
Title VI Implementation Plan Template

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ODOT Title VI Manager Phone: (503) 986-3870

Title VI Resources:

Office of Civil Rights website

http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/Pages/nd_def.aspx

Planning website http://www.oregon.gov/ODOT/TD/TP/Pages/Public_Involvement.aspx

*This purpose of providing this plan template to ODOTs Sub-recipients is to provide a conceptual outline and some topics for Sub-recipients to consider when developing a Title VI Implementation Plan. The final content of a Sub-recipient's plan should be the result of careful examination and research by the Sub-recipient of the legal requirements that are applicable to their specific, individual, federal-aid programs. *A sub-recipient of ODOT is any city, county, consultant, contractor, supplier, university, college, planning agency, or other recipient of Federal-aid highway funds. 23 CFR 200.9 (b) (7)*

The requirement for Sub-recipients of the Oregon Department of Transportation (ODOT) is that each Sub-recipient has a current Title VI Implementation Plan (renewable every three years on October 1st) and have named a Title VI Coordinator for their Title VI program. In conjunction with having a Title VI Implementation Plan, an Annual Accomplishments Report (AAR) is due each year on October 1st, and must be submitted to the ODOT Office of Civil Rights (OCR) Title VI Coordinator. These requirements are in place to ensure that there is a relationship between ODOT and its Sub-recipients; allowing a review process of these documents to show that the spirit and intent of the Title VI of the Civil Rights Act of 1964 is being met. In addition, each Sub-recipient is subject to a Title VI review by the OCR on a rotating basis with other Sub-recipients and on a time frame determined by the OCR. Title VI Reviews of Sub-recipients are a required activity by the Federal Highway Administration (FHWA) of all Department of Transportation agencies (DOTs).

Links to ODOTs Title VI Implementation Plan and Annual Accomplishments Report (AAR)

<http://www.oregon.gov/ODOT/Business/OCR/Documents/Title%20VI%20Implementation%20Plan%20FY%202017.3.pdf>

<http://www.oregon.gov/ODOT/Business/OCR/Documents/AAR%202016.pdf>

Title VI Implementation Plan Template (Example)

_____ **(Sub-recipient)**
Federally Funded Transportation Program

TITLE VI Implementation PLAN
(Month)___ (Year) ___

(Name of Sub-recipient)

**Administrator or
Public Works Director**

Prepared by: _____ Job title _____
(Title VI Coordinator)

Office of _____

I. Policy Statement, Authorities and Citations

Policy of Nondiscrimination

_____ (Sub-recipient) assures that no person shall on the grounds of race, color, national origin, sex, age, disability or income as provided by Title VI of the Civil Rights Act of 1964 and related authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any (Sub-recipient) sponsored program or activity.

_____ (Sub-recipient) further assures every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs and activities are federally funded or not. Sharing the Title VI Implementation Plan both internally and externally on the Sub-recipient's website, bulletin boards, through training, outreach and through email is a good way to share the Plan with those who have a need to understand it and are interested in knowing that the Sub-recipient is making it a policy to uphold non-discrimination laws and authorities.

_____ (Sub-recipient) will develop a Limited English Proficiency Plan (LEP) in accordance with Executive Order 13166. LEP persons must be provided an equal opportunity to benefit from or have access to services that are normally provided in English. For more information on LEP look here:

<http://www.fhwa.dot.gov/civilrights/programs/lep.cfm>

In the event _____ (Sub-recipient) distributes Federal aid funds to another entity, _____ (Sub-recipient) will include Title VI language in all written agreements and will monitor for compliance. (Not applicable to all Sub-recipients)

Example Title VI Language:

Title VI Assurances

http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/docs/standard_usdot_assurances.pdf

Title VI Civil Rights Act of 1964

http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/docs/titlevi_of_the_1964_civil_rights_act.pdf

Title VI compliance is a condition of receipt for Federal funds. The (Sub-recipient) Administrator, *(include any other governing or controlling bodies or commissions)* and Title VI Coordinator are authorized to ensure compliance with provisions of this policy and with the law, including the requirements of 23 Code of Federal Regulation (CFR) 200 and 49 CFR 21.

