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DEPARTMENT OF TRANSPORTATION

# Title VI Compliance and Implementation Plan

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## **Publication 478**

# **Title VI Compliance and Implementation Plan**

**Prepared by:**

**Pennsylvania Department of Transportation  
Bureau of Equal Opportunity  
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## INTRODUCTION

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in programs or activities receiving federal financial assistance. Federal-aid recipients, sub recipients and contractors are required to prevent discrimination and ensure nondiscrimination in *all* of their programs, activities, and services whether these programs, activities, and services are federally funded or not. As a recipient of federal dollars in the administration of its programs, the Pennsylvania Department of Transportation is committed to ensuring nondiscrimination in all of its programs and activities.

The purpose of this document is to define the policies and procedures by which the Department administers its Title VI activities and ensures its programs' compliance with Title VI requirements, within its ranks and among its federal-aid sub-recipients.

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## 1. Policy Statement and Selected Nondiscrimination Authorities



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
HARRISBURG, PENNSYLVANIA 17120

OFFICE OF  
SECRETARY OF TRANSPORTATION

### **Title VI Program 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 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

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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

5.4.17

Date

## 2. Standard DOT Assurances



OFFICE OF  
SECRETARY OF TRANSPORTATION

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

### **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.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and

**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.).

### 3. Title VI Organization and Staffing

#### **PennDOT's Organizational Structure**

PennDOT is divided into five main Deputates (see Figure 1, PennDOT Organizational Structure). Each has authority over one of several transportation functions as follows:

##### ***Highway Administration Deputate***

The Highway Administration Deputate is responsible for the design, construction, and maintenance of the Commonwealth's highways and bridges. 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.

##### ***Planning Deputate***

This 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. This Deputate oversees the Public-Private Transportation Partnership Office, the Center for Program Development and Management and its divisions, and the Bureau of Planning and Research and its divisions. Also included in this Deputate are sections working on long-range research and map making.

##### ***Administration Deputate***

This Deputate is comprised of the following Bureaus and their divisions: Fiscal Management, Office Services, Innovations, Human Resources, Infrastructure and Operations, IT Project Development and Delivery, and Business Solutions and Services as well as the office of Information Systems and Technology. It also includes the Bureau of Equal Opportunity (BEO) which oversees the Title VI regulations.

##### ***Driver and Vehicle Services Deputate***

The Driver Vehicle Deputate is comprised of the following Bureaus and their divisions: Motor Vehicles, Driver Licensing, and Support Services as well as the Office of Risk Management, and the office of Information/Fiscal Services.

##### ***Multimodal Transportation Deputate***

The Multimodal Deputate is comprised of the Bureau of Aviation and its division, the Bureau of Public Transportation and its divisions, and the Bureau of Rail, Freight, Ports, and Waterways.

#### **Title VI Administration and Oversight**

The Secretary of the Pennsylvania Department of Transportation is responsible for ensuring the implementation of the Department's Title VI programs. Department-wide, the Title VI programs are administered by the Bureau of Equal Opportunity (BEO) in the Administration Deputate. Two individuals in the BEO are responsible for the supervision of Title VI actions throughout the Department: the Title VI Administrator and the Title VI Specialist (Figure 2).

##### ***Title VI Administrator Responsibilities***

The Director of BEO serves as the Title VI Administrator. The Title VI Administrator reports 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 Administrator 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 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 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.

#### ***Title VI Specialist Responsibilities***

The Title VI Specialist is charged with the responsibility for implementing, monitoring, and ensuring PennDOT's compliance with Title VI regulations. The Specialist is involved with various stages of planning and project development to assist in preventing and/or correcting discriminatory practices. The Specialist reports to the Title VI Administrator and is responsible for the day to day coordination, oversight, and monitoring of all Title VI activities. S/he also provides technical assistance and training for PennDOT Deputates, Engineering Districts, and sub-recipients. In addition, the Specialist 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 Specialist provides an element of checks and balances to the Title VI program's implementation.

The duties of the Specialist 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/RPO 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, 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 Emphasis 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 Emphasis 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.

