

TITLE VI

COMPLIANCE PROGRAM AND IMPLEMENTATION PLAN

MISSISSIPPI DEPARTMENT OF TRANSPORTATION

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**MISSISSIPPI DEPARTMENT OF TRANSPORTATION
TITLE VI COMPLIANCE PROGRAM STATEMENT**

This Title VI Compliance Program has been developed to include policies and procedures for compliance with Title VI of the Civil Rights Act of 1964. Federal regulations promulgated under 49 CFR 21 (Nondiscrimination in Federal-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964) and 23 CFR 200 (Title VI Program and Related Statutes – Implementation and Review Procedures), together with certain parallel legislation, provide guidelines for States to comply with the requirements of the law.

FOREWORD

This document contains a description of the Title VI Compliance Implementation Program of the Mississippi Department of Transportation. This Title VI Program is the Department's responses to the nondiscrimination requirements set forth by the Federal regulations issued by the U. S. Department of Transportation and FHWA to effectuate Title VI of the Civil Rights Act of 1964 in connection with Federally assisted programs of the U. S. Department of Transportation. Its contents and structure are intended to reflect the basic nondiscriminatory policies, practices, and procedures that the Mississippi Department of Transportation and its recipient agencies will utilize in administering Federal-aid programs that require execution of Title VI Assurances.

CHAPTER I. POLICY AND ASSURANCES

It is the policy of the Mississippi Department of Transportation to assure full and affirmative compliance with Title VI of the Civil Rights Act of 1964, as amended and related statutes and implementing authorities.

MDOT has given certain assurances to the U. S. Department of Transportation in this regard:

- A. MDOT assures that no person in the United States, on the grounds of race, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity for which the recipient receives federal assistance from the Department of Transportation, including the Federal Highway Administration.
- B. MDOT will take affirmative action to correct any deficiencies found by the FHWA within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with State-signed assurances and required guidelines. Reporting administratively to the Executive Director, the Department's Civil Rights Director (CRD) is responsible for overseeing the administration of the implementation plan for Title VI requirements.
- C. The CRD will coordinate the performance of annual reviews of all pertinent program areas and subrecipients to determine the effectiveness of program area activities.

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances

DOT Order No. 1050.2A

The Mississippi Transportation Commission (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. 252), (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);

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 assurance 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 Federally assisted Federal-Aid Highway Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Mississippi Transportation Commission, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will 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 will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
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 will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors,

subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, 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 Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Mississippi Transportation Commission also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Mississippi Department of Transportation access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Mississippi Department of Transportation. You must keep records, reports, and submit the material for review upon request to the Mississippi Department of Transportation, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

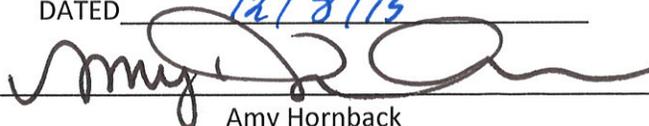
The Mississippi Transportation Commission gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal-Aid Highway Program. This ASSURANCE is binding on Mississippi, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Mississippi Transportation Commission

by 

Melinda L. McGrath, P.E.
Executive Director
Mississippi Department of Transportation

DATED 12/8/15

Attestation: 

Amy Hornback
Secretary to the Mississippi Transportation Commission

CHAPTER II. IMPLEMENTATION PLAN OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION

