its employees to be represented by the recipient's counsel nor may it intimidate, threaten, coerce or discriminate against any employee who refuses to reveal to the recipient the content of an interview. An employee does, however, have the right to representation during an interview with FHWA. The representative may be the recipient's counsel, the employee's private counsel, or anyone else the interviewee authorizes to be present.

- The laws and regulations which govern FHWA's compliance and enforcement authority provide that no recipient or other person shall intimidate, threaten, coerce or discriminate against any individual because he/she has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing conducted under DOJ's jurisdiction, or has asserted rights protected by statutes DOJ enforces.

- Information obtained from the complainant or other individual which is maintained in FHWA's investigative files may be exempt from disclosure under the Privacy Act or under the Freedom of Information Act if release of such information would constitute an unwarranted invasion of personal privacy.

There are two laws governing personal information submitted to any Federal agency, including the Federal Highway Administration (FHWA): The Privacy Act of 1974 (5 U.S. C. § 552a), and the Freedom of Information Act (5 U.S.C § 552).

THE PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and that can be located by the individual's name or social security number or other personal identification system. Persons who submit information to the government should know that:

- FHWA is required to investigate complaints of discrimination on the basis of race, color, national origin, sex, disability, age, and, in some instances, religion against

recipients of Federal financial assistance. FHWA also is authorized to conduct reviews of federally funded recipients to assess their compliance with civil rights laws.

- Information that FHWA collects is analyzed by authorized personnel within the agency. This information may include personnel records or other personal information. FHWA staff may need to reveal certain information to persons outside the agency in the course of verifying facts or gathering new facts to develop a basis for making a civil rights compliance determination. Such details could include the physical condition or age of a complainant. FHWA also may be required to reveal certain information to any individual who requests it under the provisions of the Freedom of Information Act. (See below)

- Personal information will be used only for the specific purpose for which it was submitted, that is, for authorized civil rights compliance and enforcement activities. Except in the instances defined in FHWA's regulation at 28 C.F.R. Part 16, FHWA will not release the information to any other agency or individual unless the person who supplied the information submits a written consent. One of these exceptions is when release is required under the Freedom of Information Act. (See below)

- No law requires a complainant to give personal information to FHWA, and no sanctions will be imposed on complainants or other individuals who deny FHWA's request. However, if FHWA fails to obtain information needed to investigate allegations of discrimination, it may be necessary to close the investigation.

- The Privacy Act permits certain types of systems of records to be exempt from some of its requirements, including the access provisions. It is the policy of FHWA to exercise authority to exempt

systems of records

only in compelling cases. FHWA may deny a complainant access to the files compiled during the agency investigation of his or her civil rights complaint against a recipient of Federal financial assistance. Complaint files are exempt in order to aid negotiations between recipients and FHWA in resolving civil rights issues and to encourage recipients to furnish information essential to the investigation.

- FHWA does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against a recipient that violates the laws, or unless such information is required to be disclosed under FOIA or the Privacy Act. FHWA will keep the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under FOIA, the Privacy Act, or otherwise required by law.

THE FREEDOM OF INFORMATION ACT gives the public access to certain files and records of the Federal Government. Individuals can obtain items from many categories of records of the Government --not just materials that apply to them personally. FHWA must honor requests under the Freedom of Information Act, with some exceptions. FHWA generally is not required to release documents during an investigation or enforcement proceedings if the release could have an adverse effect on the ability of the agency to do its job. Also, any Federal agency may refuse a request for records compiled for law enforcement purposes if their release could be an "unwarranted invasion of privacy" of an individual. Requests for other records, such as personnel and medical files, may be denied where the disclosure would be a "clearly unwarranted invasion of privacy."

APPENDIX I-FORMAL WITNESS STATEMENT

FORMAL WITNESS STATEMENT

Name _____

Address _____

Telephone Number: Day _____

Evening _____

Place of Employment _____

Position _____ Date of Hire _____

STATEMENT

Page 1 of __

Signature _____

Date _____

Investigator _____ Date _____