

KANSAS DEPARTMENT OF TRANSPORTATION

FY 2024

**TITLE VI/NONDISCRIMINATION PROGRAM
IMPLEMENTATION PLAN**

**PREPARED BY
OFFICE OF CIVIL RIGHTS COMPLIANCE**

October 1, 2023

**KANSAS DEPARTMENT OF TRANSPORTATION
TITLE VI / NONDISCRIMINATION PROGRAM**

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Kansas Department of Transportation

September 11, 2023

MEMORANDUM TO: STATE TRANSPORTATION ENGINEER
CHIEF COUNSEL
INSPECTOR GENERAL
DIVISION DIRECTORS
BUREAU CHIEFS
OFFICE HEADS
DISTRICT ENGINEERS
TITLE VI COORDINATORS

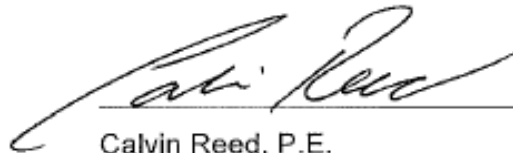
REGARDING TITLE VI NONDISCRIMINATION POLICY

It is the policy of the Kansas Department of Transportation to assure full compliance with Title VI Nondiscrimination of the Civil Rights Act of 1964. This policy has been incorporated into the Title VI Nondiscrimination assurances, executed by the Department of Transportation in connection with all Federal-Aid Programs including Federal Highway Administration, Federal Transit Administration, and Federal Aviation Administration.

Title VI ensures that no person shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity administered by the Kansas Department of Transportation.

Subsequent nondiscrimination authorities and directives also ensure that no person or group of persons shall, on the grounds of age, disability, sex, low income, or limited English proficiency be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity administered by the Kansas Department of Transportation.

To ensure that all Title VI Nondiscrimination requirements are met, all management personnel shall make every effort to identify and eliminate discrimination which may occur in any program or activity of the department; and implement policies and procedures to ensure compliance with Title VI Nondiscrimination requirements.



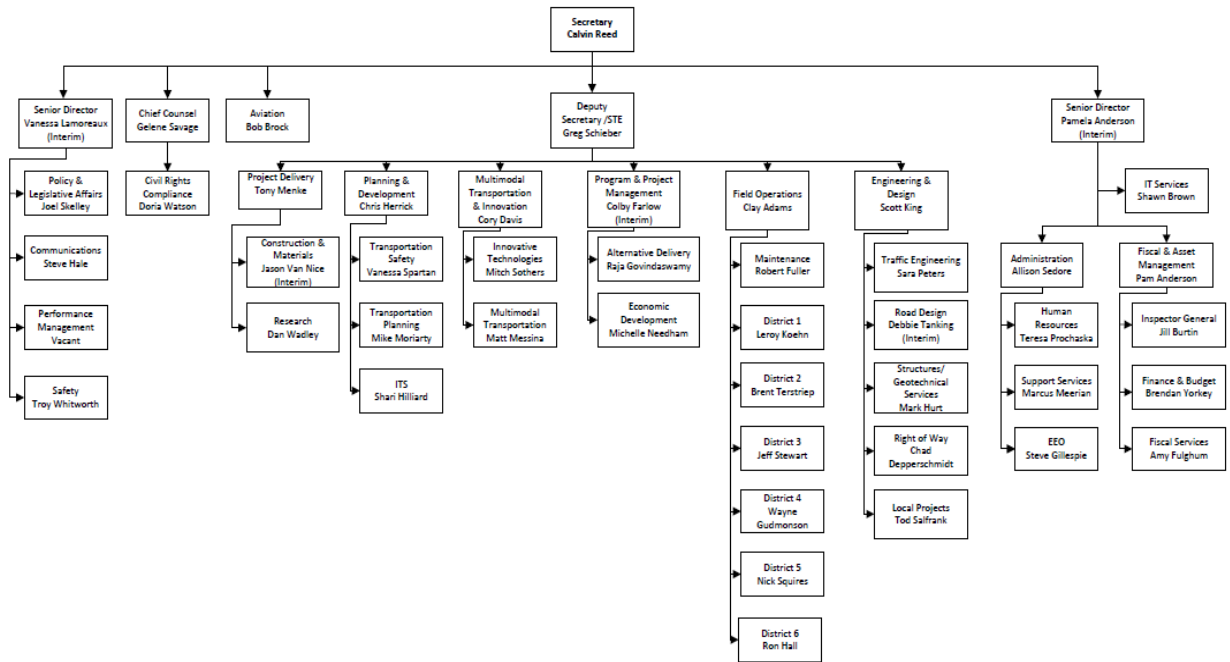
Calvin Reed, P.E.
Secretary of Transportation
Director of Kansas Turnpike Authority

Form Approved By <u>EEB 09.14.2023</u> Legal Dept. KDOT

ORGANIZATION AND RESPONSIBILITIES: The Secretary of Transportation, as the chief executive officer, has the responsibility for all matters relating to civil rights. The Secretary has direct authority and control over the Department's Title VI/Nondiscrimination functions, which are delegated to the Civil Rights Administrator. The Civil Rights Administrator serves as Director of the Office of Civil Rights Compliance.

August 9, 2023

Kansas Department of Transportation



THE LAWS AND REGULATIONS

1964 Civil Rights Act – Titles:

Title I -	Voting Rights
Title II -	Public Accommodations
Title III -	Desegregation of Public Facilities
Title IV -	Desegregation of Public Education
Title V -	Commission on Civil Rights (EEOC)
Title VI -	Nondiscrimination in Federal Assisted Programs and Activities
Title VII -	Equal Employment Opportunity
Title VIII -	Registration and Voting Statistics
Title IX -	Intervention and Procedure after removal in Civil Rights Cases
Title X -	Establishment of Community Relations Services
Title XI -	Miscellaneous

Title VI of the Civil Rights Act of 1964: “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 subjected to discrimination under any program or activity receiving Federal financial assistance.”

Under this act contracting opportunities are considered a benefit. Denial of contract opportunities based on discrimination is prohibited.

Uniform Relocation Assistance and Real Property Acquisition Act of 1970: Prohibits unfair and inequitable treatment of persons displaced or whose property will be acquired as a result of Federal-aid programs and/or projects.

Section 504, Rehabilitation Act of 1973: “No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.”

Federal-aid Highway Act of 1973: “No person shall on the grounds of sex be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title.”

Age Discrimination Act of 1975: “No person shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance.”