- A. The State's approach to implementation of Title VI requirements embraces a multi-disciplinary strategy. "Appendix F" shows the Department's organization and staffing structure wherein responsibility lies for the initiation and monitoring of Title VI activities, including the preparation of required reports for submission to applicable officials of the Department and Federal Highway Administration.
- B. The Civil Rights Director coordinates this multidisciplinary structure and has direct access to the Executive Director of the Department. The Department has an adequate staff to effectively implement the Department's civil rights requirements.
- C. Title VI complaints received by the Department will be processed and disposed of in a prompt and reasonable manner. The procedures for handling such complaints are memorialized in a Departmental "Standard Operating Procedure" (SOP), a copy of which is included herein as "Appendix M". No charging party, complainant, or other person who files a complaint or is duly involved in an investigation or disposition of a complaint will be intimidated, threatened, coerced, or otherwise discriminated against for making a complaint, providing information, testifying, assisting, or participating in any manner in an investigation, proceeding, hearing, or disposition of a complaint. Respondents who are found liable of such actions will face sanctions as stated in the Title VI Assurances.
- D. The Department's Planning Division and Right-of-Way Division will be primarily responsible for collecting readily available statistical data concerning relocatees, citizens and communities which are impacted and affected by the Department's highway projects. This process will include the participation of the applicable Title VI Officers and subrecipients. With technical assistance provided by the Planning Division, specific information (race, color, national origin, sex, age, religion, and disability) will be collected concerning participants in and/or beneficiaries of the Department's highway program. The applicable Title VI Officer will be responsible for verifying compliance with the established data collection and reporting procedures. A report providing a narrative analysis of the data, both positive and negative, will be submitted by the applicable Title VI Officer to the Office of Civil Rights. It is the responsibility of the Civil Rights Director to report such information to the Department's Executive Director and the manner in which it would be utilized in implementing the Title VI Program.
- E. With respect to certain highway related activities, the Title VI Officers will also be responsible for review of relevant documents. In this regard, policy statements, preliminary plans (e.g., Statewide Transportation Plan), proposed highway design and relocation plans, draft environmental impact statements (EIS's), tentative agenda for public hearings, standard operating procedures (SOPs) and so forth will be provided to the appropriate Title VI Officers by the applicable Divisions, Districts, or subrecipients. The Title VI Officers will be responsible for the initial analysis of the documents and for

making a determination as to whether potential or actual discriminatory effects or Title VI deficiencies exist. The Title VI Officers' analysis and a copy of the subject document will be submitted to the Title VI Coordinator. If negative findings are the result of the analysis, the Title VI Officers will promptly inform the Title VI Coordinator. The affected Divisions or Districts or other appropriate entities will be notified by the Civil Rights Director in order to develop remedial actions that would resolve the existing deficiency status. Implementation of all activities designed to resolve such findings should occur within 90-day periods of time. In addition, a determination will be made concerning the technical assistance needs, if any, of the respective entities. In the event such needs exist, the Civil Rights Director, together with the Department's Training Director and other appropriate Departmental personnel, will coordinate technical assistance and training plans in accordance with standard operating procedures to address the special needs.

- F. Annual Title VI reviews of program areas involving Planning, Research, Right-of-Way, Roadway Design, Bridge, Environmental, Construction, Maintenance, Contract Administration, District Offices, Outreach, subrecipients and other areas as determined by the Civil Rights Director will be conducted to determine the effectiveness of program area activities pursuant to annual guidance afforded to the Department by the Federal Highway Administration. Similarly, annual Title VI reviews of special emphasis program areas will be performed to determine the effectiveness of the programs.
 - a. Pre-grant Reviews will be conducted on consultants and contractors seeking Federal financial assistance to determine if the applicant is probable of being in compliance or is in compliance with Title VI requirements.
 - b. Post-grant Reviews will be conducted annually on subrecipients with contracts with MDOT. The reviews will determine the contractor's continuous compliance with Title VI contractual provisions.
- G. Pursuant to 23 CFR Part 200.9(b), the Executive Director will submit an annual report of Title VI accomplishments for the past year and goals for the next year.
- H. The Civil Rights Director maintains availability to provide day-to-day guidance to Title VI Coordinator and MDOT management with respect to Title VI Compliance.
- I. In accordance with Departmental requirements, the Civil Rights Director will work with the Department's Training Director to maintain training activities and schedules for the provision of training on Title VI and related statutes as needed for the Department. The continued assistance of FHWA will be requested regarding the availability of on-going training for this purpose.
- J. The Office of Civil Rights will work closely with the Planning Division and Environmental Division to maintain, to the maximum extent possible, the following:
 - 1. Assistance to appropriate Divisions/Districts and MPOs in obtaining public involvement; and

