



ARIZONA DEPARTMENT OF TRANSPORTATION POLICIES AND PROCEDURES

PER-18.01 TITLE VI EXTERNAL NONDISCRIMINATION POLICY

Effective: January 9, 2015

Supersedes: None

Responsible Office: Civil Rights Office, (602) 712-8946

Review: January 9, 2017

Transmittal: 2015 - January

Page: 1 of 8

NOTICE: This policy does not create a contract for employment between any employee and the Arizona Department of Transportation (ADOT). Nothing in this policy changes the fact that all uncovered employees of ADOT are at-will employees and serve at the pleasure of the appointing authority.

1.01 PURPOSE

To describe ADOT's policy on nondiscrimination in its programs and activities.

1.02 SCOPE

This policy is applicable to all ADOT employees, participants, sub-recipients, contractors and beneficiaries of ADOT's programs and activities.

1.03 AUTHORITY

[Age Discrimination Act of 1975](#)
[Americans with Disabilities Act of 1990](#)
[Executive Order 12898](#)
[Executive Order 13166](#)
[The Civil Rights Restoration Act of 1987](#)
[The Federal-Aid Highway Act of 1973,](#)
[The Uniform Relocation Act of 1970 as amended](#)
[Title II of the ADA](#)
[Title VI of the Civil Rights Act of 1964](#)
[Section 504 of the Rehabilitation Act of 1973](#)

1.04 DEFINITIONS

ADA	Americans with Disabilities Act
ADOT	Arizona Department of Transportation
Assurances	A written statement of contractual agreement signed by an authorized official in which the

	recipient agrees to administer Federally assisted programs in accordance with civil rights laws and regulations.
Beneficiaries	A person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any Federally assisted program, i.e., relocates, impacted citizens, communities, etc.
COG	Council of Governments (considered a subrecipient)
Compliance	A satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.
CRO	Civil Rights Office
Discrimination	Making any distinction between one person or group of persons and others, either intentionally, by neglect, or by the effect of actions or lack of actions based solely on race, color, national origin, sex, age, or disability.
Federal assistance	Any funding, property, or aid provided for the purpose of assisting a beneficiary.
FAA	Federal Aviation Administration
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
LPA	Local Public Agency, a legal entity (e.g., cities, counties, towns, tribal, etc.) to which a funding sub-award is made by the Recipient (ADOT) and is accountable to the Recipient (ADOT) for the use of the fund. May also be referred as Subrecipient.
Limited English Proficient Person	An individual with a primary or home language other than English who must, due to limited fluency in English communicate in that primary or home language if the individual is

	to have an equal opportunity to participate effectively in or benefit from any aid, service or benefit provided by the agency.
MPO	Metropolitan Planning Organization (considered a sub-recipient)
MVD	Motor Vehicle Division
NHTSA	National Highway Traffic Safety Administration
Non-compliance	Failure or refusal to comply with Title VI of the Civil Rights Act of 1964, other applicable civil rights laws, and implementing regulations.
Recipient	Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term recipient does not include any ultimate beneficiary under any such program.
Sub-recipient	A legal entity, such as a Local Public Agency (LPA), to which a funding sub-award is made by the Recipient (Arizona Department Of Transportation – [ADOT]) and which is accountable to the Recipient (ADOT) for the use of the fund.

1.05 BACKGROUND

Title VI of the Civil Rights Act of 1964 regulations provides that, “no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Related federal statutes and regulations require ADOT’s Title VI/Nondiscrimination Program to include nondiscrimination protection on the basis of age, sex, disability, and income status in all ADOT programs or activities. Additionally, the department will take reasonable steps to provide meaningful access to services for persons with limited English proficiency.

ADOT as a recipient of Federal financial assistance from the U.S. DOT and as a condition of receiving funding assistance, has signed an assurance that it will comply with Title VI of the Civil Rights Act of 1964, as amended.

ADOT Civil Rights Office (CRO) is responsible for monitoring Title VI nondiscrimination compliance throughout all of ADOT's programs and activities to include, the monitoring of the compliance activities of Subrecipients, Local Public Agencies, contractors, consultants, grantees, Motor Vehicle Division Authorized Third Parties, and any other vendor entities that provide services on behalf of ADOT.

1.06 TITLE VI NONDISCRIMINATION POLICY

It is the policy of the Arizona Department of Transportation (ADOT) that discrimination shall not occur in connection with any of its programs or activities on the basis of race, color, national origin, age, sex, disability, limited English proficiency, or income status.