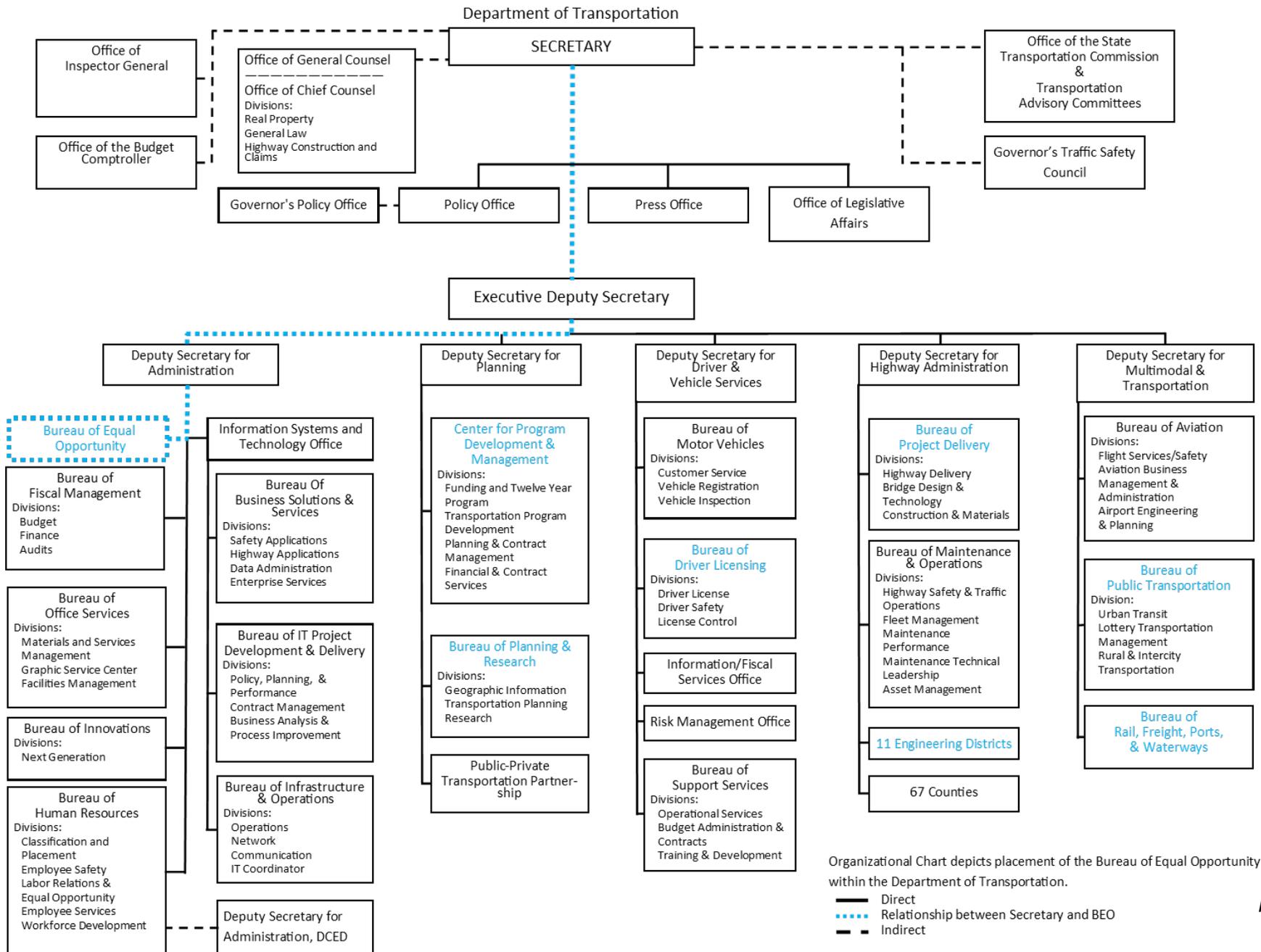
- 18. Update Title VI Plan as necessary to reflect organizational policy or implementation changes.