2. Development of Title VI information for dissemination to the general public, prepared in English and, as deemed beneficial, in other languages.
3. Further public information activities would include:
 - a. Attendance by the Planning Division's Title VI Officer at MPOs Policy Committee Meetings;
 - b. Designees of the Civil Rights Director at certain meetings scheduled between property owners and potential relocates with potential Title VI concerns; and
 - c. Attendance of the Title VI Coordinator or authorized Title VI Officers at certain public hearings and meetings held for projects with potential Title VI impacts.
- K. The Department's Title VI Implementation Plan is set forth to support the requirement to identify and eliminate discrimination when found to exist. Accordingly, the Department's efforts include the facilitation of affirmative action to correct violations and/or deficiencies within a reasonable time period.
- L. **Public Dissemination of Title VI Information** - A Title VI brochure titled "Your Rights Under Title VI of the Civil Rights Act of 1964" was developed to provide the public with information regarding title VI and related statutes and their rights under the law. This brochure is also available in Spanish. This brochure will be offered for statewide distribution to the general public, subrecipients, and other parties or individuals participating in or otherwise benefiting from Federal-aid highway programs. Development of the Office of Civil Rights web page is in progress. This web page will contain pertinent information and publications regarding Title VI and related status as well as other programs administered by the Office of Civil Rights.

CHAPTER III. ADMINISTRATION AND TRAINING

A. SCOPE

MDOT's Outreach Division plans, develops, and coordinates all training activities for agency staff development. Outreach is a full service division devoted to the design, development, and delivery of highly-experiential learning events which are especially directed to develop and promote supervisory skills, technical leadership and executive development.

B. OPERATIONAL GUIDELINES

The Outreach Division operates in accordance with the agency's Standard Operating Procedures to provide professional development opportunities and maintain media relations.

C. TRAINING PROCESS

Through its numerous training programs, the Professional Development (PD) Division of Outreach aims to support the exchange of technical information and to encourage training and professional development to meet today's requirements. Professional development assistance is offered in the areas of certificate programs, technical training, computer-skills training, leadership training, career resources, test preparation, continuing education, new employee orientation, and the MDOT Employee Assistance Program. PD provides assistance to employees in certificate programs with continuing competency requirements in the areas of Continuing Education Units (CEUs), Professional Development Hours (PDHs), and National Institute of Certified Engineering Technician (NICET)

D. TITLE VI RESPONSIBILITIES

1. The Training Director is responsible for monitoring all training activities as it relates to Title VI guidelines concerning all education and training matters of the Department and preparing an annual report to be submitted to the Office of Civil Rights.
2. The Training Director will establish procedures to assure that no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any education or training program operated or sponsored by the Department to include training consultants/contractors of the Department.

3. In accordance with Departmental requirements, the Training Director will work with the Human Resources Director in determining the need for and adequacy of the Department's training program and the manner in which it is being executed.
4. The Office of Civil Rights is available to the Training Director for consultation and direction as it relates to developing training programs related to Title VI implementation and enforcement. Title VI training will be conducted, as needed, based on the Agency's compliance status, changes in regulatory requirements or as directed by the Executive Director.

CHAPTER IV. ENVIRONMENTAL AND PUBLIC INVOLVEMENT

A. SCOPE

The Environmental Division with the assistance of the District offices and various Divisions are responsible for the assessment of environmental impacts as it relates to the transportation decision-making process. This evaluation is carried out through the preparation, development and circulation of environmental documentation which is required prior to proceeding with any proposed action plan to design, construct and/or maintain a transportation facility.

B. OPERATIONAL GUIDELINES

All regulations and procedures maintained by the Environmental Division are intended to meet the requirements of the National Environmental Policy Act (NEPA), Title 23 CFR 771, Title 49 CFR 622, 635, 640, 712, 771 and Executive Order 12898 on Environmental Justice. All regulations are administered by the Federal Highway Administration.

C. ENVIRONMENTAL PROCESS

A systematic process is used to study and evaluate all environmental aspects of a proposed project including social, economic and natural impacts. Depending on the complexity, impacts and scope of the project, the Environmental Division will complete the NEPA process by assessing a Categorical Exclusion (CE), Environmental Assessment (EA) or Environmental Impact Statement (EIS). These assessments are performed with regards to the interest and input of state and federal regulatory/resource agencies.