Discrimination based on the grounds referenced above, limits the opportunity for individuals and groups to gain access to services and programs. ADOT does not permit discrimination, either directly, or through contractual or other means such as:

- A. Denying program services, financial aids, or other benefits;
- B. Providing different program services, financial aids, or other benefits, or providing them in a manner different from that provided to others;
- C. Segregating or separately treating individuals or groups in any manner related to the receipt of any program service or benefit;
- D. Restricting in any way the enjoyment of any advantage or privilege enjoyed by others receiving any program service or other benefits;
- E. Denying persons the opportunity to participate as a member of a planning, advisory, or similar body;
- F. Denying persons the opportunity to participate in the program through the provision of services, or affording the opportunity to do so differently from those afforded to others.

1.07 COMPLIANCE AND REPORTING

- A. The ADOT Director is responsible for ensuring that Title VI Nondiscrimination requirements are met. The ADOT Director may delegate functions, duties, or powers as necessary to carry out the efficient operation of the department.
- B. The CRO Administrator has delegated authority for implementing, monitoring, and enforcing all aspects of Title VI Nondiscrimination program compliance.

- C. The CRO Administrator has delegated responsibility for the day-to-day- implementation of the Title VI Nondiscrimination program to the Title VI Nondiscrimination Program Manager.
- D. The Title VI Nondiscrimination Program Manager shall coordinate with all ADOT divisions, including but not limited to: the Communications Division, Intermodal Transportation Division and its Engineering Districts, Motor Vehicle Division (MVD), Multimodal Planning Division, Administrative Services Division, the Enforcement and Compliance Division, Arizona Highways Magazine, Grand Canyon State Logo Signs, the Business Operations Group, MVD Authorized Third Party Providers and sub-recipients; Managers, Supervisors, and Team Leaders to ensure that all of ADOT programs and activities are compliant with Title VI nondiscrimination requirements.

1.08 DISSEMINATION OF POLICY

This policy shall be disseminated to all ADOT Divisions, Subrecipients, grantees, and Local Public Agencies (LPAs) receiving federal funds.

1.09 RECORDKEEPING:

ADOT Civil Rights Office will retain all records of complaints and investigation report files in the office for three years after an investigation and recommendation is final.

ADOT Civil Rights Office will maintain a log tracking all complainants by race, color, sex, or national origin; the recipient; the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition and the date of the disposition of the complaint.

ADOT Civil Rights Office will retain all records of sub-recipient and internal program area compliance reviews including the final report file in the office for three years after a review is finalized and deficiencies are addressed.

1.10 CONTRACTS

Each ADOT contract shall include Appendices A and E contained in [US DOT Order 1050 2A](#).

1.11 EXTERNAL COMPLAINT PROCEDURES

An ADOT supervisor or manager who is made aware of allegations of discrimination or who receives a complaint alleging discrimination, shall immediately refer the complaint to the ADOT Civil Rights Office- Title VI Program Manager or designee. In addition, a complainant may also be referred to "ADOT's Title VI Notice to the Public" or "Your Rights Under Title VI" brochure to provide customers with the direct contact information to the Title VI Program Manager. ADOT's Title VI Program Manager can be reached at, 206 S. 17th Avenue, Mail Drop 155A, Phoenix AZ 85007; by telephone at 602-712-8946, fax 602-239-6257 or by email at civilrightsoffice@azdot.gov.

- A. An ADOT employee may receive a written complaint from any person or specific class of persons believing they have been subjected to discrimination prohibited by the legal

provisions of Title VI, Section 504, and ADA. The complaint must be with ADOT's Civil Rights Office (CRO). The complaint should include all information shown on the [Title VI Complaint Form](#).