Civil Rights Restoration Act of 1987: This act broadens the scope of civil rights to include:

1. All programs and activities of KDOT,
2. All programs, activities, and contracts (in the same geographic area) of federal-aid contractors and consultants,
3. All programs and activities of any agency or group receiving federal-aid funds whether such programs, activities or contracts are federally assisted or not.

Title VI Transportation Implementing Regulations:

United States Department of Transportation Regulations (49 CFR 21)

Requires Recipient Affirmative Action
Requires Recipient Formal Assurance
Provides for sanctions in the event of noncompliance

Federal Highway Administration Regulations (23 CFR 200)

Requires Recipient Assurance
90-day corrective action requirement
Actions and activities to assure compliance

TITLE VI TERMINOLOGY

Discrimination – Refers to any intentional or unintentional act, or any failure to act, which has the effect of excluding or denying a person from participation in benefits or has otherwise subjected a person to unequal treatment under any program or activity because of race, color, or national origin.

Low Income Populations - Person(s) whose household income or community/group whose average household income is at or below the United States Department of Health and Human Services (HHS) Poverty Guidelines. See 2023 Guidelines – Appendix A

Minority Populations – Any readily identifiable groups of minority persons living in geographical proximity and similarly affected by a proposed Federal program, policy, or activity.

National Origin – means the particular Nation where a person was born, or where the person’s parents or ancestors were born.

Recipient – Any state, political subdivision, instrumentality or any public or private agency, institution, department, or other organizational unit, to whom financial assistance is directly extended by a federal agency.

Subrecipient – means any entity that receives federal financial assistance through a primary recipient.

TITLE VI ACRONYMS

LEP – Limited English Proficiency

MPO – Metropolitan Planning Organization

SIP - State Improvement Plan

STIP - Statewide Transportation Improvement Program

TIP – Transportation Improvement Program

TITLE VI/NONDISCRIMINATION

POLICY: It is the policy of the Kansas Department of Transportation:

- A. To ensure, in all programs and activities to the maximum possible extent, compliance with Title VI of the Civil rights Act of 1964, 49 CFR Part 21; and related statutes and regulations;
- B. To assess all plans and proposals so that no person shall be excluded from participation in, be denied the benefits of, or in any manner discriminated against or treated inequitably by reason of the person's race, color, sex, national origin, or veteran's status under any department program or activity receiving federal financial assistance;
- C. To identify and eliminate discrimination where found to exist within any program or activity of the Department;
- D. To develop and implement policies and procedures or to amend existing procedures to comply with Title VI requirements; and
- E. To promptly resolve conditions of inadequacy or non-compliance.

ASSURANCES: Signed "assurances" are required of each state highway agency (SHA) by Title 49, Code of Federal Regulations, Part 21 (49 CFR 21) and related statutes and regulations. These are necessary to implement the foregoing policy. Title VI/Nondiscrimination assurances identify the major transportation operational areas where extensive exclusion, adverse and/or disparate impact and denial of benefits may occur. Understanding of the Title VI assurances is vital to all parties in carrying out operational responsibilities within the Department, and should distinguish the difference between EEO, Title VI, and other civil rights areas. Title VI/Nondiscrimination does not apply to employment matters except in two instances:

- A. When the primary objective of a federally assisted program is to provide employment (as in Appalachia); or,
- B. When discrimination has been found in a program and the employment posture of the administering unit is found to be a significant contributing factor in inhibiting and contrary to Title VI/Nondiscrimination policy.

The most recent Title VI Assurances were signed by Kansas Secretary of Transportation & Director of Kansas Turnpike Authority, Calvin Reed, P.E., on September 18, 2023. See Appendix B

The Office of Civil Rights Compliance is responsible for initiating and monitoring KDOT's Title VI/Nondiscrimination activities and preparing required reports.

Principal responsibilities include:

- A. Developing and implementing procedures for the prompt processing of discrimination complaints,
- B. Coordinating Title VI/Nondiscrimination program development with KDOT managers,
- C. Conducting Title VI/Nondiscrimination reviews of cities, counties, planning agencies, and other recipients of federal-aid highway funds,
- D. Reviewing with managers Title VI/Nondiscrimination issues that apply to their activities,
- E. Conducting Title VI/Nondiscrimination orientation and training for managers or designated subordinates, civil rights personnel, and others,
- F. Preparing a periodic report of Title VI/Nondiscrimination accomplishments and setting of goals for the following year,
- G. Participating with KDOT managers in developing Title VI/Nondiscrimination information to disseminate to the public. See Appendix C – Title VI Brochure
- H. Conducting reviews of work unit activities when necessary to cover Title VI/Nondiscrimination Assisting KDOT managers in correcting identified Title VI/Nondiscrimination problems.

PUBLIC NOTICE: A public notice of Title VI Rights (Appendix D) can be found on the KDOT website and on the official bulletin board located in the Eisenhower State Office Building. The notice contains directions on how to file a complaint. The Title VI Complaint Process and Complaint form can be found on the KDOT website. Individual transit agencies and MPOs are responsible for posting similar public information at their facilities and websites. Title VI Rights Brochures (Appendix C) also contain information how to file a complaint. The brochures are distributed at KDOT public meetings, Title VI reviews, and through Local Public Agencies. In addition, the brochures can be downloaded from the KDOT website for public use.

DATA COLLECTION: The following is a list of the types of data KDOT may keep on each project or program:

- A. What services, benefits, or impacts will be provided by this project or program?
- B. Who or what groups of people will be impacted by the project or program?
- C. A population breakdown by race, color, sex, national origin, and income status for the affected area.
- D. Are bilingual employees needed in this area?
- E. The location of existing facilities (stores, doctor, school, public buildings, recreation, etc.) and if easy access will be limited or denied.
- F. The steps used in the relocation process.
- G. Other demographic maps, racial composition, or census data about the affected area.

MONITORING AND REVIEW PROCESS: The following are examples of specific activities, which may be undertaken to monitor Title VI/Nondiscrimination issues. The Civil Rights Administrator will prioritize activities.

A. Identification of Impacts:

- 1) Assist managers in identifying Title VI/Nondiscrimination impacts on proposed projects.
- 2) Attend meetings of managers during the early development of environmental assessments of projects.
- 3) Review procedures in identifying and considering impacts of projects on communities.

B. Public Involvement:

- 1) Assist in obtaining public involvement, when applicable.
- 2) Attend meetings involving Title VI/Nondiscrimination issues.
- 3) Assist in the development of Title VI/Nondiscrimination information for the public in languages other than English, when necessary.