**Title VI Coordinators and Representatives**

Within each Deputate and Engineering District there are one or more Title VI Coordinators who document a program’s or District’s Title VI activities and report them to the Title VI Specialist. The 2017-2018 Coordinators are as follows:

Deputate	Bureau/Director	Division/Federal Program Area	Title VI Coordinator
Highway Administration	Project Delivery/Brian Thompson	Highway Delivery/Contract Management	Michele Harter
		Highway Delivery/Highway Design & Tech. Svcs.	Ryan VanKirk
		Environmental Planning	Mark Lombard
		Right-of-Way and Utility	Dale Perry
Planning	Planning and Research/Teresa Thompson	Transportation Planning	Teresa Thompson
Planning	Center of Program Development and Management/ Larry Shifflet		Hugh McGowan
Multimodal and Transportation	Bureau of Aviation/ Anthony McCloskey		Tatjana Over
Multimodal and Transportation	Bureau of Public Transportation/ Danielle Spila		Colton Brown
Multimodal and Transportation	Bureau of Rail, Freight, Ports, & Waterways/ Michael Sorpo		Tom Stettler
Engineering District	District Executive	Title VI Coordinator	Title VI Representative
1	William Petit	Michael McMullen	Autumn Kelley
2	Karen Michael	Steven L. Fantechi	Robert Chiappelli
3	Sandra Tosca	Gerald C. Wertz	James M. Goodrich
4	George Roberts	Sharon Hazelton	Steve Fisher
5	Michael Rebert	Alfred Picca	Tony Geronikos
6	Kenneth McClain	Keith Dawson	Gene Blaum
8	Michael Keiser	Randy Staudt	Richard Reisinger
9	Thomas Prestash	Brad Brumbaugh	Randy Hillegass
10	Joseph Dubovi	Deborah Casadei	Jessica Rizzilli
11	Cheryl Moon-Sirianni	Mark Young	Lori Miles
12	Jospeh J. Szczur	William Kovach	Nadra Humphrey

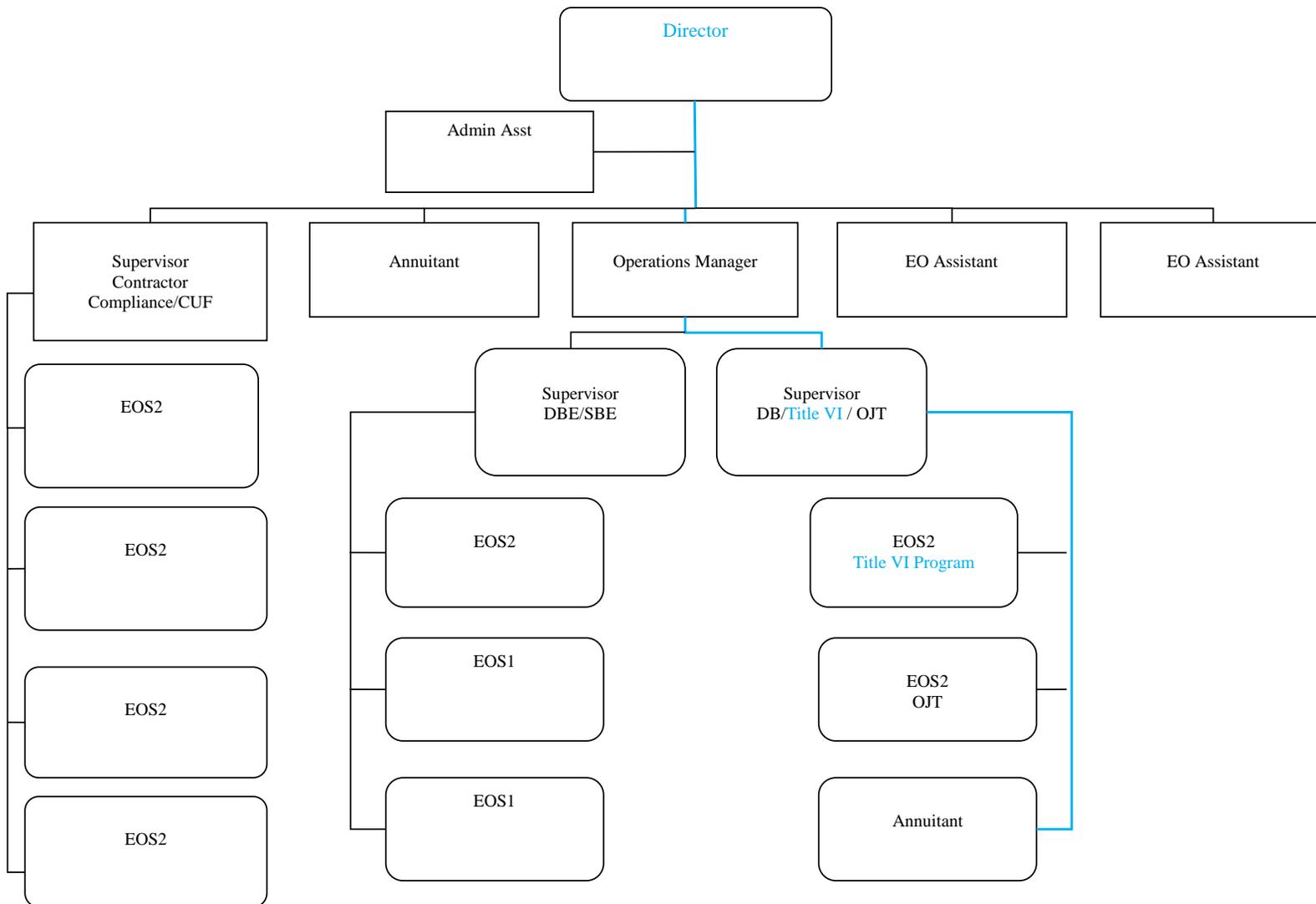
**Figure 1**  
**PennDOT Organizational Structure**