D. TITLE VI RESPONSIBILITIES

The Environmental Division or the designated Title VI Officer is responsible for ensuring compliance with Title VI requirements with respect to environmental activities, as follows:

- 1 Monitor compliance with Executive Order 13166, Limited English Proficiency, by reviewing the data collected of the racial and ethnic makeup of the communities in order to improve access and understanding of transportation planning processes for those in the population confronted with language.
2. Monitor compliance with Environmental Justice (Executive Order 12898) through the use of environmental studies to identify and locate minority or low-income populations as identified in "Appendix P", Environmental Justice Process.

PUBLIC INVOLVEMENT

1. Early coordination and public involvement is a major objective of project development. Public involvement and conflict resolution through public meetings, hearings, individual contacts, advertisements and other means are encouraged and practiced.

2. The Environmental Director is responsible for assisting the Civil Rights Director in efforts to develop Title VI information for dissemination to the general public as follows:
 - a. According to the respective project, Environmental Division will work with the respective Division/District and the designated Title VI Officer to facilitate public involvement activities.
 - b. Utilizing information provided by the respective Division/District and Title VI Officer, the Outreach Division makes certain that pertinent information about a federal-aid activity is distributed to the general public, including minority groups and organizations, as necessary - particularly concerning projects that would involve minority groups or communities. Based on the nature and location of activities, informal meetings would be held, if feasible.

PUBLIC HEARINGS

1. The Division/District and the designated Title VI Officer will supply the Title VI Coordinator with the necessary information in order to meet established public notification requirements provided by FHWA. The scheduling of locations and times of public hearings will be reasonably convenient for persons affected by the project.
2. All persons in attendance at public hearing will be given an opportunity to express themselves either in written form or verbally. Verbal comments are to be made at the designated stations. Verbal comments will be transcribed and made a part of the permanent record. Written comments can be made at the hearing or sent to the Chief Engineer's office within 10 days of the hearing. A written transcript of hearing proceedings will be provided to the Chief Engineer, the Civil Rights Director, various Division Heads, the applicable District Engineer and FHWA for review and approval. The record will reflect an overview of questions, suggestions and objections posed during the proceedings.
3. Environmental Division, in coordination with the respective Title VI Officer, will work to ensure and record, when necessary, minority and disable participation and involvement in Public Hearings.
4. Minority newspapers and publications, where practical, will be used in advertising public hearings. The following statement will be used in public meeting and hearing announcements regarding MDOT projects: **This Federally-assisted project will be administered in accordance with the requirements of Title VI of the Civil Rights Act of 1964 and all applicable regulations and directives/mandates to ensure nondiscrimination.**
5. All public meeting and hearing advertisements will identify the individual to contact for reasonable accommodation assistance and will carry the following statement: **Any person needing assistance or auxiliary communications equipment due to sensory impairment or other disability should contact (Name of Individual and means of contact). Notification of the need for assistance must be made within 7 days of this meeting/hearing.**

6. Title VI Officer will assure that public meetings and hearings are held in locations that meets ADA compliance.

CHAPTER V. PLANNING AND METROPOLITAN PLANNING ORGANIZATIONS

A. SCOPE

The Planning Division provides the MDOT Management, Divisions, Districts, Federal Highway Administration, and Urban Areas (populations of 50,000 or above) with planning tools that can support program planning and decisions for the purpose of contributing to an efficient transportation system. This requires an orderly and continuous assembly of information involving all transportation modes, including information on the history, extent, dimensions, condition, cost, future needs, use, economic/environmental/social effects, etc.

B. OPERATIONAL GUIDELINES

The authority for the Mississippi Department of Transportation to use federal funds is found in 23 United States Code 307 (c). The authority for the Planning Division to administer the SPR funds in the program is found in 23 code of Federal Regulation 450.