(Sub-recipient) Administrator

Date

Authorities

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities” to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

Additional Citations

Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2A; EO 12250; EO 12898; 28 CFR 50.3 *(Insert any local citations)*

II. Organization, Staffing and Structure

Organizational Chart (Reporting Relationships)

Place Organizational Chart here or attach to back of report with reference as what page to find it. Name the Local Program or MPP Administrator and Title VI Coordinator for your organization. It is important to show on the organizational chart that the Title VI Coordinator has a direct link to the Administrator of the agency.

Staffing and Structure

(Sub-recipient) Administrator:

The (Sub-recipient) Administrator is authorized to ensure compliance with provisions of the (Sub-recipient)’s policy of non-discrimination and with the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21. The (Sub-recipient)’s grants compliance function and Title VI coordination shall be performed under the authority of the (Sub-recipient) Administrator.

Title VI Coordinator

_____ (Sub-recipient) has created a position of _____ to perform the duties of the Title VI Coordinator and ensure implementation of the (Sub-recipient)’s Title VI Federally Funded Transportation Program. The _____ has other duties and responsibilities in addition to Title VI. Although the

_____ their direct supervisor, this position shall have an indirect reporting relationship and access to the (Sub-recipient) Administrator.

III. Title VI Implementation Plan and Program Administration

Title VI Coordinator's Responsibilities and Program Administration:

As authorized by the (Sub-recipient) Administrator, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring _____ (Sub-recipient's) compliance with Title VI requirements as follows:

- Program Administration and Monitoring - Administer the Title VI program and coordinate implementation of the plan. Ensure compliance with the assurances, policy, and program objectives. Perform Title VI program reviews to assess administrative procedures, staffing, and resources; provide recommendations as required to the (Sub-recipient) Administrator.
- Complaints - Review written Title VI complaints that may be received by _____ (Sub-recipient) following the adopted procedural guidelines (see Section V – Complaint Procedures). Ensure every effort is made to resolve complaints informally at the local or regional level by utilizing some form of concerns, request mitigation process. (The hope is that this will ensure that concerns or requests are acted upon by the agency and not left unanswered which leads to poor customer service, possible situations where there are unsafe situations for citizens or staff and eventually leading to a formal complaint.)
- Data Collection - Review the statistical data gathering process performed by Sub-recipient program staff periodically to ensure sufficiency of data for meeting the requirements of Title VI program administration. (See Section VII - Special Emphasis Program Areas). For example: In the Right of Way program, the data collection process includes information on the valuation of impacted, negotiations with impacted property owners, and the relocation of impacted property owners and tenants. Project data regarding the race, color, national origin, sex, age, and disability of the property owners of parcels valued, property owners receiving written offers of Just Compensation, and property owners/tenants relocated should be collected. The data should be evaluated to determine if the processes in Right of Way were conducted in a non-discriminatory manner. Any data collected should be collected in a manner that it is reportable upon request from funding agency. Examples of data collection efforts in specific program areas can be found here:

http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/docs/data_collection_standards.pdf

- Environmental Impact Statements - Ensure that available census data are included as a part of all Environmental Impact Statements/Assessments (EIS/EIA) conducted by the _____ (Sub-recipient Public Works department or other responsible department/individual) for projects receiving Federal Highway Administration or other Federal assistance.

- Training Programs - Conduct or facilitate training programs on Title VI issues and regulations for (Sub-recipient) employees; and facilitate Title VI training for appropriate staff, contractors and sub-recipients. A summary of training conducted will be reported in the AAR yearly update (due on November 1st of each calendar year).
- Title VI Implementation Plan Update - Review and update the _____ (Sub-recipient) Transportation Program, Title VI Implementation Plan when significant staff changes (new Administrator/Title VI Coordinator) or other information that alters the intent of a section of the document. The steps for approval include presenting the updated Plan to the Sub-recipient Administrator for approval; submission of amended Plan to ODOT OCR Title VI Coordinator for approval. **The Title VI Implementation Plan is due to ODOTs OCR Title VI Coordinator by October 1st of each three year cycle.** If a Sub-recipient completes a Title VI Implementation Plan for any reason during a three year cycle before the required three year submission date; the next three year cycle will begin as of the *next* October 1st *closest to the last submission* of the Sub-recipients Title VI Implementation Plan.
- Annual Accomplishment Report (AAR) - Prepare an annual report of Title VI accomplishments and changes to the program in the preceding Federal fiscal year (October 1st through September 30th); identify goals and objectives for the upcoming year as required; and submit by **November 1st of each year.**
- Public Dissemination - Work with (Sub-recipient) staff to develop and disseminate Title VI program information to _____ (Sub-recipient) employees and sub-recipients, including contractors, subcontractors, consultants, and sub-consultants and beneficiaries, as well as the general public. Public dissemination may include postings of official statements, inclusion of Title VI language in contracts or other agreements, website postings, and annual publication of the (Sub-recipient)'s Title VI Policy Statement in newspaper(s) having a general circulation, and informational brochures. Ensure public service announcements or notices are posted of proposed projects, hearings, meetings, or formation of public advisory boards, in newspapers or other media reaching the affected community. Ensure the full utilization of available minority publications or media; and, where appropriate, provide written or verbal information in languages other than English.