Organizational Chart depicts placement of the Bureau of Equal Opportunity within the Department of Transportation.

- Direct
- ..... Relationship between Secretary and BEO
- - - Indirect

**Figure 2**  
**Bureau of Equal Opportunity**  
**Organizational Structure**



## 4. Title VI Program Review Procedures

Broadly, the Federal Highway Administration recognizes five program areas with Title VI responsibilities:

- Planning
- Project Development
- Right-of-way (property acquisition and management)
- Construction
- Research

These program areas are spread across the five deputates as indicated on the organization chart. In addition, each Engineering District administers certain portions of the federal program areas within its internal operations.

In accordance with 23 CFR 200.9 (b), the Pennsylvania Department of Transportation reviews and monitors each program area's and Engineering District's internal projects, programs, policies and procedures to ensure compliance with nondiscrimination requirement and the Department's Title VI Program obligations. Working in coordination with Program Liaisons, Districts' Title VI Representatives and Coordinators and the Title VI Specialist, the Bureau of Equal Opportunity collects data and prepares bi-annual reports. The first reporting period starts September 1 and ends February 28 (or 29<sup>th</sup> on leap years). The second report period starts March 1 and ends August 31. During the reviews, the BEO's Title VI Specialist reviews the data and any information specifically related to the program area's administration. The BEO includes its findings in the Department's annual update to the Title VI Implementation Plan.

The Bureau of Equal Opportunity also conducts tri-annual reviews of all cities, counties, planning agencies and any other recipient of federal-aid highway funds to ensure they are complying with Title VI requirements. These reviews are based on 42 U.S.C. 2000d. desk audits for Metropolitan and Rural Planning Organizations (MPO and RPO). During each site visit, the reviewer examines the sub-recipient's Title VI documents:

- Title VI Policy
- Title VI Complaint Procedures
- Title VI Complaint Log
- Limited English Proficiency (LEP) Plan
- Public Participation Plan
- Environmental Justice Analysis Plan (General Procedures)
- Appointment Letter of a Title VI Coordinator
- Board Agenda and Minutes of the Title VI Policy and Complaint Procedures Being Submitted and Approved

The reviewer recommends corrections to the documents, and gives the subrecipient's staff an opportunity to seek guidance regarding compliance and nondiscrimination statutes.