C. PLANNING PROCESS

A comprehensive transportation planning process is used which incorporates input from the public in coordination with the various Metropolitan Planning Organizations (MPOs). The Transportation Planning Office coordinates with the MPO, urban transportation planning, public involvement, and provides technical support when needed.

D. TITLE VI RESPONSIBILITIES

The Title VI Officer is responsible for ensuring compliance with Title VI requirements regarding the activities of the Planning Division as well as Title VI monitoring and reviews of activities of subrecipient entities and Metropolitan Planning Organizations.

1. Review of Title VI matters of the Planning Division to include performance of, in coordination with the Civil Rights Director, the following:
 - a. Consideration in the planning and development process of the long-range statewide transportation plan, the state transportation improvement program, the annual element, and unified work program, and other related documents with respect to the impacts of transportation alternatives on the communities impacted.
 - b. Good faith efforts to obtain citizen participation, including input from minorities, in the transportation planning process. The views of such groups within the population are solicited and considered in the planning of highway projects including the impact of planned routes upon both non-minority and minority areas.

- c. The Division will use the assistance of the Geography Information System (GIS) and other available information to provide data regarding community boundaries, racial and ethnic makeup, income levels, tax bases, the physical environment, and travel habits.
 - d. The Division will assist in gathering and organizing the Planning Office portion of the Annual Title VI Update Report.
 - e. Ensure full participation of all social, economic, and ethnic populations impacted by the department's planning process by disseminating program information to minority media and ethnic/gender related organizations and participating in roundtable meetings in predominantly minority communities.
2. The Title VI Officer will monitor compliance with Executive Order 13166, Limited English Proficiency, by reviewing data collection of race and ethnic makeup of the community in order to improve access and understanding of transportation planning processes for those in the population of 5% or more who have been confronted with language barriers.
3. The Title VI Officer for the Planning Division will monitor and review MPOs to determine whether the data collection and analysis procedures are adequate under Title VI requirements to include:
- a. Community boundaries
 - b. Racial and ethnic make up
 - c. Income levels, tax bases, etc.
 - d. Physical environments
 - e. Travel habits
- Examination of the data is to determining if a proposed transportation system will be capable of responding to both non-minority and minority group requirements. A copy of the review is to be submitted to the Department's Title VI Coordinator.
4. In addition, the Title VI Officer will determine whether the MPOs maintain an effective public involvement process to include an analysis of whether input from minority communities/groups/persons is seriously considered. Specifically, the Title VI Officer will seek to identify, at a minimum the following:
- a. The good faith efforts of the MPOs in assuring citizen participation in the transportation planning process.
 - b. The number of and the capacity in which minorities and women, both individually and through their organizations, are represented in the citizen participation efforts.

- c. Whether the urban planning procedures provide for comparing the impact of a planned system and route upon both minority and non-minority areas.
- d. The manner in which the transportation needs of minority neighborhoods are considered in developing short-range improvement programs and long-range improvement programs.

CHAPTER VI. PROJECT DESIGN

A. SCOPE

Roadway Design Division and Bridge Division are responsible for the design and preparation of plans for the construction of highway and bridge projects and are charged with overseeing highway and bridge projects designed by consultants engineering firms.

B. OPERATIONAL GUIDELINES

AASHTO Design Manual

23 CFR 771

Executive Order 12898 on Environmental Justice

Standard Operating Procedures

C. PROJECT DESIGN PROCESS

The Roadway Design Division and Bridge Division coordinate roadway and bridge design activities with Districts, Divisions, Federal Highway Administration, the Environmental Protection Agency, the U.S. Army Corps of Engineers, and other corporations and agencies. The Divisions coordinate development of construction plans according to the applicable design guides, national standard and MDOT design criteria. The Roadway Design and Bridge Divisions serve on the selection committees for design consultants; and participate in the selection of highway locations as outlined in S.O.P. ENV-03-01-00-000.