Here are some helpful links:

http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/docs/standard_usdot_assurance_s.pdf

<http://www.fhwa.dot.gov/civilrights/programs/lep.cfm>

<http://www.lep.gov/>

http://www.fhwa.dot.gov/planning/public_involvement/project_development/index.cfm

- Elimination of Discrimination - Work with the _____ Department, _____, and other (Sub-recipient) offices to establish procedures for promptly resolving deficiencies, as needed. Recommend procedures to identify and eliminate discrimination that may be discovered in any (Sub-recipient) processes.

Examples of Departments or Programs the agency may want to assist Sub-recipients with procedures for resolving deficiencies may include: Right of Way, Planning, Environmental, Design, Construction, Research, Maintenance or Safety. Maintain Legislative and Procedural Information. Federal laws, rules and regulations, ODOT guidelines, the current _____ (Sub-recipient) Title VI Implementation Plan, Annual Accomplishment Reports, and other resource information pertaining to the implementation and administration of the (Sub-recipient)'s Title VI program will be maintained and updated by the Coordinator. Information will be made available to other (Sub-recipient) departments or the public as requested or required.

- Maintain Legislative and Procedural Information. - Federal laws, rules and regulations, ODOT guidelines, the current _____ (Sub-recipient) Title VI Implementation Plan, Annual Accomplishment Reports, and other resource information pertaining to the implementation and administration of the (Sub-recipient)'s Title VI program will be maintained and updated by the Coordinator. Information will be made available to other (Sub-recipient) departments or the public as requested or required.

IV. Education and Title VI Training

In keeping with adopted _____ (Sub-recipient) policy of nondiscrimination, departmental procedures will be established or followed for employees to have equal access to applicable educational and training opportunities. Public Works staff will maintain program administration documentation and data necessary for preparation of annual Title VI reports, and will routinely supply the necessary data to the Title VI Coordinator. The Title VI Coordinator is responsible for the following:

- Ensuring overall Title VI related training and staff development for Title VI Coordinators and other (Sub-recipient) employees.
- Organizing or conducting a minimum of one internal Title VI training session annually.
- Organizing and facilitating the provision of Title VI training sessions for consultants, contractors, and subcontractors periodically.

V. Complaint Procedures – Allegations of Discrimination in Federally Assisted Programs or Activities by individuals and others.

A. Overview

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity

administered by _____ (Sub-recipient), as well as to sub-recipients, consultants, and contractors. Intimidation or retaliation of any kind is prohibited by law.

The procedures do not deny the right of the complainant to file formal complaints with other state or Federal agencies or to seek private counsel for complaints alleging discrimination. Every effort will be made to resolve complaints informally at the (Sub-recipient) level. The option of informal mediation meeting(s) between the affected parties and a designated mediator may be utilized for resolution at the discretion of the Sub-recipient. Any expense incurred for mediation and arrangement of mediation schedule will be at the burden of the Sub-recipient. All complaints must be reported to ODOT's Office of Civil Rights Title VI/EJ/ADA Manager by the Sub-recipients Title VI Coordinator and reported in the Sub-recipients AAR.