C. Benefits and Services:

- 1) Accompany right-of-way staff to compare treatment received by all people, especially minorities and females.
- 2) Review appraisal, acquisition, and relocation procedures to assure equitable benefits and services to all property owners.

See brochures:

ACQUISITION, Real Property Acquisition for Kansas Highways, Roads, Streets and Bridges, dated March 2019.

http://kdotweb.ksdot.org/Assets/kdotweb2/bureaus/RightOfWay/documents/Acquisition_Manual.pdf

RELOCATION, Your Rights and Benefits as a Displaced Person under the Federal Relocation Assistance Programs, dated October 2014.

<http://kdotweb.ksdot.org/Bureaus/RightOfWay/Relocation.asp#>

D. Contracting:

- 1) Review consultant selection procedures.
- 2) Review the monitoring of consultants for Title VI/Nondiscrimination compliance.
- 3) Assist in identifying minority and female appraisers.

- 4) Review contractor prequalification procedures and determine uniformity to all contractors.
- 5) Ensure monitoring procedures during construction are not discriminatory.
- 6) Ensure inclusion of Title VI/Nondiscrimination in all contracts and supply agreements.

E. Research:

- 1) Assist in identifying minority and female researchers.
- 2) Review the monitoring for Title VI /Nondiscrimination compliance by researchers.

F. Management:

KDOT managers have the following responsibilities in daily monitoring activities:

- 1) Maintain statistical data by race and sex of participants and beneficiaries of KDOT's programs.
- 2) Ensure Title VI/Nondiscrimination requirements are included in directives and that procedures used will prevent discrimination.
- 3) Advise External EEO Officer of discrimination complaints or problems.
- 4) Cooperate with Title VI/Nondiscrimination reviews and comply with report findings.

REVIEWS OF CITIES AND COUNTIES:

KDOT must assure that the benefits of federal-aid programs are provided to all eligible beneficiaries on a basis that is quantitatively proportionate and qualitatively equivalent. The goal of the reviewer is to point out deficiencies and assist the recipient to achieve compliance, not to find discrimination.

- A. Develop data to identify first-class cities in Kansas by population size. 10,000 would be the smallest area reviewed.
- B. Develop data to identify counties in Kansas by population size. 20,000 would be the smallest area reviewed.
- C. Identify the recipient's use of the funds (such as right-of-way, construction, etc.)
- D. Note the total population, the minority population, and the distribution of the minority population.
- E. Note the significant social impact of projects.
- F. The review questionnaire should be directed to the type of activity being done with federal funds (research, engineering, etc.).

- G. Reviews should be scheduled with cities or counties utilizing federal-aid funds at the current time and with a significant minority population that could be impacted.
- H. During the review, the following documents should be examined:
 - 1) Copy of the agreement between the city/county and KDOT to check for Title VI/Nondiscrimination references.
 - 2) List of consultants being utilized for federal-aid projects.
 - 3) Documentation of efforts to identify and utilize minority and female consultants, if applicable.
 - 4) Copy of the city/county consultant contracts to check for Title VI/Nondiscrimination references.
 - 5) Information on city/county effort to involve minorities and females in preliminary engineering, if applicable.
 - 6) If any deficiencies are noted, KDOT should make every effort to assist the city/county in its corrective measures.
 - 7) All review activity completed by KDOT is reported in the Title VI Report to FHWA annually.

REVIEWS OF CONSULTANTS:

Consultants that are subject to Title VI/Nondiscrimination review have contracts with KDOT, or a city/county, or are financed with federal-aid funds. The review will not look at employment practices, but rather an examination of specific activities to ensure nondiscrimination (to the extent possible) in the benefits and services of its contract. Priority should be given to consultants whose studies will impact high minority areas. The review should concentrate on the consultant's efforts to ensure input and/or participation by those affected by the project.

REVIEWS OF METROPOLITAN PLANNING ORGANIZATIONS:

- A. Review list of documents:
 - 1) Title VI plan
 - 2) Title VI Assurances
 - 3) Title VI complaint procedure
 - 4) Limited English Proficiency (LEP) plan
- B. How the public is notified of the identity of the Title VI Coordinator in the event questions or complaints arise.
- C. The methods used to inform the public of their rights under Title VI as it relates to the MPO's transportation planning process.
- D. Information on the members of the MPO Policy Body and Technical Advisory Committee, method of selection and the jurisdiction each member represents.
- E. What the total dollar amount of Consolidated Planning Grant (CPG) funds received annually by the MPO from KDOT.
- F. Information on consultant contracts during this review period.
- G. Efforts made to utilize DBE firms in the MPO's federally funded contracts.

- H. Strategies for public involvement/participation.
- I. Methods used to inform low-income and minority communities of planning efforts for transportation related services and/or improvements.
- J. Information regarding Title VI complaints during the review period.
- K. Describe Title VI training that was attended by MPO staff during this review period. Describe participation in any other kind of civil rights training (e.g., title and course content), and provide a list of participants by job title (e.g., supervisor, manager, etc.)
- L. Review of Title VI plan to assure it meets all FTA Circular 4702.1B Requirements.

REVIEWS OF DEMAND AND FIXED ROUTE TRANSIT PROVIDERS:

Note: KDOT does not provide fixed route transportation. KDOT does monitor the transit providers who provide fixed routes by:

KDOT Reviews the Title VI Plan of demand and fixed route transit providers to confirm each contains the following:

- A. Title VI Assurance
- B. Title VI Notice to Public
- C. Public Participation Plan (PPP)
- D. Limited English Proficiency Plan (LEP)
- E. Title VI Complaint Procedures
- F. Title VI Complaint Form
- G. List of transit-related Title VI investigations, complaints, and lawsuits
- H. Table of membership of non-elected boards and committees (as appropriate)
- I. Copy of minutes, resolution, or other documentation showing approval of Title VI Program
- J. Title VI equity analysis (as appropriate)
- K. Service Standards (fixed route providers)
- L. Service Policies (fixed route providers)

REVIEWS OF SUBRECIPIENTS:

Subrecipients receiving federal funds for programs such as DBE supportive services, OJT support services, and NSTI will periodically be reviewed to assure nondiscrimination in their respective programs. Items to be monitored:

- A. Steps taken to ensure nondiscrimination in all programs, operations, and activities of the respective program.
- B. What actions are taken to improve diversity and inclusion of minorities, women, and other disadvantaged individuals in their program and activities.
- C. Does the program provide taxi coupons or other transportation assistance for the elderly and citizens with disabilities?

