

TITLE VI NON-DISCRIMINATION AGREEMENT

Mississippi Department of Transportation and

Policy Statement

The _____, hereinafter referred to as the "Recipient" assures that no person shall on the grounds of race, color, national origin, or sex, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The Recipient further assures every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

The Civil Rights Restoration Act of 1987, broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988.)

In the event the Recipient distributes federal aid funds to a sub-recipient, the Recipient will include Title VI language in all written agreements and will monitor for compliance.

The Recipient's _____ is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulation(CFR) 200 and 49 Code of Federal Regulation 21.

Head of Agency Signature

Title

Date

Title VI Program

Organization and Staffing

Pursuant to 23 CFR 200, _____ has appointed a Title VI Coordinator who is responsible for administering and monitoring the organization's Title VI activities. Attachment 1 illustrates the level and placement of Title VI responsibilities.

Assurances

49 CFR Part 21.7

The _____ hereby gives assurances:

1. That no person shall on the grounds of race, color, national origin, and sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are Federally funded or not. Activities and programs which the recipient hereby agrees to carry out in compliance with Title VI and related statutes include but are not limited to:
 - *List all major programs and activities of the recipient and Title VI responsibilities for each one of them. Include information as Attachment 2 to this Nondiscrimination Agreement.*
2. That it will promptly take any measures necessary to effectuate this agreement.
3. That each program, activity, and facility as defined at 49 CFR 21.23(b) and (e), and the Civil Rights Restoration Act of 1987 will be (with regard to a program or activity) conducted, or will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this agreement.
4. That these assurances are given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the recipient by the Mississippi Department of Transportation (MDOT) under the Federally-Funded Program and is binding on it, other recipients, subgrantees, contractors, sub-contractors, transferees, successors in interest and other participants. The person or persons whose signatures appear below are authorized to sign these assurances on behalf of the Recipient.
5. 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 all Federally-Funded programs and, in adapted form all proposals for negotiated agreements.

The Recipient, 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, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in

Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 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, national origin, or sex in consideration for an award.

6. That the Recipient shall insert the clauses of Appendix 1 of this Agreement in every contract subject to the Act and the Regulations.
7. That the Recipient shall insert the clauses of Appendix 2 of this Agreement, 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.
8. That the Recipient shall include the appropriate clauses set forth in Appendix 3 of this Agreement, 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 a Federal Aid Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under a Federal Aid Program.
9. 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 agreement.

Implementation Procedures

This agreement shall serve as the recipient's Title VI plan pursuant to 23 CFR 200 and 49 CFR 21.

For the purpose of this agreement, "Federal Assistance" shall include:

1. grants and loans of Federal funds,
2. the grant or donation of Federal property and interest in property,
3. the detail of Federal personnel,
4. the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
5. any Federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

The recipient shall:

1. Issue a policy statement, signed by the head of the recipient, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.
2. Take affirmative action to correct any deficiencies found by MDOT or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The head of the recipient shall be held responsible for implementing Title VI requirements.
3. Designate a Title VI Coordinator who has a responsible position in the organization and easy access to the head of the recipient. The Title VI Coordinator will be responsible for initiating and monitoring Title VI activities and preparing required reports.
4. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by the Title VI Coordinator trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the recipient's report of investigation, will be forwarded to MDOT's Office of Civil Rights (OCR) within 10 days of the date the complaint was received by the recipient.

5. Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the programs and activities conducted by the recipient.
6. Conduct Title VI reviews of the recipient and sub-recipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
7. Conduct training programs on Title VI and related statutes.
8. Prepare a yearly report of Title VI accomplishments for the last year and goals for the next year.
 - a) Annual Work Plan
Outline Title VI monitoring and review activities planned for the coming year; state by which each activity will be accomplished and target date for completion.
 - b) Accomplishment Report
List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI Specialist and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews (internal or external) conducted by the Title VI Specialist. List any major problem(s) identified and corrective action taken. Include a summary and status report on any Title VI complaints filed with the recipient.

Discrimination Complaint Procedure

1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the recipient. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the recipient's Title VI Coordinator for review and action.
2. In order to have the complaint consideration under this procedure, the complainant must file the complaint no later than 180 days after:
 - a) The date of alleged act of discrimination; or
 - b) Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the recipient or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the recipient's investigative procedures.
4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as MDOT and USDOT.
5. The recipient will advise MDOT within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to MDOT:
 - a) Name, address, and phone number of the complainant.
 - b) Name(s) and address(es) of alleged discriminating official(s).
 - c) Basis of complaint (i.e., race, color, national origin or sex)
 - d) Date of alleged discriminatory act(s).
 - e) Date of complaint received by the recipient.
 - f) A statement of the complaint.

