2015 Recertification Acceptance Agreement
The Arizona Department of Transportation (ADOT) is a recipient of federal financial assistance. All recipients are required to comply with various nondiscrimination laws and regulations, including Title VI of the Civil Rights Act of 1964 (“Title VI”).
WHAT IS TITLE VI?
“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.”
Federal Aid Highway Act of 1973, Section 504 of the 1973 Rehabilitation Act, and the 1975 Age of Discrimination Act, extends requirements of Title VI to include the prevention discrimination on the grounds of **age, sex, disability and income status**.
Civil Rights Restoration Act of 1987 - added the requirement that Title VI applies institution-wide; it is not limited to the program that receives federal funding (e.g., planning, capital, operations)
BACKGROUND AND PURPOSE OF TITLE VI
ADOT MUST ensure all subrecipients are aware and abide by the provisions of Title VI and similar statutes. In addition, this training aims to provide guidance on the minimum requirements to be in compliance with its rules, laws and regulations.
TITLE VI
FEDERAL REQUIREMENTS
KEY ELEMENTS OF A TITLE VI PROGRAM

- Policy Statement
- Signed Title VI Assurances.
- Organization and Staffing
- Program Area Review Procedures
- Special Emphasis Program Areas
- Contractors, Consultant and Vendor Review Procedures
- Data Collection
- Training
- Complaint Procedures
- Dissemination of Title VI Information
- Limited English Proficiency
- Environmental Justice
Additional Elements include:

- Public Participation Plan
- Review Local Government Directives
- Compliance & Enforcement Procedures
PROVIDE A POLICY STATEMENT

- Expressed Commitment to the Title VI Program
- Delegation of Authority to the Title VI Program Coordinator with contact information.
- **Must** be signed by head of agency.
- Circulated throughout the agency and made available to the public
- **Must** be updated if administration changes or every three years with assurances.
PROVIDE SIGNED TITLE VI ASSURANCES

- **Title VI Assurances** is **STANDARD** contract language provided by FHWA which contractually obligates the agency’s commitment to Title VI;

- **MUST** be signed by the head of agency for all subrecipients as is/without alteration;

- **MUST BE RESIGNED** every three years or at change of administration.

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**Arizona Department of Transportation**

Title VI/Non-Discrimination Assurances

The Arizona Department of Transportation (herein referred to as the “Recipient”), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through Federal Highway Administration, is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 Stat. 352), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination in Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- 23 C.F.R. Part 200 Subchapter C-Civil Rights (Title VI program implementation and related statues)

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda and/or guidance, the Recipient hereby gives assurances that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federal Aid Highway Program:

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ADOT
Multimodal Planning
Federal Highway Administration
- LPA’s MUST assign a Program Coordinator to administer the Title VI program;
- LPAs should describe the relationship between the coordinator and the head of the agency;
- Include an organizational chart;
- Outline the roles and responsibilities of the Title VI Coordinator and other Staff members that help administer the program.
SUGGESTED TITLE VI PROGRAM COORDINATOR DUTIES

- Ensure nondiscrimination in the agency.
- Ensure agency’s contracts contain the appropriate Title VI contract provisions.
- Aid in the development of procedures for processing internal and external discrimination complaints.
- Monitor Subcontractors and Consultants
- Investigate Complaints against subcontractors and consultants.
- Maintain a Title VI Complaint Log.
- Collect and Analyze data to ensure nondiscrimination
- Maintain Records.
- Provide ADOT the agency’s Public Participation Plan
- Provide ADOT the agency’s Limited English Proficiency Plan
- Provide ADOT with a Title VI reports and yearly updates.

- **Title VI Program Coordinator MUST** have decision making authority to make resolutions for the agency *(We would not recommend assistants in this position).*
Identify the Program Coordinator on the agency’s Notice to the Public

- Members of the community **MUST** have a direct contact to file a Title VI/nondiscrimination complaint; therefore, subrecipients are required to identify a Title VI Program Coordinator.

- The Title VI Program Coordinator **must** be provided (with full contact information) on all Title VI publicly disseminated documents.

- If necessary, place in alternative languages
PROGRAM AREA REVIEW PROCEDURES

- Title VI Program Coordinators must develop procedures for conducting yearly reviews of pertinent agency program areas with Title VI responsibilities;

- The Process should define:
  - The Types of reviews and their objectives
  - What activities will be reviewed for the program
  - What data will be sought from the program
  - How the data obtained will be analyzed
  - How the review will determine the effectiveness

- In describing the process for conducting reviews, LPA should include how it will determine the effectiveness of each program area.
The LPA should consider developing a RISK BASED approach for Program Area reviews.