SANCTIONS:

In the event the Kansas Department of Transportation fails or refuses to comply with the terms of this plan, USDOT FHWA may take any or all of the following actions:

1. Cancel, terminate, or suspend this plan in whole or in part;
2. Refrain from extending any further assistance to the Kansas Department of Transportation under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Kansas Department of Transportation.
3. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the Kansas Department of Transportation.
4. Refer the case to the Department of Justice for appropriate legal proceedings.

COMPLAINT PROCESS

Any external Title VI complaints alleging discrimination, violation of civil rights or non-compliance with civil rights requirements shall receive prompt attention. Once a Title VI complaint has been filed with KDOT, the complaint will be forwarded to the Kansas Federal Highway Administration Division Office. The FHWA Division office will then process and investigate the complaint.

(Compliant Form on next page.)

Date Rec'd:	Case No.
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**KANSAS DEPARTMENT OF TRANSPORTATION
COMPLAINT FORM**

Name: _____ Address: _____ City & Zip: _____	Cause of Discrimination (check one): <input type="radio"/> Race <input type="radio"/> Color <input type="radio"/> National Origin <input type="radio"/> Age <input type="radio"/> Sex
---	--

Who discriminated against you:
Name: _____
Title: _____
Employer: _____
Project: _____
Date(s) of Discrimination: _____

Explain the problem:

What would be a reasonable settlement of your charge:

I swear that the charge as listed is true to the best of my knowledge, information and belief.

(Signature) _____ (Date)

(County) _____ (State)

SUBSCRIBED AND SWORN TO before me this _____ day of _____ KDOT Form 1001

Rev. 03/08

KDOT Title VI Coordinators

Program Area	Name	Phone	Email
KDOT Title VI Specialist Office of Civil Rights	Deb Dillner	(785) 296-6677	deb.dillner@ks.gov
Division of Administration	Teresa Prochaska	(785) 296-8521	teresa.prochaska@ks.gov
Division of Aviation	Brian Kassin	(785) 296-2553	brian.kassin1@ks.gov
Division of Communications & Public Relations	Vanessa Lamoreaux	(785) 296-7499	vanessa.lamoreaux@ks.gov
Division of Field Operations	Clay Adams	(785) 296-3233	clay.adams@ks.gov
Division of Fiscal & Asset Management	Jennifer Ayres	(785) 296-3545	jennifer.ayres@ks.gov
Division of Multimodal Transportation & Innovation	Matt Stormer	(785) 296-0937	matt.stormer@ks.gov
Division of Planning & Development	Eleanor Matheis	(785) 296-1140	eleanor.matheis@ks.gov
Division of Policy & Legislative Affairs	Joel Skelley	(785) 296-3585	Joel.skelley@ks.gov
Division of Program & Project Management	Kris Norton	(785) 368-6429	kris.norton@ks.gov
Division of Safety	Tammi Clark	(785) 296-8164	tammi.clark@ks.gov
Bureau of Construction & Materials	Blair Heptig	(785) 296-1196	blair.heptig@ks.gov
Bureau of IT Services	Pam Anderson	(785) 296-3216	pam.anderson@ks.gov
Bureau of Local Projects	Tod Salfrank	(785) 368-7396	tod.salfrank@ks.gov
Bureau of Research	Sally Mayer	(785) 291-3843	sally.mayer@ks.gov
Bureau of Right of Way	Polly Jones	(785) 296-6941	polly.jones@ks.gov
Bureau of Road Design	Thomas Hussa	(785) 296-1393	thomas.hussa@ks.gov
Bureau of Structures & Geotechnical Services	Dominique Shannon	(785) 296-3347	dominique.shannon@ks.gov
Bureau of Traffic Engineering	Pat Toby	(785) 296-7442	pat.toby@ks.gov
District 1	Michelle Anschutz	(785) 296-0311	michelle.anschutz@ks.gov
District 2	Joe Ausilio	(785) 515-6784	joe.ausilio@ks.gov
District 3	Jim Riener	(785) 302-6204	jim.riener@ks.gov
District 4	Kym Babcock	(620) 902-6403	kym.babcock@ks.gov
District 5	Tim Potter	(620) 860-7389	tim.potter@ks.gov
District 6	Yazmin Moreno	(620) 765-7080	yazmin.moreno@ks.gov

Revised September 25, 2023

TITLE VI COORDINATOR TRAINING AND RESPONSIBILITIES

Training:

The Office of Civil Rights Compliance will present, in conjunction with FHWA, periodic training on Title VI and Environmental Justice issues. This training course will:

- Define Environmental Justice and Title VI of the Civil Rights Act of 1964.
- Explain the relationship between Environmental Justice and Title VI.
- List and explain the fundamental principles of Environmental Justice.
- Learn how to apply the principles of Environmental Justice.
- Explain why the accomplishment of Environmental Justice applies to every stage of transportation decision making and how it improves decision making.
- Describe the benefits of Environmental Justice in transportation decision making and the opportunities for partnership among all stakeholders.
- Develop proactive strategies, methods, and technique to integrate Environmental Justice in transportation decision making.

Reports:

Each year, the Office of Civil Rights Compliance prepares a Title VI report for FHWA. Every three years, an updated Title VI Plan will be prepared for FTA. These reports serve as an assurance to FHWA, FTA and other governmental bodies that KDOT is taking measures to assure that KDOT is not discriminating in the products or services that we provide. It includes such information as:

- KDOT's Title VI Policy
- Summarized Title VI Reviews performed on Cities, Counties, Subrecipients and MPOs and findings, if any, during the reporting period.
- Title VI Accomplishments by various areas of KDOT during the reporting period.
- Title VI Goals for various areas of KDOT for the next reporting period.
- Details of Title VI Complaints received during the reporting period and findings for each.
- ADA Coordinator report
- Limited English Proficiency (LEP) report

LIMITED ENGLISH PROFICIENCY (LEP)

Purpose

The Kansas Department of Transportation and those receiving assistance from the federal government must take reasonable steps to ensure that Limited English Proficiency (LEP) persons have meaningful access to the programs, services, and information those entities provide. This will require recipients to create solutions to address the needs of this ever-growing population of individuals, for whom English is not their primary language.

Who is a Limited English Proficient Person?

Persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or “LEP”. These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter. These services are provided free of charge to the public and this notice is provided on all public meeting notices, is posted on KDOT’s website, and on the official bulletin board located in the Eisenhower State Office Building.