B. Procedures

1. Any individual, group of individuals, or entity that believes they have been subjected to discrimination may file a written complaint with the Sub-recipients Title VI Coordinator or with a designated individual or on the (Sub-recipient) website if available. A formal complaint (meaning that the complaint is in writing and signed by the complainant, must be filed within 180 calendar days of the alleged occurrence. The (Sub-recipient) is not required to officially act or respond to complaints made verbally. However, the Sub-recipient is encouraged to assist individuals in working through any concerns, questions, or informal complaints that they may have and bring them to resolution. Any individual that needs assistance in completing a written complaint will receive help from the Sub-recipient upon request. Examples of information to include in a complaint: The name of the person filing the complaint with their contact information, the name, and contact information of the complainant if different, type (ADA, Title VI, and EJ) of nondiscrimination complaint if known, date and location of the alleged discrimination, responsible party if known, description of alleged incident, witnesses if available, list what type of a resolution or correction the complainant would like to see, and acquire a signature from the complainant on the form if a staff member or someone else is filling out the form for the complainant.

2. Upon receiving a formal written complaint that is signed by a complainant, _____ (Sub-recipient) will conduct an initial investigation which will determine its jurisdiction, acceptability, need for additional information, and the investigative merit of the complaint including whether it is merely a request for information or concern versus a complaint against _____ (Sub-recipient) or ODOT. When a formal written complaint is received, the (Sub-recipient) _____ is required to forward the complaint to ODOT Office of Civil Rights after the initial fact finding investigation. ODOT will conduct the formal investigation which may include tasks such as taking pictures, interviewing staff or citizens and research of policy and laws. In the event ODOT handles the investigation, they will follow their adopted procedures for investigating discrimination complaints, per their current State Title VI Implementation Plan.

If the complaint is against a sub-recipient, consultant, or contractor, under contract with the _____ (Sub-recipient) the appropriate division and/or _____ (Sub-recipient) as well as ODOT Office of Civil Rights shall be notified of the complaint, by the sub-recipient, consultant, or contractor who initially received the complaint, within 15 calendar days.

3. Once ODOT's Office of Civil Rights receives the complaint, the complainant and the respondent will be notified in writing within five (5) calendar days. The complaint will be logged into the records of the Title VI Coordinator of the (Sub-recipient) _____, which will include information on the basis for the allegation identified, including race, color, national origin, handicap/disability, age or sex. ODOT will also track the complaint and log it into the complaint database in the Title VI Program. The complaint will continue to be tracked as it moves forward or is dismissed. The ODOT Title VI Coordinator will notify The Federal Highway Administration (FHWA) of the complaint and will keep the FHWA updated on the progress of the complaint as it moves through the complaint process. Any complaints are reported in the _____ (Sub-recipients) and ODOTs AAR that is submitted each year.

5. Within 60 days of receipt of the complaint, the ODOT Title VI Coordinator will prepare a written investigative report for the (Sub-recipient) _____ and (Sub-recipient) Administrator. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.

6. Once the investigative report becomes final, both the complainant and the respondent shall receive a copy of the investigative report and will be notified of their respective appeal rights.

7. The complainant or respondent is not satisfied with the results of the investigation of the alleged discriminatory practice(s) he or she shall be advised of their rights to appeal the decision to the U.S. Government Federal Highway Administration. The complainant has 180 calendar days after the appropriate (Sub-recipient)'s final resolution to appeal to the United States Department of Transportation (USDOT). The appeal should be sent to the following address:

United States Department of Transportation
Federal Highway Administration
530 Center Street NE Ste. 420
Salem, OR 97301

8. An annual Log of Complaints and Concerns must be maintained by each (Sub-recipient). The Log of Complaints must contain the following information for each complaint filed:

- The name and address of the person filing the complaint
- The date of the complaint
- The basis of the complaint
- The disposition of the complaint
- The status of the complaint

Only qualified, well-trained investigators should conduct these investigations. _____ (Sub-recipient) will not investigate a complaint against itself.

VI. Sub-Recipient Review and Remedial Action Procedures

The _____ (Sub-recipient) Title VI Coordinator will assist ODOT Office of Civil Rights to periodically conduct Title VI compliance reviews of _____ (Sub-recipient) sub-

recipients. The review of select recipients of Federal-aid highway or other Federal funds will be conducted to ensure adherence to Title VI requirements.