1) Based on public interaction, identify high risk, possibly medium risk, and definitely low risk departments (Example: Communications possibly high risk while Maintenance possibly low risk);
2) Choose a representative sample of data from each risk category for review annually;
3) If deficiencies are found allow develop a Corrective Action Plan to aid the department in correcting deficiencies;
4) Provide follow up and assistance where necessary.
A Special Emphasis Program Area is a Program Area in which the LPA has identified a trend or pattern of discrimination during Program Area reviews.

By identifying a Program Area as a Special Emphasis Program Area, the LPA is able to not only track the progress made, but to also report on the progress made in the Annual Report.

This section of the Title VI Plan should describe the process the LPA uses to identify their special emphasis program areas and how they address identified trends or patterns of discrimination in those areas.
LPA’s must develop procedures for conducting reviews of sub-recipients (consultants, contractors, vendors, etc.)

- Describe the process for conducting reviews of the LPAs sub-recipients. The process should define:
  - A schedule or amount of reviews anticipated per year,
  - The types of reviews and their objectives,
  - Where and when the outcome of the reviews will be reported,
  - What activities will be reviewed, and
  - How will the review determine effectiveness.
The LPA should develop a process for collecting data. The process should explain the following:

- How the LPA collects data
- What data is collected
- How the data is analyzed

The LPA should collect Title VI Program-related data on an on-going basis. The data collected needs to be directly related to the specific process in a Program Area.
Example: LPA’s Right-of-Way is responsible for the valuation of impacted properties, negotiations with impacted property owners, and the relocation of impacted property owners and tenants. Project data regarding the race, color, national origin, sex, age, and disability (including low-income and Limited English Proficiency) of the following:

- Property owners of parcels valued,
- Property owners receiving written offers of just compensation, and
- Property owners/tenants relocated should be collected.

Right-of-Way Liaison(s) should analyze the data to determine if property valuations were conducted in a non-discriminatory manner, if property owners were negotiated with in a non-discriminatory manner, and if Relocation Benefits were calculated in a non-discriminatory manner.
Training is required of **both** LPA staff members and LPA Subrecipients:

- Describe how and when the Title VI Program Coordinator and other employees within the agency will be trained on Title VI Program requirements and responsibilities

- Describe procedures as to how and when training will be conducted for subrecipients and stakeholders
Describe the LPAs procedures for prompt processing, investigation, and resolution of Title VI Program complaints received by the LPA. Procedures must include:

- A description of the complaint process identifying how and where a complaint would be filed, with which department or person, and all applicable timeframes.
- A statement that investigations will be conducted by personnel trained in compliance investigations.
- A description of the process by which the LPA will track the complaints and keep the required data for each complaint received.
- Procedures by which each complaint received by the LPA, along with the LPA report of investigation will be sent to the ADOT Civil RIghts Office in the required 60 day time period.
The LPA **MUST** have a complaint form that discloses full contact information and is signed by the complainant.

Complaints **MUST** be maintained in a FHWA approved complaint log.

If population meets the community threshold, make sure complaint forms are provided in alternative languages.
COMPLAINT LOG

All recipients shall prepare and maintain a list of any complaints that allege discrimination on the basis of race, color, national origin, age, sex or disability by including the following:

- Case number
- Complainant
- Respondent
- Agency Filed With
- Date Filed
- Basis
- Date of Report
- Decision

This list shall be included in the Title VI Program Plan submitted to ADOT every annual update.
<table>
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<tr>
<th>CASE NO</th>
<th>COMPLAINANT</th>
<th>RESPONDENT</th>
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The LPA should describe the process and procedures to:

- **elicit and solicit** public participation and involvement
- **educate** the public of their Title VI program **rights** and
- **obligations** in the Transportation decision-making process

The LPA should also include the **tools, techniques and strategies** to involve and educate the public including LEPs and develop a **public involvement plan** or identify a link or linkage where one already exists.
ADOT Uses a “NOTICE TO THE PUBLIC” to inform the community of ADOT’s nondiscrimination policy and where to file a complaint if they believe it to exist.