D. TITLE VI RESPONSIBILITIES

1. The respective Title VI Officers for Roadway Design and Bridge Division are responsible for assuring compliance with Title VI requirements for all of the Roadway Design and Bridge Division's activities including design work and external contracts. Design plans will be reviewed to assure that plans do not cause adverse impact on any particular group or community.
2. To assure of fair and equal participation in the project design activities, the Title VI Officers will:
 - a. Identify minority and low income populations and ensure they have meaningful participation in the design process.
 - b. Thoroughly examine design alternatives to ensure that environmental justice considerations are recognized and addressed during route location selection and final design.
 - c. Consistently apply design standards to eliminate, minimize or mitigate adverse impacts among affected groups and to provide equitable levels of services.

CHAPTER VII. RESEARCH

A. SCOPE

The Research Division will assist the Mississippi Department of Transportation (“Department”) in providing a safe intermodal transportation network that is planned, designed, constructed and maintained in an effective, cost efficient and environmentally sensitive manner by conducting and contracting research, disseminating information, providing non-destructive testing services, maintaining the pavement management database, and assisting state and local transportation agencies as needed.

B. OPERATIONAL GUIDELINE

The authority for the Department to use federal funds is found in 23 United States Code 307 (c). The authority for the Research Division to administer the State Planning and Research Part II (SPR) funds in the program is found in 23 Code of Federal Regulations 420, Subpart B.

C. RESEARCH PROCESS

The Department is required to conduct transportation-related research projects, which may be funded with the federal-aid funds. The research may be conducted by state personnel or contracted to colleges and/or universities or consultants who have the capabilities, expertise, and staff to perform the research.

D. TITLE VI RESPONSIBILITIES

1. Research contracting opportunities will be advertised and awarded to universities and contractors in a non-discriminatory manner. Appropriate Title VI provisions are to be contained in the terms of all research agreements.
2. The Title VI Officer in coordination with the Department’s Civil Rights and Legal Division personnel will verify that Title VI language is incorporated in all research related contracts and agreements.
3. All solicitations for research proposals will be sent to all pertinent and relevant schools and institutions.
4. The Division will review internal operational procedures, guidelines, directives, and policies to ensure compliance with Title VI requirements.

E. COLLEGES AND UNIVERSITIES

The Division is to assure all Historical Black Colleges and Universities (HBCU’s) have the same opportunity as non-minority institutions to compete for research related contracts. “Appendix J” contains a listing of HBCU’s located in the State of Mississippi.

CHAPTER VIII. RIGHT OF WAY DIVISION

A. **SCOPE**

The Right-of-Way (ROW) Division's primary purpose is to acquire and clear the necessary properties to construct and maintain the State Highway System.

B. **Operational Guidelines**

ROW Standard Operating Procedures

ROW Manual

23 CFR 130

49 CFR 24

Miss. Code Ann. Title 65

C. **RIGHT OF WAY PROCESS**

Right of Way follows the Right of Way Manual and all applicable laws and regulations, including Title VI. The ROW process entails appraisal of property, negotiation of terms and conditions for acquisition and assistance in the relocation of displaced individuals, businesses, farm operations and nonprofit organizations as well as property management.

D. **TITLE VI RESPONSIBILITIES**

Title VI Officer will review division policies, rules, and standard operating procedures to ensure compliance with Title VI in all phases of right of way activities.

APPRAISAL AND REVIEW APPRAISAL

1. The Right of Way Division enters into an agreement with independent real estate appraisers on a contract basis. Each appraiser under agreement is required to have on file in the Appraisal Section a list of his/her qualifications, education and experience. Title VI provisions in all realtor, fee appraiser, and negotiator contracts are required.
2. Title VI Officer will examine the fee appraiser selection process to ensure equal participation by minority/women disadvantaged business; and that employment of fee appraisers is carried out without restrictions as to race, color, national origin, sex, age, or disability. Employment is based on professional training, education, experience, evaluation of previous work, (if any), availability to complete assignments within project schedule time limits, and effectiveness as a witness in court.
3. The responsibility for selecting and employing fee appraisers is that of the Appraisal Officer, subject to the approval of the Right of Way Division Administrator and the written approval of the Executive Director of the Mississippi Department of Transportation. The appraiser is required to comply with regulations relative to non-discrimination in federally assisted transportation programs.