The _____ will work cooperatively to periodically confirm operational guidelines provided to consultants, contractors, and sub-recipients, including Title VI language, provisions, and related requirements, as applicable. Sub-recipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies.

When a sub-recipient of [LPA Sub-recipient Name] fails or refuses to voluntarily comply with requirements within the allotted time frame, _____ (Sub-recipient) will submit to ODOT copies of the case file and a recommendation that the sub-recipient be found in noncompliance.

A follow-up review will be conducted by ODOT within 180 days of the initial review to ascertain if the sub-recipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the sub-recipient refuses to comply, _____ (Sub-recipient) and ODOT may, with FHWA's concurrence, initiate sanctions per 49 CFR 21.

VII. Title VI Implementation Activities

The following section may not apply to the Sub-recipient using the template. It is intended for use by Metropolitan Planning Organizations (MPOs), counties, cities or other entities that will be including construction activities (as an example) in their Title VI Implementation Plan. If the section does not fit the Sub-recipients Title VI program, parts or all of this section can be omitted.

A. Planning

Public Involvement in Planning Activities & Title VI

1. _____(Sub-recipient) staff should invite participation of a cross section of the populace from social, economic, and ethnic groups in the planning process by disseminating written program information to minority media and ethnic organizations, and providing public service announcements for all local media, when forming citizen advisory committees or planning board, and requesting involvement.
2. _____ (Sub-recipient) staff will obtain demographic statistics at applicable community meetings and public hearings involving transportation planning sessions. Data will be gathered through use of a voluntary self-reporting form which includes race, and national origin. Copies of the completed forms will be provided to Sub-recipient Title VI Coordinator after each meeting.
3. To ensure access to public meetings, evening meetings will be conducted in a variety of community buildings throughout the (Sub-recipient), including those along transit routes, ensure translation services are available if anticipated, and ensure public meetings are held in

predominantly minority communities when transportation projects will specifically impact those communities.

B. Design & Engineering / Environmental Activities (As applicable to the Sub-recipient)

1. The _____ is responsible for transportation improvement projects and environmental permitting for projects. Studies are performed to assess various environmental factors evaluating demographic data. The analysis and monitoring of this data is critical in determining whether negative impacts/burdens are disproportionately impacting protected populations, and in ensuring the agency's services, projects and programs are being administered without discrimination.

2. Authorities. Title 23, USC 109(d), 14(a), 217, 315 and 402(a); 23 CFR 1204.4; 23 CFR 771; EO 12898; 49 CFR 1.48(b)(33) and 1.48(c)(2); National Environmental Policy Act of 1969, 42 USC 4321; 40 CFR Part 1500; 49 CFR Part 622;

C. Design /Environmental Review Process and Title VI (As applicable to the Sub-recipient)

1. Depending on the scope, complexity, and impacts of a project, a National Environmental Policy Act (NEPA), NEPA Categorical Exclusion, NEPA Environmental Assessment, State Environmental Policy Act (SEPA) checklist, SEPA Determination of Non Significance, or NEPA and/or SEPA Environmental Impact Statement will be completed by the Sub-recipient.

2. The Sub-recipient will monitor compliance with Title VI requirements within Environmental Impact Statements or Assessments, consultant selection, public involvement and participation procedures (identifying and ensuring participation of all Title VI Non Discrimination populations in project plans) and defining how comments from the public are addressed. The Sub-recipient will provide a comprehensive summary of the demographic and environmental data elements to be considered by the EIS/EIA process to the Title VI Coordinator; including updated summary lists as applicable. Additionally the Sub-recipient will incorporate into the review process, adequate time for the Title VI Coordinator to review and comment, as applicable, on the draft EIS/EIA to ensure there are no violations of the Federal Civil Rights Act, as amended, as a result of the (Sub-recipient)'s Federal-aid highway activities.

3. In order to ensure dissemination of information and foster participation from affected populations, staff will place public notices in applicable general and minority media; select accessible locations and times for public hearings or meetings, and arrange for translation services as needed; particularly in projects impacting predominantly minority communities. Ensure the public has information pertaining to their rights to call or write the department to view plans and discuss environmental problems.

List applicable Sub-recipient website links and relevant publications here:

4. Staff will obtain demographic data at community meetings and public hearings pertaining to the transportation design phase. Data will be gathered through use of a voluntary sign-up form which includes race, gender, and national origin. Copies of the voluntary self-reporting forms will be provided to the Coordinator after each meeting.