Examples of populations likely to include LEP persons who are served or encountered by the Kansas Department of Transportation recipients and should be considered when planning language services include, but are not limited to:

- Public transportation passengers
- Persons who apply for a driver’s license at the department of motor vehicles
- Persons subject to the control of Kansas or local transportation enforcement authorities
- Persons served by emergency transportation response programs
- Persons living in areas affected or potentially affect by transportation projects
- Business owners who apply to participate in the Kansas Disadvantaged Business Enterprise program

Authorities

Title VI of the 1964 Civil Rights Act

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”
(42 U.S.C 2000d)

Executive Order 13166

On August 11, 2000, President Clinton signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. It is expected that agency plans will provide for such meaningful access consistent with, and without unduly burdening, the fundamental mission of the agency. The Executive Order also requires that the Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

Who must comply?

All programs and operations of entities that receive assistance from the federal government (i.e., recipients), including:

- State agencies (i.e., Kansas Dept of Transportation)
- Local agencies
- Private and nonprofit entities
- Subrecipients (entities that receive federal funding from one of the recipients listed above) also must comply.
- All programs and operations of the federal government also must comply.

Other Legal Authorities

FHWA Title VI Regulation, 23 CFR 200

USDOT Title VI Regulations, 49 CFR 21

USDOT LEP Guidelines, 70 FR 74087 (Dec. 14, 2005)

Four-Factor Analysis

KDOT has an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important transportation services. KDOT has assessed the following four factors:

Factor One: The number or proportion of LEP persons served or likely to be encountered in the eligible KDOT service population

In an effort to determine LEP persons in Kansas, KDOT collected data from several sources. Available data illustrated:

The Total Population in Kansas is 2,934,582 according to the 2021 U.S. Census Bureau American Community Survey. (2,757,015 are over the age of 5 years old). The 2021 Census estimates that 321,077 people, or 11.6% of our total population, speak a language other than English at home (population 5 years and over).

In 2021, the U.S. Census indicated there were 2,757,015 people over the age of 5 living in Kansas. Of those, the Census identified 127,137 persons (or 4.6%) who speak English less than “very well”. The languages spoken were identified as:

Spanish or Spanish Creole	217,721
Other Indo-European language	37,002
Asian or Pacific Island language	49,552
Other language	<u>16,802</u>
Total	321,077

Initially, we identified the seven counties with the largest percentage of individuals who speak English less than “very well” in Kansas to be: Finney, Ford, Grant, Hamilton, Haskell, Seward, and Wyandotte.

Because of previous court rulings, we wanted to also consider the fact that the following six counties in Kansas have been designated as Covered Areas for Voting Rights Bilingual Election Materials – Under the Voting Rights Act Amendments of 1992, Determinations Under Section 203 of the Federal Register/Vol. 86, No. 233/Notices, December 8, 2021.

Section 203 mandates that a state or political subdivision must provide language assistance to voters if more than 5 percent of the voting age citizens are members of a single-language minority group who do not “speak or understand English adequately enough to participate in the electoral process” and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade. When a state is covered for a particular language minority group, an exception is made for any political subdivision in which less than 5 percent of the voting age citizens are members of the minority group and are limited in English proficiency, unless the political subdivision is covered independently. A political subdivision also is covered if more than 10,000 of the voting age citizens are members of a single-language minority group, do not “speak or understand English adequately enough to participate in the electoral process,” and the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade.

The political subdivisions obligated to comply with the language assistance provisions of Section 203 are listed below:

<u>County</u>	<u>Group</u>
Finney	Hispanic
Ford	Hispanic
Grant	Hispanic
Haskell	Hispanic
Seward	Hispanic
Stevens	Hispanic

Because of the Court’s determination of language assistance eligibility in the above counties, we have determined that it is reasonable to include these counties for transportation language assistance consideration as well. It is reasonable to conclude that those individuals who are 18 years and over and are registered to vote are also likely to be involved in the public input process of transportation planning. Therefore, combining these two groups of counties, the counties LEP individuals are most likely to be encountered based on residence are:

Finney, Ford, Grant, Hamilton, Haskell, Seward, Stevens, and Wyandotte

Language Spoken at Home for the Citizen Population 18 years and over who Speak English Less Than “Very Well”

County	Total	Spanish/Spanish Creole	Indo European	Asian Pacific Island	Other Language
Wyandotte	103,543	15,422	478	2,059	201
Finney	21,225	4,578	347	829	277
Ford	17,921	5,817	6	285	194
Seward	11,019	4,562	84	259	145
Grant	4,221	686	3	8	0
Stevens	3,539	340	60	0	0
Haskell	2,385	438	110	5	0
Hamilton	1,411	438	0	0	0

A comparison of the languages spoken at home (18-64 years old and speak English less than very well) to the county population:

County	Total Pop. (2020 ACS)	Spanish or Spanish Creole	% of County Pop.
Wyandotte	103,543	15,422	14.9%
Finney	21,225	4,578	21.6%
Ford	17,921	5,817	32.5%
Seward	11,019	4,562	41.4%
Grant	4,221	686	16.3%
Stevens	3,539	340	9.6%
Haskell	2,385	438	18.4%
Hamilton	1,411	438	31.0%

County	Total Pop. (2020 ACS)	Indo European	% of County Pop.
Wyandotte	103,543	478	0.5%
Finney	21,225	347	1.6%
Ford	17,921	6	0.03%
Seward	11,019	84	0.8%
Grant	4,221	3	0.07%
Stevens	3,539	60	1.7%
Haskell	2,385	110	4.6%
Hamilton	1,411	0	0.0%

(Report continued on next page.)

County	Total Pop. (2020 ACS)	Asian Pacific Island	% of County Pop.
Wyandotte	103,543	2,059	2.0%
Finney	21,225	829	3.9%
Ford	17,921	285	1.6%
Seward	11,019	259	2.4%
Grant	4,221	8	0.2%
Stevens	3,539	0	0.0%
Haskell	2,385	5	0.2%
Hamilton	1,411	0	0.0%

County	Total Pop. (2020 ACS)	Other Language	% of County Pop.
Wyandotte	103,543	201	0.2%
Finney	21,225	277	1.3%
Ford	17,921	194	1.1%
Seward	11,019	145	1.3%
Grant	4,221	0	0.0%
Stevens	3,539	0	0.0%
Haskell	2,385	0	0.0%
Hamilton	1,411	0	0.0%

Based on these calculations by county and broken down by language spoken, the following counties reveal that 5 or more percent of the county does not speak English “very well” and speak a common language other than English:

Finney, Ford, Grant, Hamilton, Haskell, Seward, Stevens, and Wyandotte

The common language spoken is Spanish or Spanish Creole.