## 5. Special Emphasis Program Area Reviews

In accordance with 23 CFR 200.9, PennDOT shall conduct annual reviews of all pertinent program areas to determine the effectiveness of program area activities at all levels. BEO and/or program area Title VI representatives will identify trends or patterns that could potentially lead to discrimination. BEO will work, in conjunction with the program area representatives, to ensure equal participation in all their programs and activities at all levels through Special Emphasis Program Area Reviews.

Based upon the Special Emphasis Program Area review, BEO and the program area representatives will develop a plan of action to address any trends or patterns that could potentially lead to discrimination. This may include developing and implementing corrective measures, such as incorporating or updating policies and procedures. The plan may include actions that the program area will need to complete and a projected time in which to complete them.

Findings will be used to monitor and report problem areas (trends of discrimination or potential discrimination) and accomplishments (new practices or procedures to address actual or potential discrimination). BEO will work to ensure compliance by monitoring any submitted action plans. The findings will be noted in the Annual Work Plan & Accomplishment Report.

The following criteria may be used in selecting the program area for review:

- Observations during the annual program process reviews;
- Concerns or questions regarding Title VI complaints; or
- Deficiencies or observations made during the most recent FHWA Civil Rights Program assessment or review.

## 6. Title VI Sub-Recipient Review Procedures

Each 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 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 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 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 statistical breakdown by race, age, color, sex, disability and national origin of:
  - The population eligible or likely to be served or affected by the project;
  - The projected users or beneficiaries of the project;
  - The owners of property to be taken, and persons or businesses to be relocated or adversely affected, as a result of the project; and
- The present or proposed membership of any planning or advisory body, which is an integral part of the program or project information concerning employment.
- Information relating to Disadvantaged Business Enterprise participation.
- 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.
- A concise description of:
  - 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
  - Any pending application by the applicant or any of its proposed sub grantees for Federal financial assistance to any Federal agency; and
  - 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.
  - Any other information deemed necessary by the Director of BEO.

### **Analysis**

Each program area shall require every applicant to analyze its Title VI performance. The precise components of this analysis shall be made part of the application guidelines to be prepared by the program areas. The analysis in any case shall include the following items:

- 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;
- A statement of any problems, potential as well as actual, that will or may occur with respect to any Title VI concern;
- A statement of what action the applicant agrees to take to correct any such problems;

- 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;
- A description of how the applicant will enforce the Title VI requirements of its sub-grantees and contractors; and
- 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 of 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 may result in a determination of noncompliance.

### **Initial Determination Regarding 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 of compliance. This determination shall be one of the following:

- The applicant will comply in all respects with the Title VI requirements;
- It cannot be determined without an on-site compliance audit whether the applicant will comply in all respects with the Title VI requirements; or
- The applicant fails to comply in all respects with the Title VI requirements.

### **Outcome**

If a determination of compliance is made, no further pre-award civil rights review shall be necessary.

If 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.

If a determination of 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 Title VI Administrator shall consider and decide any such request for reconsideration, within thirty (30) days of receipt.

In the event of a determination of compliance after an application review or as the result of a pre-award on-site compliance audit, the Title VI Administrator 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 noncompliance resulting from an application review or resulting from a pre-award on-site compliance audit.

### **Review by the Title VI Administrator**

Where a finding of noncompliance is made by the BEO, as the result of a complaint investigation, application review, or on-site audit, the Administrator shall decide within five (5) working days whether the BEO will contact FHWA to determine the next steps.

## **7. Data Collection, Reporting, and Analysis**

Statistical data on race, national origin and sex of participants in and beneficiaries of PennDOT programs (e.g., relocatees, impacted citizens, and affected communities), will be gathered and maintained by each District and Program Area Title VI Coordinator. Each of the Title VI program areas and districts will maintain data to be reported to the Title VI Specialist. The Department Title VI Specialist 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.