5. Public Works staff shall provide a copy of the Annual Construction Report to the Title VI Coordinator in or around April of each year. The Coordinator shall work with the (Sub-recipient) Geo-environmental Services Department or other applicable department to generate a map of the federally funded transportation projects to include demographic data of the neighborhoods affected by the projects.

D. Right-of-way Activities (As applicable to the Sub-recipient)

1. The Sub-recipient shall ensure equal opportunity in all aspects of procuring real estate service contracting and appraisal agreements,

2. Follow adopted (Sub-recipient) vendor procurement policies in the acquisition of contracted Services,

3. Maintain data on awards to minority and female appraisers, and provide data to the Title VI Coordinator on a quarterly basis,

4. Follow guidelines for property acquisition as well as applicable laws and regulations, including Title VI and Section 504,

5. Adhere to departmental policy of appraising affected property owners, tenants, and others involved in right-of- way acquisition of their rights and options regarding negotiation, relocation, condemnation and other aspects of the acquisition process. Provide copies of relocation assistance literature produced by ODOT and a copy of the _____ (Sub-recipient) Title VI Compliance brochure to all affected parties,

6. Incorporate Title VI language and assurance statements in all surveys of property owners and tenants after the conclusion of all business. Coordinate the preparation of deeds, permits and leases to ensure the inclusion of the appropriate clauses, including Title VI Assurances,

7. Ensure that appraised values and communications associated with the appraisal and negotiation operations result in equitable treatment,

8. Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process,

9. Maintain statistical data including race, color, national origin, and sex on all relocatees affected by federally funded projects, and provide detailed demographic data quarterly to the Title VI Coordinator.

E. Construction and Maintenance Activities (As applicable to the Sub-recipient)

1. Construction Management Section. This section is located in the _____ Division, and is responsible for administration of all new construction contracts and inspecting bridges. The _____ Division is responsible for oversight and the administration of transportation construction projects, as set forth by policy decisions and supervision of the (Sub-recipient) Engineer.

2. Authorities. Construction Manual M41-01; Maintenance Manual M51-01; Local (Sub-recipient) Guidelines; Standard Specifications for Road, Bridge, and Municipal Construction

3. Maintenance. The _____ Division is responsible for the efficient program for maintaining (Sub-recipient) roads, bridges, and parks/grounds by economically utilizing the resources of contractors, equipment, and materials.

4. Authorities. Maintenance Manual M 51-01; Construction Manual M 41-01; Standard Specifications for Road, Bridge and Municipal Construction Section (M 41-10); Clark (Sub-recipient) Road Standards

5. Construction and Maintenance Activities and Title VI

a) Review all federally funded projects for application of DBE goals. As appropriate, include DBE provisions in those projects with designated goals. Include Title VI language in bid announcements and applicable construction documents, as stipulated in the (Sub-recipient)'s Title VI Policy Statement and Assurances herein.

Title VI Assurances

http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/docs/standard_usdot_assurances.pdf

1. Award construction contracts on the basis of lowest responsive bidder, as well as meeting DBE requirements. Include Title VI language in prime contract award letters to encourage utilization of DBE subcontracts and vendors.

2. Ensure that prime contractors with DBE requirements award contracted work to qualified DBEs which perform commercially useful functions.

3. Monitor all maintenance and construction operations to ensure nondiscrimination throughout all operations.

4. Coordinate the gathering of maintenance and construction information regarding DBE participation for the Annual Title VI Report; and provide to the Coordinator.

Further assistance on Title VI Programs such as Planning and Public Involvement can be found at the following link: http://www.oregon.gov/ODOT/TD/TP/Pages/Public_Involvement.aspx

Exhibit 1 - _____ (Sub-recipient) Title VI Notice to the Public

_____ (Sub-recipient) hereby gives public notice that it is the (Sub-recipient)'s policy 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. Title VI requires that no person shall, on the grounds of race, color, sex, or national origin be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Federal Aid Highway program or other activity for which _____ (Sub-recipient) 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 _____ (Sub-recipient). Any such complaint must be in writing and filed with the _____ (Sub-recipient) Title VI Coordinator within one hundred, eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from the _____ (designated Sub-recipient office or ODOT) at no cost to the complainant by calling (____) _____.