- g) Other agencies (state, local or Federal) where the complaint has been filed.
 - h) An explanation of the actions the recipient has taken or proposed to resolve the issue raised in the complaint.
6. Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the head of the recipient. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.
 7. Within 90 days of receipt of the complaint, the head of the recipient will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with MDOT, or USDOT, if they are dissatisfied with the final decision rendered by the Recipient. The Title VI Coordinator will also provide MDOT with a copy of this decision and summary of findings upon completion of the investigation.
 8. Contacts for the different Title VI administrative jurisdictions are as follows:

Mississippi Department of Transportation

Office of Civil Rights, Title VI Program

PO Box 1850

Jackson, MS 39215-1850

(601) 359-7970

Federal Highway Administration

Jackson Division Office

666 North Street Suite 105

Jackson, MS 39202-3199

(601) 965-4226

Sanctions

In the event the recipient fails or refuses to comply with the terms of this agreement, the MDOT may take any or all of the following actions:

- a) Cancel, terminate, or suspend this agreement in whole or in part;
- b) Refrain from extending any further assistance to the recipient under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient.
- c) Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the recipient.
- d) Refer the case to the Department of Justice for appropriate legal proceedings.

MISSISSIPPI DEPARTMENT OF TRANSPORTATION:

Signature

Title VI Coordinator

Title

Date

:

Signature

Title

Date

Appendix 1

During the performance of this contract, the contractor/consultant, 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 non-discrimination in federally assisted programs of United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination

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

3. Solicitations for Sub-contracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, sex, or national origin.

4. Information and Reports

The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the contracting agency or the appropriate federal agency 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 MDOT or the USDOT as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Non-compliance

In the event of the contractor’s non-compliance with the non-discrimination provisions of this contract, the contracting agency shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to:

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

6. Incorporation of Provisions

The contractor shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contractor or procurement as the contracting agency or USDOT may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request MDOT enter into such litigation to protect the interests of the state and, in addition, the contractor may request the USDOT enter into such litigation to protect the interests of the United States.

Appendix 2

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

GRANTING CLAUSE

NOW THEREFORE, Department of Transportation, as authorized by law, and upon the condition that the state of Mississippi will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the United States Department of Transportation and, also in accordance with an in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, the Department of Transportation MDOT (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252: 42 USC 2000d to 2000d - 4) does hereby remise, release, quitclaim, and convey unto the state of Mississippi all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

HABENDUM CLAUSE

TO HAVE AND TO HOLD said lands and interests therein unto the state of Mississippi, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which the federal financial assistance is extended or for another purpose involving the provisions of similar services or benefits and shall be binding on the state of Mississippi, its successors, and assigns.

The state of Mississippi, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject 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 Mississippi, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Non-discrimination of federally assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned non-discrimination 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.¹

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

Appendix 3

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by (Recipient) pursuant to the provisions of Assurance 8.

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose of which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Non-discrimination in federally assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

That in the event of breach of any of the above non-discrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease has never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Mississippi Department of Transportation pursuant to the provisions of Assurance 8.

The LESSEE, or himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and furnishing of services thereon, no person on the grounds of race, color, sex, and national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Non-discrimination in federally assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above non-discrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

“Attachment 1”

Title VI - Organization and Staffing

Head of the Organization

(Name)

(Title)

Title VI Coordinator

(Name)

(Title)

(Telephone Number)

(Fax Number)

(E-mail address)

Example Document (Note: all areas may not be applicable for all Recipients)

“ATTACHMENT 2”

Major Programs and its Title VI Responsibilities include but are not limited to:

I. Planning

- Ensure that all aspects of the planning process operation comply with Title VI.
- Ensure that various social, economic, and ethnic interest groups are represented in the planning process by disseminating program information to minority media and ethnic/gender related organizations and participating in roundtable meetings in predominantly minority communities.
- Review the department work program and other directives to ensure compliance with Title VI program requirements.
- Visit public meetings to verify the level of participation of Title VI protected group members when offered in predominantly ethnic minority communities.
- Ensure the Limited English Proficiency (LEP) individuals who will be affected by planned projects receive meaningful access into the public awareness/involvement process. Meaningful access means that the affected parties will receive the necessary communicative assistance required to allow them to participate in governmental services/activities.