The BEO is then able to collect this information through annual Title VI reviews as required by 23 CFR 200.9 (b) (6). These reviews serve as a baseline for each Program Area's Title VI knowledge and allows the BEO to assess the effectiveness of the Program Area's activities.

## 8. Title VI Training

As a direct recipient of federal assistance, PennDOT is required to comply with Title VI laws, related statutes and regulations. It is recommended that any agency which receives federal and/or state financial assistance from PennDOT should also receive training on transportation related Title VI laws and regulations. Title VI training will be made available at least annually to contractors, sub-recipients, PennDOT Special Emphasis 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.

The PennDOT Title VI Specialist is responsible for coordinating and providing training as needed or requested and will provide training in areas such as:

- **Basic Civil Rights Program Training:** A basic overview of the major FHWA civil rights programs and authorities, as well as how to administer the programs at the Division office and the State DOT levels, including development, monitoring, implementation and approval of state program documents. The course is divided into two separate modules for Title VI/Environmental Justice and Americans with Disability Act.
- **Limited English Proficiency (LEP):** Providing services to all people regardless of race, color, or national origin and what federally assisted programs should know about provided services to LEP individuals.

## 9. Title VI 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, Executive Order 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 or at <http://www.penn.dot.gov/about-us/EqualEmployment/Documents/PennDOT'S%20Title%20VI%20Discrimination%20Complaint%20Form.pdf>. Complaints may be submitted to FHWA, PennDOT and its sub-recipients, the United States Department of Transportation (USDOT), and the U.S. Department of Justice (USDOJ).

### **Processing Procedures for External Complaints of Discrimination**

#### ***Filing of Complaints***

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

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

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)**

#### ***Processing Complaints***

PennDOT (like all Recipients, including Subrecipients) does not investigate complaints filed against itself. If a complaint is filed against PennDOT, it will be forwarded to the FHWA Division Office, which will forward the complaint to the FHWA Headquarters' Office of Civil Rights (HCR) for processing and potential investigation.

Title VI complaints filed directly with PennDOT against its subrecipients will be processed in accordance with the FHWA approved complaint procedures. However, FHWA has the authority for making all final decisions, including dismissing complaints and issuing letters of findings. All complaints are investigated unless:

- The complaint is withdrawn by the complainant;
- The complainant fails to provide required information after numerous attempts;

- The complaint is not filed timely; or
- The complaint is involving an issue other than discrimination or if the complaint is not based on a protected class.

### ***Investigative Process***

BEO uses the Final Complaint Manual, as provided by FHWA, for guidance in the investigation process: <https://www.fhwa.dot.gov/civilrights/programs/finalcomplaintmanual110410.cfm#chapt3>

Investigative Plan (IP): A working document is prepared and is 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.

Complaint Log: BEO maintains a complaint log to document all activity related to the complaint. The log includes the following:

- Complainant name and address
- Respondent name and address
- Basis(es) of the discrimination complaint;
- Allegation(s)/Issue(s) surrounding the discrimination complaint;
- Date the discrimination complaint was filed;
- Date remitted to FHWA
- Date the investigation was complete;
- Disposition and date;
- Other pertinent information.

Complaint Documentation: All documentation received by PennDOT, will be summarized and forwarded the FHWA, within sixty days (60) of receipt of complaint, for a final decision.

## 10. Dissemination of Title VI Information

United States Department of Transportation 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.*

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 Specialist or 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 or <http://www.penndot.gov/about-us/EqualEmployment/Documents/PennDOT'S%20Title%20VI%20Discrimination%20Complaint%20Form.pdf>. Complaints may be submitted to FHWA, PennDOT and its sub-recipients, the United States Department of Transportation (USDOT), and the U.S. Department of Justice (USDOJ).

Title VI Coordinators for Engineering Districts and for programs within the Highway Administration are responsible to:

- Conduct citizen participation public meetings for highway construction needs;
- Review newsletters and other publications and reports;
- Monitor public involvement process;
- Assure public participation in the selection of a design alternative for a highway construction project (for example, a roundabout vs. a traffic signal);
- Provide notice of public hearings and meetings in minority newsletters and newspapers;
- Review activities associated with public hearings to enhance the participation of target communities;
- Disseminate to the public their rights to call or write the Department to view plans and discuss environmental problems;
- Notify and make accessible public meetings or hearings regarding a proposed project to affected protected group residents; and
- Ensure public participation in the location and needs of the public meeting.