Factor Two: The frequency with which LEP individuals come in contact with KDOT programs, activities, or services

KDOT has and will continue to provide whatever services are needed to enable communications with the traveling public free of charge. Estimated future LEP Contact: approximately five contacts per year.

Factor Three: The nature and importance of program, activity, or services provided by KDOT.

Safe Harbor Provision:

KDOT has identified several counties with an eligible LEP language group. The eligible LEP language group is Spanish/Spanish Creole. To provide a Safe Harbor for the affected population, KDOT has the following translated vital public documents in Spanish:

For the traveling population:

- Driver safety information – DUI, texting
- Motorcycle driving & safety awareness
- Passenger safety information - car seats
- Notice of person’s rights under Title VI
- Complaint information
- Transit route information
- Public Notice Announcements for Construction Projects

For the construction workers on federal and state funded projects:

- EEO Jobsite posters
- Wage rate interview questionnaire
- EEO worker interview

The above referenced documents are available statewide.

KDOT has also identified the following as core documents: TIP (Transportation Improvement Program), STIP (Statewide Transportation Improvement Program), and our PPP (Public Participation Program). Because these documents are accessible on-line, translation applications such as Google Translate provide a viable option to those interested in viewing these documents in languages other than English.

KDOT employees provide timely language assistance by utilizing contracted “on-demand” telephonic interpreter services.

Transit Providers:

All transit providers are required to provide specific documents for their transit users. These documents include items such as application forms, route information, notices of route changes, etc. The providers identify their LEP population in their Title VI plan and provide language assistance as needed for their commuters free of charge.

Traffic Safety Section:

KDOT Traffic Safety Section (TSS) has determined that the minority population including the LEP drivers, in Kansas, is a High-Risk segment of the driving population. To reach out to the LEP drivers and as a response to requests, TSS has taken the initiative to translate their safety messages into Spanish as they are developed and/or updated. In addition, the TSS has translated their Mission Statement, on their internet website, into Spanish.

TSS opened their Traffic Safety Resource Office in October 2007. At least one staff member is bilingual in Spanish and English. This dedicated staff reaches out to Kansas residents, including the Latino community, to further increase awareness of traffic safety issues, education on impaired driving, motorcycle safety & awareness, and novice drivers.

Internal EEO Officer:

A telephonic interpreter service is available for use when conversing with our customers who are non-English speakers. Each program area of the KDOT have been instructed to contract with a translation service that best fits their needs from the list of services available through the State of Kansas Department of

Administration. Each of the translation services provide a variety of written, oral, and/or video translation services.

If a Sign language interpreter is requested, the agency contacts the Kansas Commission for the Deaf and Hard of Hearing for assistance in locating an interpreter.

Braille transcription services and production of brochures in Braille is available to KDOT through the State Library of Kansas for those visually impaired.

The Office of Civil Rights Compliance:

The Office of Civil Rights Compliance monitors the job-site posters on KDOT construction projects. These posters, in English and Spanish, are provided to contractors during pre-construction meetings and on an “as-needed” basis. Posters are available electronically.

Bureau of Right of Way

KDOT takes the measures necessary to work with the public the staff in Right of Way (ROW) encounters in administering the Relocation Assistance Program. Typically, it has not been necessary to hire an outside translator because ROW has always been able to utilize a KDOT staff member that is bilingual or the constituent has had a family member or friend who was able to assist in translation.

The KDOT ROW utilizes an informational brochure that describes the rights and benefits of a person being displaced. The brochure: *“RELOCATION, Your Rights and Benefits as a Displaced Person Under the Federal Relocation Assistance Program”* is available in English and Spanish.

KDOT ROW staff is trained to communicate in the simplest level to those they are working with, especially with persons who may be relocated or otherwise displaced. If information is needed in Spanish or other language, ROW will consult with FHWA, HUD and other state ROW departments to find the tool or service to fill the need.

Bureau of Construction and Materials

KDOT takes the necessary actions to address communication problems as they are encountered. Increasingly, contractors working on KDOT projects have crews that consist of persons who speak a language other than English. Most often, they speak Spanish. KDOT relies on that contractor’s foreman or supervisor to assist with translation. Telephonic interpreter services can also be utilized as needed.

KDOT recognizes the higher likelihood of encountering Spanish speaking individuals in District 6, southwest Kansas (see Finney, Ford, Grant, Hamilton, Haskell, Seward, and Stevens County) and provides a Safe Harbor by making Public Announcements

for Projects in both English and Spanish. Spanish interpreters are available to assist as needed or requested.

The Flagger Handbook is available and provided to contractor's personnel in both English and Spanish.

Factor Four: The resources available to recipient and costs.

Utilization of State contract for telephonic/written/video interpreter services.

Effective February 1, 2020, the State of Kansas bid a contract for Translation and Interpretation Services that is a Mandatory Statewide Optional Use Contract. This means that the contract is mandatory; however, each agency has the choice as to which vendor to use.

The new contract covers the following services:

- Document Translation
- Braille Document Conversion
- Onsite Spoken Interpretation
- Video Remote Interpretation
- Sign Language Interpretation Services
- CART (Realtime) Services
- Document Conversion

The attached table was provided by the Kansas Department of Administration and provides a list of all vendors. To search the individual vendor contracts, go to <http://da.ks.gov/purch/Contracts/> and type the specific contract number into the appropriate box and search. This will bring up the details for that vendor.

There are five contracted vendors who offer telephone conferencing / over-the-phone interpreting. The Office of Chief Counsel and Office of Civil Rights Compliance selected Contract No. 48068 Language Line Services, Inc. as they had a cheaper rate and provided coverage for the Capital Region.

The translation service contract option information was forwarded to all program areas of KDOT.

Utilization of in-house print shop to print brochures in languages other than English.

The KDOT in-house print shop prints the KDOT Title VI "Your Rights" brochures printed in English and Spanish for distribution at public meetings, public hearings, and informational kiosks. The brochure is available to city and county municipalities.

Cost: Little or no additional cost other than the standard cost of printing of the brochure.

Public Transportation Safety Messages translated into languages other than English.

There is an initial cost when a new document is translated into a language other than English. Generally, a contractor is selected for this service and that cost is considered when the work RFQ is proposed.

Printing cost: there is little or no additional cost other than the standard cost of printing of the safety message.

Public Announcements translated into languages other than English.

Whenever public meetings or hearings are planned for community with an increased likelihood that individuals who speak a language other than English are encouraged to attend, public announcements will be published in English and in the language deemed most likely to be encountered for that community. For example, Notices published in English and Spanish.