II. Environmental Justice

- Monitor compliances with Title VI requirements in all aspects of the environmental process.
- Conduct meetings to review the project impact.
- Disseminate to the public their rights to call or write the department to view plans and discuss environmental problems.
- Notify affected protected groups residents of public meetings or hearings regarding a proposed project, and make meetings and hearings accessible.
- Develop mechanisms to identify the population affected by a project.
- Ensure that Limited English Proficiency (LEP) individuals who will be affected by locating and citing actions receive meaningful access into the public awareness/involvement process. Meaningful access means that the affected parties will receive the necessary communicative assistance required to allow them to participate in governmental services/activities.

- Ensure public participation in the location selection process.
- Ensure Title VI/Environmental Justice compliance in all Environmental Impact Statements.

III. Right of Way

- Ensure participation by Minority/Women Disadvantaged Business Enterprises by reviewing updates to DBE directories identifying fee appraiser organizations.
- Ensure participation by Minority/Women Disadvantaged Business Enterprises as identified by Certified Disadvantaged Business Enterprise List in consulting contracts. The contracts are typically appraisal contracts but can cover all services of real estate including negotiation, relocation, and property management.
- Apprise affected property owners, tenants, and others involved of their rights and options regarding negotiation, relocation, condemnation and other aspects of the acquisition process.
- Ensure that Limited English Proficiency (LEP) individuals who will be affected by right of way activities/decisions receive meaningful access into the public awareness/involvement process. Meaningful access means that the affected parties will receive the necessary communicative assistance required to allow them to participate in governmental services/activities.
- Conduct annual implementation reviews of Title VI provisions with the entire real estate acquisition process.
- Incorporate Title VI language and assurance statement in all surveys of property owners and tenants after the conclusion of all business.
- Ensure that appraised values and communications associated with the appraisal and negotiation operations result in equitable treatment.
- Ensure comparable replacement dwellings are available and assistance is given to all displaced person and entities by the property acquisition process.
- Coordinate the preparation of deeds, permits and leases to ensure the inclusion of the appropriate Title VI clauses (Appendices 1 and 2 to Title VI Assurances).
- Gather the statistical data required for completion of the Annual Title VI Update Report, including awards to minority and female appraisers.

IV. Construction/Maintenance

- Monitor all maintenance operations to ensure nondiscrimination.
- Review activities and programs to assure that maintenance and construction efforts and resources are applied uniformly and fairly.

- Review all projects for application of DBE program requirements.
- Include DBE general special provisions in projects with assigned goals.
- Include Title VI language in contract advertisements and award letters to encourage the utilization of DBE firms. Award construction contracts on the basis of the lowest responsive bidder including DBE requirements.
- Ensure thorough reviews that prime contractors with DBE requirements award have previously committed work to proper DBEs, and that DBEs actually performed a commercially useful function on the contracts.
- Consult DBE firms to identify possible barriers to their participation in contracts. Use this information to eliminate such barriers.
- Provide supportive services to DBEs.
- Include Title VI language in every contract to ensure nondiscrimination in contract awards due to race or gender.
- Coordinate the gathering of maintenance and construction information regarding DBE participation for the Title VI Annual Update Report

V. Design

- Ensure that all aspects of the location selection process comply with the Title VI requirements.
- Consult and seek input from affected populations.
- Develop mechanisms to identify affected populations.
- Ensure public participation in the selection process.
- Provide notice of public hearings and meetings in minority newspapers and newsletters.
- Maintain required Title VI compliance documentation and statistical data.
- Monitor program components for compliance with the Title VI requirements.
- Review activities associated with public hearings to enhance the participation of targeted communities.
- Develop and update operational manuals and directives to ensure the inclusion of Title VI language and provisions.
- Gather program area data to be included in the Title VI Annual Update Report.

VI. Education and Training

- In conjunction with managers and executives, ensures that all employees have equal access to training.
- Ensures accessibility to Minority/Women/Disadvantage Business Enterprise consulting/training firms to compete for training contracts.
- Maintain program administration documentation and data necessary for preparation of Annual Title VI Update.

- Reviews directives and manuals to ensure adherence with Title VI requirements.

VII. Consultant Services

- Monitor DBE program requirements.
- Ensure that all federally funded consultant contracts administered by the recipient have the appropriate Title VI provisions included.
- Review directives and procedures to ensure Title VI compliance.
- Maintain necessary data and documentation required for completion of the department's Title VI Update Annual Report.