- B. An ADOT employee must receive a formal complaint within 180 days of the date of the alleged act of discrimination, which is the timeframe required for filing a complaint by [49 CRF 21.11\(b\)](#) or the date when the alleged discrimination became known to the complainant(s), or where there has been a continuing course of conduct, the date on which the conduct was discontinued or the latest instance of the conduct. The complaint must be forwarded to the CRO within 3 days.
- C. The complaint shall:
 1. Be in writing, signed by the complainant(s), and must include the complainant(s) name, address, and phone number. The Title VI Program Manager or designee will assist the complainant with documenting the issues if necessary.
 2. Present the date of the alleged act of discrimination; the date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct.
 3. Present a detailed description of the issues including names and job titles of those individuals perceived as parties in the complained-of-incident.
- D. Allegations received by fax or e-mail will be acknowledged and processed, once the identity(ies) of the complainant(s) and the intent to proceed with the complaint have been established. For this, an ADOT employee must receive from the complainant a signed, original copy of the fax or e-mail transmittal for the CRO to be able to process the complaint.
- E. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision and signature before processing.
- F. Upon receipt of the complaint, the CRO will determine its jurisdiction, acceptability, or need for additional information before initiating its investigation. Acceptance of a complaint will be determined by:
 1. Whether the complaint is timely filed;
 2. Whether the allegations involve a covered basis such as race, color, national origin, age, sex, disability, income status, or retaliation;
 3. Whether the allegations involve a program or activity of ADOT, an ADOT sub-recipient, an MVD Authorized Third Party, or contractor; and
 4. Whether the complaint is beyond the administrative authority of ADOT.

-
- G. Acknowledgment and processing of complaints:
1. Within 5 business days of receipt of the complaint, the CRO will acknowledge its receipt to the parties as well as the course of action on the complaint.
 2. The course of action may include acceptance of the complaint for investigation, request for additional information, or rejection of the complaint.
 3. The complaint will receive a case number and be logged in the CRO's records identifying its bases, alleged harm, the race, color, national origin, age, and gender of the complainant(s).
- H. In cases where the complaint is against one of ADOT's sub-recipients of federal funds, MVD or MVD Authorized Third Party that provides services on behalf of ADOT, ADOT CRO will assume the jurisdiction and will investigate the complaint.
- I. Complaints received by ADOT against an ADOT Federal Highway aid funded project/program will be referred by ADOT CRO to the Federal Highway Administration division office for investigation and proper disposition.
- J. All complaints of discrimination will be investigated by CRO personnel trained in conducting compliance investigations.
- K. In cases where ADOT assumes the investigation of the complaint, the CRO will provide the respondent with the opportunity to respond to the allegations in writing.
1. The respondent will have 10 business days from the date of the CRO's written notification of acceptance of the complaint to furnish his/her response to the allegations.
 2. Within 30 business days of the acceptance of the complaint, the ADOT investigator will prepare an investigative report for the review of the ADOT CRO Administrator or designee. The report shall include a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition.
 3. ADOT's final investigative report with the preliminary findings and a copy of the complaint will be forwarded by certified mail to FHWA's Arizona Division Office Civil Rights Specialist within 60 calendar days of the date the complaint was received by CRO, per [23 CFR 200.9\(b\)\(3\)](#).
 4. ADOT CRO will notify the parties of its preliminary findings, which are subject to the corresponding FHWA Office of Civil Rights concurrence.
 6. The FHWA's Office of Civil Rights will issue its Final Agency Decision to ADOT based on the State's investigative report.

7. Once the FHWA's Office of Civil Rights issues its final decision and notifies ADOT, ADOT will notify all parties involved about such determination. FHWA's Office of Civil Rights final determination is not subject to an administrative appeal.
- L. A complaint may be dismissed for the following reasons:
 1. The complainant requests the withdrawal of the complaint;
 2. The complainant fails to respond to repeated requests for additional information needed to process the complaint, or otherwise fails, or refuses to cooperate in the investigation;
 3. The complainant cannot be located after reasonable attempts to contact him or her.
 - M. No person shall intimidate or retaliate against an individual or group for the purpose of interfering, threatening, coercing, or discriminating against any individual for filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of the investigation, hearing or judicial proceeding arising there under.
 - N. Exhaustion of the Complaint Resolution Procedure is not a prerequisite to filing a complaint with either a federal agency or a court.
 - O. Any discussion regarding the Complaint Procedure should be restricted to those individuals responsible for responding to the complaint and those having knowledge pertinent to the investigation, resolution and/or response.
 - P. No person shall directly or indirectly use any official authority or influence in any manner to discourage the use of this procedure nor shall any employee suffer reprisal or retaliation in any form as a result of using this procedure.

1.12 CORRESPONDING POLICIES

[PER-2.02](#) AMERICANS WITH DISABILITIES POLICY

[PER-9.02](#) NONDISCRIMINATION POLICY