Cost: The advertising cost is generally doubled because most advertising is sold by the linear inch and the Notice is essentially being repeated.

KDOT Learning Center Courses.

KDOT has an on-line course to teach Construction Spanish. The course contains 17 different modules and is available agency wide.

Cost: Available at no cost to KDOT employees.

Construction Spanish Dictionary

Small pocket-sized dictionary with construction words and phrases in both English and Spanish. SPANISH ENGLISH CONSTRUCTION DICTIONARY 2ND EDITION.

Cost: Available through the Associated General Contractors of America (AGC) Item #5099 \$23.95 to members; \$53.85 to non-members; and Kansas Contractors Association (KCA) \$17.96 to members.

Sign Language Interpreter

Contact the Kansas Commission for the Deaf and Hard of Hearing.

Cost: Hourly rate plus mileage

Braille Services

The State Library of Kansas provides Braille transcription and production services for state agencies that need their brochures or other shorter documents printed in Braille.

If the State Library of Kansas is not able to do the transcription, a list of referrals to other organizations can be provided.

Cost: No cost to agency for basic brochures or shorter documents. There may be material costs for larger documents. KDOT will contact the State Library of Kansas for details when needed.

Hearing and/or speech Disabilities

The Kansas Relay Center facilitates communication with Kansans that have hearing and/or speech disabilities. These persons communicate with a telecommunications device for the deaf (TDD), a combination telephone/typewriter that enables the individual to type out his or her portion of the conversation. Other forms of TDDs include teletypewriters and compatible personal computers with modems.

Cost: Both speech/hearing disabled and hearing Kansans can access the Kansas Relay Center by calling a toll-free number.

Monitoring

1. Data collection at KDOT:
 - A. The Title VI Coordinators will report occurrences of contact with LEP individuals in their respective district or bureau.
 - B. The Title VI Coordinators will monitor usage of telephonic interpreter services utilized for interpretation or translation. Information to be tracked can include: Office or department requesting the service, what service was requested, time involved and cost.

This data will be included in annual LEP Plan updates.

2. Periodically assessing changes in:
 - A. Current LEP populations in Kansas affected or encountered
 - B. Frequency of encounters with LEP language groups
 - C. Nature and importance of activities to LEP persons
 - D. Availability of resources, including technological advances and sources of additional resources, and the costs imposed
 - E. Whether existing assistance is meeting the needs of LEP persons

- F. Whether KDOT staff knows and understands the LEP plan and how to implement it
- G. Whether identified sources for assistance are still available and viable.

3. Complaint Procedure

- A. Individuals wishing to file an LEP complaint may use KDOT Form Number 1001 “Kansas Department of Transportation Complaint Form”. (See page 15)
- B. LEP complaints will be processed following the complaint procedure established for discrimination complaints.

LEP Training

1. Periodically, approximately every three years, the Office of Civil Rights Compliance provides civil rights training for field construction staff. This training includes a segment on Title VI and LEP.
2. Annually, KDOT Office of Civil Rights Compliance personnel attend construction and maintenance district meetings. They briefly present Title VI topics. The KDOT OCR staff are available to answer any civil rights or contract compliance questions from KDOT and contractor personnel.
3. Title VI Coordinators throughout the agency receive periodic in-depth Title VI training.

APPENDICES

APPENDIX A

2023 HHS Poverty Guidelines Effective January 12, 2023

Persons in Family or Household	48 Contiguous States and D.C.	Alaska	Hawaii
1	\$14,580	\$18,210	\$16,770
2	19,720	24,640	22,680
3	24,860	31,070	28,590
4	30,000	37,500	34,500
5	35,140	43,930	40,410
6	40,280	50,360	46,320
7	45,420	56,790	52,230
8	50,560	63,220	58,140
For each additional person, add	5,140	6,430	5,910

SOURCE: *Federal Register*, Vol. 88, No. 12, January 19, 2023, pp. 3424-3425

APPENDIX B

Standard U.S. Department of Transportation Title VI Assurances

The State of Kansas (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation and the Federal programs including the Federal Highway Administration, Federal Transit Administration and Federal Aviation Administration, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation Sub Title 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, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures (hereinafter referred to as the Regulations) and other pertinent nondiscrimination authorities and directives, to the end that in accordance with the Act, Regulations, and other pertinent nondiscrimination authorities and directives, no person in the United States shall, on the grounds of race, color, or national origin, sex (23 USC 324), age (42 USC 6101) disability/handicap (29 USC 790) and low income status (Executive Order 12898) 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 the Department of Transportation, including the Federal Highway Administration, Federal Transit Administration and Federal Aviation Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Title 49 Code of Federal Regulations, subsection 21.7(a)(1) and Title 23 Code of Federal Regulations, section 200.9(a)(1) of the Regulations, copies of which are attached.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal-Aid Highway, Transit and Aviation Programs:

1. That the Recipient agrees that each "program" and each "facility as defined in 49 CFR subsections 21.23(e) and 21.23(b) and 23 CFR 200.5(k) and (g) 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 and made in connection with the Federal-Aid Highway and, in *Programs* adapted form in all proposals for negotiated agreements:

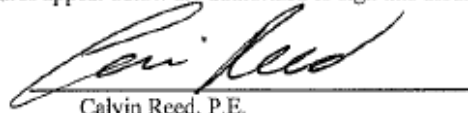
The State of Kansas in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Sub Title A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contact entered into pursuant to this advertisement, disadvantaged 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, or national origin, sex, age, disability/handicap and low income status in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B 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 to right to space on, over or under such property.

7. That the Recipient shall include the appropriate clauses set forth in Appendix C 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 Federal-Aid Highway, Transit or Aviation Programs; and (b) for the construction or use of or access to space on over or under real property acquired, or improved under Federal-Aid Highway, Transit or Aviation Programs.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom 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 enforcement 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 Department of Transportation under the Federal-Aid Highway, Transit and Aviation Programs and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal-Aid Highway, Transit and Aviation Programs. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

Dated 9/18/2023



Calvin Reed, P.E.
Secretary of Transportation
Director of Kansas Turnpike Authority
State of Kansas

Attachments: Appendices A, B, C, D, E

Form Approved
By <u>ELB 09.14.2023</u>
Legal Dept. KDOT

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 shall comply with the Regulations relative to the nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 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.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, disability/handicap and low income status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, 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 Subcontractors, 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, disability/handicap and low income status.
- (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 or information, and its facilities as may be determined by the State of Kansas or the FHWA, FTA, or FAA 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 the Kansas Department of Transportation, or the FHWA, FTA or FAA 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, the Kansas Department of Transportation shall impose such contract sanctions as it or the FHWA, FTA or FAA 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 contractor, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements 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 procurement as the Kansas Department of Transportation or the FHWA, FTA, or FAA 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 the State of Kansas to enter into such litigation to protect the interests of the State of Kansas, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

- A. The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures, or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the State of Kansas will accept Title to the lands and maintain the project constructed thereon, in accordance with K.S.A.68-401 et Seq. the Regulations for the 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, Sub Title A, Office of the Secretary, Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statues (hereinafter referred to as the Regulations) pertaining to and effectuating the provision 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 State of Kansas all the right, title and interest of the 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 State of Kansas 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 provisions of similar services or benefits and shall be binding on the State of Kansas, its successors and assigns.