ADOT also disseminates pertinent information through the following methods:

- Fliers
- Brochures
- Door Hangers
- Mailings
COMPLYING WITH LIMITED ENGLISH PROFICIENCY REQUIREMENTS

LPAs should describe how it reaches populations with Limited English Proficiency (LEP). This is often done through a Language Access Plan/Limited English Proficiency Plan. To Develop a LAP/LEP Plan the following steps may be used:

- Perform a Self-Assessment to determine which personnel interact with members of the public
- Identify LEP Populations State-wide using US Census data and American Survey data @ www.census.gov/acs/www/
- Conduct a Four Factor Analysis:
  - **Demography** – Number and/or proportion of LEPs served and languages spoken in service area
  - **Frequency** - Rate of contact with service or program
  - **Importance** – Nature and importance of program/service to peoples lives (transportation)
  - **Resources** – Available resources, including Language assistance services (limited or wide-ranging)
Factor 1:

Number of LEPs eligible or likely to be encountered by your Federally funded program will be program-specific. In addition to the number or proportion of LEP persons served, the recipient’s analysis should **ON EACH PROJECT**, at a minimum, identify:

- **How** do LEP persons interact with the recipient’s agency?
- **Who** are the LEP communities? How many are there?
- **What** is the level of the literacy skills of LEP populations in their native languages? Will translation of documents will be an effective practice?
- **LEP persons are underserved** by the recipient due to language barriers?
Factor 2:
The **frequency** with which LEP persons come into contact with the program. Recipients should survey key program areas and assess major points of contact with the public, such as:

- Participation in public meetings;
- Customer service interactions;
- Highway Construction surveys; and
- Operator surveys
Four Factor Analysis

Factor 3:

The nature and importance of the program, activity, or service provided by the program to people’s lives. Generally speaking, the more important the program, the more frequent the contact and the likelihood that language services will be needed.

• <**Best Practice**> Facilitating meetings with LEP persons is a method to inform the recipients on what the local LEP population considers to be an essential service, as well as the most effective means to provide language assistance.
Factor 4:

The **resources available to the recipient for LEP outreach**, as well as the **costs** associated with that outreach. Resource and cost issues can often be reduced by:

- technological advances,
- reasonable business practices, and the
- sharing of language assistance materials and services among and between recipients, advocacy groups, LEP populations and Federal agencies.

**However**: Costs IS NOT a reasonable reason to justify an agency not using resources.
COMPLYING WITH LIMITED ENGLISH PROFICIENCY REQUIREMENTS

The LPA **must** provide written translation of **vital documents** for each eligible LEP language group that constitutes five percent (5%) or 1,000 persons, whichever is less, of the total population of persons eligible to be served or likely to be affected or encountered, by the program/activity.

- If needed the LPA may provide an interpreter for non-vital documents.
LEP COMPLIANCE STRATEGIES

- Publish community correspondences/notifications in languages other than English
- Use Multi-language phone lines
- Use Multilingual staff in information booths
- Use Pictograms/ “I Speak” Cards
- Advertise in ethnic media
- Translate vital documents into the language of frequently encountered LEP groups
The LPA should describe the process by which EJ requirements will be met. In the description include how EJ will be integrated into each program area. This can be done in the following ways:

- **Describe how the LPA is collecting minority (race) and low-income population data in addition to the other nondiscrimination population data (i.e., color, national origin, sex, age, disability, LEP);**

- **Describe how the affected program area is using the minority (race) and low-income data to further evaluate impacts to these populations according to the EJ Executive Order and available Federal guidance (i.e., identify disproportionate and highly adverse impacts, conduct a benefits and burdens analysis, etc.);**

- **Describe how the affected program area is effectively including the EJ populations in all Public Participation activities;**

- **Include EJ populations as applicable groups on the LPA external complaint form.**
A plan designed to include outreach to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program Plan submission. The public participation plan should include other populations that are traditionally underserved, such as people with disabilities, low-income, and others.
PUBLIC PARTICIPATION PLAN INCLUDES ...

• A written plan which engages the public with the opportunity to provide input on the decision making process for Federal Aid projects and services.
• Describe strategies, procedures, and outcomes for ongoing public participation activities.
• Provide education that highlights Title VI components.
• Advertisements with Local Media Resources and Minority Newspapers
• Direct Mailings
• Public Service Announcements
• Website, Radio and Television
The purpose of this requirement is to ensure that LPA’s are periodically reviewing Local Government Directives to determine if a given Directive has Title VI implications. If it is determined to have Title VI implications, then the LPA needs to interpret how the Local Government Directive impacts each program area from a Title VI perspective.