## 11. Limited English Proficiency

### Authority

Pursuant to Title VI of the Civil Rights Act of 1964 and related statutes, 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 13166, "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.

### 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.

### Who is Limited English Proficient?

LEP individuals are those 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 their national origin. These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.*

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

PennDOT's Driver Knowledge Test is available in ten (10) languages:

- Arabic
- Chinese (Mandarin)
- English
- French
- Hindi
- Korean
- Russian
- Spanish
- Ukrainian
- Vietnamese

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.

## 12. 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:

- 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;
- 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
- 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 is called *Every Voice Counts – Environmental Justice Moving Forward*. It is an update of the original 2004 *Every Voice Counts* document (see below). It can be viewed at:

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

The complete public participation document, *Public Participation Plan for Statewide Planning*, can be viewed at: <http://www.dot.state.pa.us/public/bureaus/Cpdm/PennDOTPPP.pdf>

The 2004 *Every Voice Counts* can be viewed at:

<http://www.dot.state.pa.us/public/Bureaus/Cpdm/WEB/Toolbox.pdf>

### 13. Applicable Manuals, 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.

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

## 14. Title VI Compliance and Enforcement

### **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 sub-recipients 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:

- When a determination of compliance cannot be made on the basis of the applicant's 'Sub-Recipient Title VI Compliance Assessment Tool, (EO-500)' (See Appendix J).
- When requested by the sub-recipient or another State agency.
- PennDOT will conduct an on-site audit every three years per policy. At this review a training session is scheduled. BEO has the discretion to limit such audits in consideration of the deficiencies previously identified and corrective measures undertaken as a result of conciliation.
- After a Joint Federal Review of the sub-recipient and the findings are cause to find the agency in non-compliance.
- 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.

**Internal Review Process**

PennDOT conducts a bi-annual review of each Engineering District to ensure that the districts are in compliance with Title VI requirements. The reporting periods are September 1-February 28<sup>th</sup> (29<sup>th</sup> if a leap year) and March 1- August 31<sup>st</sup>. Each Engineering District is asked to self-evaluate on their Title VI compliance by answering evaluation criteria set forth by the BEO. These evaluations are reported to the Title VI Specialist within the BEO for review.

## Glossary

**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 of Transportation 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., relocatees, impacted citizens, communities, etc.

**Citizen Participation** – An open process conducted by PennDOT to convey design alternatives for planned construction projects in which the rights of the community to be informed, to provide comments to the Government on which alternative best meets the needs of the community and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

**Compliance** – When a recipient has implemented all the Title VI requirements effectively without 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 time between identification of deficient status and the rectification of the deficiencies. The State is not considered non-compliant during this period.

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

**Director** – Title VI Administrator.

**Discrimination** – An act (action or inaction), whether intentional or unintentional, which excludes a person because of race, color, or national origin, age, sex or disability, from participation in, denies the benefits of, or subjects a person 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 American 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.

**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, 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.

**Sub-Recipient** – An agency such as a council of governments, regional planning agency, educational institution, for example, that receives Federal Highway Administration (FHWA) funds through State DOTs and not directly from the FHWA. Other agencies, local governments, contractors, consultants, etc. that receive these funds are also considered sub-recipients.

**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 Specialists/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.

# APPENDICES

# 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"/> Religion			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	
<b>Please submit this form to one of the following agencies:</b>			
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, Room508 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 C- Title VI/Non-Discrimination Compliance Assessment**

## Title VI/Non-Discrimination Compliance Assessment

In accordance with 23 Code of Federal Regulations (CFR) Part 200, the Pennsylvania Department of Transportation (PennDOT) is required to conduct periodic reviews of cities, counties, planning agencies and other recipients of federal-aid highway funds to ensure they are complying with Title VI of the Civil Rights Act of 1964. Title VI states that "no person in the United States shall be excluded from participation, denied the benefits of, or be subjected to discrimination in any Federally-funded program, policy or activity on the basis of race, color or national origin." Section 162 of the Federal-Aid Highway Act of 1973 (section 324, Title 23 U.S.C.) further extends this definition to bar discrimination based on sex (gender).