Exhibit 2 - _____ (Sub-recipient) Title VI Assurances

The (Sub-recipient) of _____ in the State of Oregon, (hereinafter referred to as the "Recipient"), HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d--42 USC 2000d--4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, 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 through the Oregon Department of Transportation, including the U.S. Department of Transportation and Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This Assurance is required by Subsection 21.7(a) (1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances to its Federal Aid Highway Program:

1. That the Recipient agrees that each "program" and each "facility" as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal Aid Highway Program and in adapted form in all proposals for negotiated agreements:

_____ (Sub-recipient) in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d---42 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix 1 of this Assurance in every contract subject to the Act and the Regulations.

4. That the Recipient shall insert the clauses of Appendix 2 of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance shall 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 shall extend rights to space on, over or under such property.

7. That the Recipient shall include the appropriate clauses set forth in Appendix 3 of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal Aid Highway Program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, or is in the form of, personal property, or real property or interest therein or structures or improvements there on, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.

9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom s/he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance. THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the U.S. Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid Highway Program.

The person whose signature appears below is authorized to sign this Assurance on behalf of the Recipient.

Exhibit 2A _____, _____ (Sub-recipient) Administrator Date

1 – Title VI Assurances for Consultants, Contractors, Subcontractors, Suppliers, and Manufacturers

_____ (Sub-recipient) will insert or add the following clauses into every contract subject to the Act and Regulations associated with the receipt of Federal financial assistance, including DOT Order 1050.2A.

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

1. Compliance with Regulations

The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter DOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract. The DOT Order 102.5A shall be included in all contracts:

http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/docs/standard_usdot_assurances.pdf

2. Nondiscrimination

The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s

obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

4. Information and Reports

The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by _____ (Sub-recipient) or the Oregon Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to _____ (Sub-recipient), or the Oregon Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance

In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, _____ (Sub-recipient) and the Oregon Department of Transportation shall impose such contract sanctions as it, or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a) Withholding of payments to the contractor under the contract until the contractor complies, and/or;
- b) Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions

The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as _____ (Sub-recipient) or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request _____ (Sub-recipient) enter into such litigation to protect the interests of the (Sub-recipient) and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Exhibit 2B - Granting and Habendum Clauses

*When _____ (Sub-recipient) is the recipient of real property, structures or improvements thereon, or interest therein **from** the United States, the following clauses shall be included in any and all deeds affecting or recording the transfer of property. Recipients of Federal funding must ensure that all nondiscrimination laws are followed in real estate transactions.*

GRANTING CLAUSE

NOW, THEREFORE, _____ (Sub-recipient), as authorized by law, 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 Federal Aid for Highways and the policies and

procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252:42 USC 2000d to 2000d--4) does hereby remise, release, quitclaim, and convey unto _____ (Sub-recipient) all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

HABENDUM CLAUSE

TO HAVE AND TO HOLD said lands and interests therein unto _____ (Sub-recipient), 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 the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on _____ (Sub-recipient), its successors, and assigns. _____ (Sub-recipient), 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 shall on the grounds of race, color, sex, 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)1 (2) that _____ (Sub-recipient), shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination of Federally assisted programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the (Sub-recipient) shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.

Exhibit 2C - Lease/Deed Provisions

Upon receipt of Federal financial assistance to construct a facility or part of a facility, the Recipient agrees to include these clauses in all future deeds, licenses, leases, permits, or similar instruments entered into by _____ (Sub-recipient) pursuant to the provisions of Title VI Assurances, item 7: The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose for which a US Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed 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, as said Regulations may be amended. That in the event of breach of any of the above non-discrimination covenants, the (Sub-recipient) shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by _____ (Sub-recipient) pursuant to the provisions of Title VI Assurances, item 7.

The LESSEE, for himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin shall be excluded from participation in, be 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 furnishing of services thereon, no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises 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 may be amended. That in the event of breach of any of the above nondiscrimination covenants, the (Sub-recipient) shall have the right to terminate the lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

1 Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of Civil Rights Act of 1964.

Helpful definitions:

<https://www.law.cornell.edu/cfr/text/23/200.5>