The LPA should use this section to describe how it carries out this requirement.
The Program Coordinator should review procurement changes, and new agency policies to determine if there are Title VI implications.

Example: If a new procurement code excludes a town, demographic or companies from participating in the bidding process, there may be possible Title VI implications.
The LPA should describe:

- How trends or patterns of discrimination are identified and eliminated.
- How compliance reviews of sub-recipients are conducted, how compliance is determined and enforced.

23 CFR 200.9(b)(14) & (15)
OTHER OPTIONAL TITLE VI PROGRAM PLAN ELEMENTS

- Introduction; Overview; or Background
- Glossary of definitions
- Nondiscrimination Authorities & Resources
- State Laws and other mandates applicable to the Federal-aid Program and Title VI program Implementation
Submit the Implementation Plan by August 1.

Post the Plan on your website in an appropriate and easy to access location.

The Implementation Plan should contain the LPA’s processes. Complaint logs, review outcomes, and other yearly tasks and work should be contained in a separate goals and accomplishment report.
The **Implementation Plan** is designed to be a process plan. Unless there are changes in the process, key personnel, or office, the Plan will likely not change from year to year but should be redrafted every three years.

However, a **Goals and Accomplishment** report should change yearly. It is designed to describe annual Title VI accomplishments, trainings, complaints and reviews. Additionally, the Goals and Accomplishment report should describe the goals and plans for the upcoming year.
The **Goals and Accomplishment** report should include the following information:

- Number of Program Area Reviews conducted, results of the Reviews, actions taken or planned;
- Number and type (i.e., desk audit, On-site, both) of Sub-recipient compliance reviews conducted, results of reviews, Sub-recipient corrective actions planned (if applicable);
- Title VI-related training conducted both to LPA staff and to Sub-recipients, identify attendees, results of training;
- Include a summary, disposition and status report on any Title VI complaints filed with the ADOT/FHWA/USDOT/USDOJ.
- Identify any actions that have been, or will be taken to address identified discrimination in any Special Emphasis Program areas.

The Goals portion of this report should include the number of reviews planned for the next year (both Program Area Reviews and Sub-recipient reviews) and training sessions planned (both LPA staff and Sub-recipients) any other Title VI related activities the LPA anticipates for the upcoming year.

23 CFR 200.9(b)(10)&(3)

* ADOT does not recommend combining the Implementation Plan with the Goals and Accomplishment Report.
GENERAL REQUIREMENTS

SUMMARY POINTS

- Signed Title VI Assurances.
- Identify a Title VI Program Coordinator.
- Signed Title VI Policy Statement naming the Title VI Program Coordinator.
- Provide an Organizational Chart, with relationship between the Title VI Program Coordinator and the head of the agency.
- Develop procedures for processing external discrimination complaints.
- Provide ADOT with an annual list of external discrimination complaints and lawsuits.
GENERAL REQUIREMENTS

SUMMARY POINTS Continued...

- Outline the roles and responsibilities of the Title VI Coordinator.
- Provide a Public Participation Plan.
- Provide a Limited English Proficiency Plan with a Four Factor Analysis for each project.
- Monitor consultants and contractors for Title VI compliance.
- Ensure that contracts contain at least appendix A & E of the Title VI Assurances in all Federal contracts.
- Where appropriate ensure all Federal contracts contain appendix B, C or D of the Title VI Assurances.
- Ensure nondiscrimination in the award of contracts.
- Create Data Collection Methods
GENERAL REQUIREMENTS

SUMMARY POINTS Continued...

- Ensure collected data is on an ongoing basis
- Ensure data is analyzed and evaluated for best practices
- Submit an annual report providing updates of Title VI progress, complaints, and data collected for monitoring Title VI compliance
- Submit an annual Title VI Implementation Plan discussing goals and objectives over a 3-year period
- Provide compliance enforcement procedures
- Provide Training and describe when agency members are trained in Title VI requirements (including procedures).
- Have a process for meeting Environmental Justice requirements.
THANK YOU!

Afriika McKinnon
206 S. 17th Ave Rm 183
Phoenix, AZ 85007
Office: 602-712-8946
Email: CivilRightsOffice@azdot.gov