The State of Kansas, 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, or national origin, sex, age, disability/handicap and low income status, 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 State of Kansas shall 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, Department of Transportation, Sub Title A, Office of Secretary, Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department 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.*

*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 the Civil Rights Act of 1964.

APPENDIX C

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the State of Kansas pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub Title 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, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, State of Kansas shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deed.]*

That in the event of breach of any of the above nondiscrimination covenants, State of Kansas shall have the right to reenter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of State of Kansas and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by State of Kansas pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors, in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add “as a covenant running with the land”) that (1) no person on the ground of race, color or national origin, sex, age, disability/handicap and low income status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, or national origin, sex, age, disability/handicap and low income status, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub Title 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, Title 23 Code of Federal Regulations, part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

*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 the Civil Rights Act of 1964.

That in the event of breach of any of the above nondiscrimination covenants, State of Kansas shall have the right to terminate the [license, lease, permit, etc.] and to reenter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, State of Kansas shall have the right to reenter said land and facilities there-on, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of Kansas 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 in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

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 Secretary pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above of the above Non-discrimination covenants, Secretary will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Secretary will there upon revert to and vest in and become the absolute property of Secretary 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 nondiscrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat.252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, prohibits discrimination on the basis of disability; and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123, as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 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 nondiscrimination 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.*).

APPENDIX C

Title VI Brochure – Outside & Inside views (Printed two-sided & tri-folded)

The Title VI Brochure is available in English and Spanish.



WHAT CAN I DO ABOUT DISCRIMINATION?
A person may file a complaint with the Kansas Department of Transportation. All complaints will be referred to the Civil Rights Officer, who will evaluate and refer the complaint to the appropriate program area. Every effort will be made to resolve the complaint as quickly as possible.

WHO MAY FILE A COMPLAINT?
Any person who feels he or she has been subject to discrimination because of race, color, age, national origin, sex, disability, veteran or low income status.

WHEN SHOULD I FILE A COMPLAINT?
You should file a complaint within 180 days following the discriminatory action.

HOW TO FILE A COMPLAINT?
Contact the Office of Civil Rights Compliance in writing or by phone to request assistance in filing your complaint.

**Kansas Department of Transportation
Office of Civil Rights Compliance**
700 SW Harrison, 3rd Floor West
Topeka, Kansas 66603-3754


Phone: 785-296-7940
Fax: 785-296-0723


KDOT.CivilRights@ks.gov
Or visit us on the web at:
www.ksdot.org.

This information is available in alternative accessible formats. To obtain an alternative format, contact the KDOT Communications/Public Affairs Division
Eisenhower Building, 700 SW Harrison,
2nd Floor West,
Topeka, KS, 66603-3754,

785) 296-3585 (Voice)
/Hearing Impaired - 711.


Kansas
Department of Transportation

**EQUAL OPPORTUNITY
AND
CIVIL RIGHTS
INFORMATION
(INCLUDING TITLE VI)**

Kansas Department of
Transportation Office of Civil
Rights Compliance
June 2022

EXTERNAL CIVIL RIGHTS COMPLAINT PROCESS

THE ASSURANCE:

The Kansas Department of Transportation, as a recipient of federal funds for programs, has given the assurance that within daily operations, KDOT will not discriminate against any person on the basis of race, color, national origin, sex, age, disability, veteran or low income status.

THE LAWS:

Title VI of the Civil Rights Act of 1964 as amended and 49 CFR Part 21 prohibit discrimination based on race, color and national origin in all federal-aid programs.

Sex discrimination is also prohibited by Section 162 (a) of the Federal-Aid Highway Act of 1973, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 (see 49 CFR 27) prohibit discrimination based on disability and The Age Discrimination Act of 1975 (42 USC 6101) prohibits discrimination based on age.

The basic philosophy of the laws is that people affected by transportation programs should receive the services, benefits and opportunities to which they are entitled with no differences because of race, color, national origin, age, sex, disability, veteran or low income status.

WHAT IS DISCRIMINATION?

An intentional or unintentional act which subjects a person or a group to unequal treatment under a transportation program. Everyone, no matter what their race, sex, color or national origin, age, disability, veteran or low income status should be treated fairly and equally in all matters relating to transportation.

EXAMPLES OF PROHIBITED DISCRIMINATORY ACTS:

1. Public meetings that are held at hard-to-reach or inaccessible sites or at times when most affected people are working.
2. Zoning changes that would lower the quality of life in a neighborhood.
3. Unequal payments that are either offered or paid for similar properties.

4. Unequal relocation assistance or housing payments.

5. New housing that is not equal to the property replaced.

6. No effort made to locate minority or women contractors, consultants or researchers for transportation projects.

7. Minority and women contractors not notified about highway projects to be let for bid.

8. A neighborhood loses access to stores, services, medical offices, churches, recreation or transportation due to highway construction.

9. Property value decreases or increases in unequal ways due to highway construction.

10. Minority neighborhood roads that are not as well-maintained as those in non-minority areas.

11. Environmental impact is more severe on a minority or low income neighborhood as compared to a higher valuation area.

APPENDIX D

Title VI Notice to Public

Notifying the Public of Rights Under Title VI
**Kansas Department of
Transportation**

- The Kansas Department of Transportation (KDOT) operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act of 1964.

Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with KDOT.

- For more information on KDOT's civil rights program, and the procedures to file a complaint, contact 800-854-3613; (Hearing Impaired 711); email KDOT.CivilRights@ks.gov; or visit our administrative office at 700 SW Harrison Street, 3rd Floor West, Topeka, Kansas 66603. For more information, visit www.ksdot.gov/divadmin/civilrights/
- A complainant may file a complaint directly with the U.S. Department of Transportation by filing a complaint with the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590
- If information is needed in another language, contact 800-854-3613.