PennDOT has developed this assessment as a means of determining sub-recipient compliance; helping sub-recipients understand their Title VI responsibilities; and assisting PennDOT in planning future training and technical assistance. This assessment is part of PennDOT's compliance review process and has been designed to take only a few minutes of your time.

Please submit the completed assessment with attachments to PennDOT's Title VI Specialist via fax at (717) 772-4026, or via-email [penndoteoreports@pa.us](mailto:penndoteoreports@pa.us). You may also send via regular mail to the following: PennDOT, Bureau of Equal Opportunity, ATTN: Title VI Specialist, P.O. Box 3251, Harrisburg, PA 17105-3251. Questions or concerns may be directed to the Title VI Specialist at the e-mail address above or via telephone at 717-783-1370 or 800-468-4201.

### Baseline Assessment

Name of Your Agency	
1. Who is the Title VI Coordinator for your agency? Please include contact information and a brief discription of their role and responsibilities within the agency as the Title VI Coordinator.	
2. In the past three years, has your agency been named in a discrimination complaint or lawsuit? If so, when and what was the nature of the complaint or lawsuit and the outcome?	
3. Does your agency have written procedures for a Title VI complaint? Do they include instructions to the public regarding how to file a discrimination complaint and a form to file the complaint? If so, please provide a copy.	
4. Has your agency made the public aware of the Title VI policy and their right to file a complaint? If so, how and where and by what mechanism did this take place? Please provide a copy of Title VI Policy and location of its posting.	

5. Does your agency provide free interpretation services for persons with Limited English Proficiency (LEP)? Explain how the agency provides this service and attach a copy of the current LEP plan.

6. In the past 3 years, what has your agency done to receive and consider input from all citizen groups, especially minority, low income, disabled and transit-dependent? Please provide attachment and the Public Participation Plan.

7. Does your agency have a method to collect racial, ethnic and income data on citizens impacted by your projects? If so, please describe.

8. Does your agency keep a log of Title VI complaints or any type discrimination lawsuits?

9. Provide a copy of board minutes, resolution, or appropriate documentation showing the governing entity reviewed and approved the Title VI Policy, Title VI Complaint Procedures, Title VI Complaint Form and Title VI Complaint log.

10. Does your agency have a method to perform an Environmental Justice (EJ) Analysis? If so, provide the procedures for the EJ analysis and conclusions.

11. Does your agency monitor DBEs on MPO/RPO sponsored projects to ensure they are performing a commercially useful function (CUF)? If so, where is this documented? If a DBE is not performing a CUF, what actions or steps have you taken? Who do you notify?

12. Number of full-time and part-time employees.

13. Do you have any questions regarding this assessment or concerning Title VI program, limited English proficiency or EJ? Please include them here, along with your e-mail address or phone and a PennDOT representative will respond.

14. Would your agency like Title VI training or other Civil Rights technical assistance from PennDOT? If yes, please explain. Does your agency have teleconferencing or web conferencing ability?

15. Please provide the Name, Title, and contact information of the person or persons who completed this baseline assessment.

16. Please make sure the documents listed below are attached to this assessment.

- |  |  |
|--|--|
| 1. Title VI Policy                       | 6. Public Participation Plan                                 |
| 2. Title VI Complaint Procedures         | 7. Appointment of a Title VI Coordinator                     |
| 3. Title VI Complaint Form               | 8. Environmental Justice Analysis (Procedures)               |
| 4. Title VI Complaint Log                | 9. Demographic Data Breakdown of Area served - data from ACS |
| 5. LimitedEnglish Proficiency (LEP) Plan | 10. Title VI Assurances                                      |
|  | 11. Current Organization Chart                               |