4. All comparable sales and other market data used in the report are without distinction as to race, color, national origin, sex, age or disability. The appraisers are aware that no discriminatory statement is to be made in acceptable appraisal reports.
5. All appraisals are reviewed by staff or contract Review Appraisers who are instructed to be on the alert for any indication of discrimination. If discriminatory statements are discovered, the appraisal is returned for correction before it is accepted from the appraiser. The Title VI Officer will notify the Civil Rights Director about the matter. Appraisals are reviewed in accordance with the Federal-Aid Policy Guide Manual.
6. Based on the knowledge of the individual appraiser and area of responsibility, the majority of the appraisal work is done by staff appraisers. Appraisal assignments are made objectively, without regard to race, color, national origin, sex, age, or disability.
7. Using the State and Federal appraisal procedures, a properly prepared and reviewed appraisal of fair market value of property does not allow discrimination on account of race, color, national origin, sex, age or disability. Accordingly, appraisal standards and practices are applied equally on all projects.
8. Monitor compliance with Executive Order 13166, Limited English Proficiency, to improve access and understanding of transportation planning processes for those in the population confronted with language barriers.

ACQUISITION

The acquisition procedures and required documentation as set forth insures that all property owners in Mississippi are treated and dealt with fairly regardless of race, color, national origin, sex, age or disability.

ENGINEERING AND TITLE WORK

1. Employment of engineering professionals is based upon professional training, education, experience and evaluation of previous work, if any, and the ability to complete assignments within project scheduled time limits without restrictions as to race, color, national origin, sex, age, or disability.
2. Abstractors are used for performing title abstraction for the entire state. The hiring and assignment process for abstractors is carried out without restrictions as to race, color, national origin, sex, age, or disability.

LEGAL ASSISTANCE

1. After the ROW Division prepares the legal description and plat for a subject property, a State Assistant Attorney General signs the requisite legal document for filing in the appropriate court and returns it to the ROW Division. The ROW Division Administrator forwards the document and all pertinent papers to assigned fee/contract attorneys.

2. Fee attorneys are assigned through the contracting process involving the Office of the State Attorney General. The ROW Division is included in the selection process which is done without restrictions as to race, color, national origin, sex, age, or disability.

RELOCATION SERVICES AND PAYMENTS

1. Relocation Assistance is provided without discrimination in accordance with Title VI requirements. Relocation services and payments including location activities for replacement properties are conducted in a manner which adheres to applicable Federal and State laws.
2. The ROW Division provides pertinent information during various stages of a highway project. The Environmental Division is furnished certain data from the ROW Division for environmental impact statements (EIS). Similarly, a "Relocation Assistance Guide" is provided by the ROW Division at the "conceptual stage" of a project. This plan includes a description of the social and economic impacts of a proposed project, a projection of the number and type of displacements to occur, and a replacement housing study. This information is updated for the requisite project public hearing.
3. Eligibility for relocation advisory and payment benefits are explained at location and design public hearings. The Department's brochure entitled, "Relocation Assistance Guide," is also provided to attendees at these hearings. Informal public meetings are held with certain individuals including neighborhood and minority groups when necessary to address any problems a community or group may be experiencing. The "Relocation Assistance Guide" is made available at the informal meetings and attendees are assured that relocation assistance services are provided to displacees equitably and without discrimination.
4. Assistance is provided to residents in relocating to decent, safe, and sanitary replacement housing. Owners and occupants of displaced businesses, farms, and non-profit entities are provided assistance in securing suitable replacement properties. Efforts are made to use the best available comparable housing to compute the payments for replacement dwelling for displacees. Displacees are given the opportunity to select areas to which to relocate and displacees also have the opportunity to request assistance from the Department in this regard. Assistance is provided without restrictions as to the racial or sexual population of the selected areas. The selection process for replacement properties is managed by the relocation assistance agent. The agent works closely with each displacee in a uniform manner and gives special attention to those in special need, i.e., elderly and disabled displacees. Residential displacees with physical disabilities are offered replacement housing free of physical barriers. Displaced small businesses have the opportunity to utilize the "Business Reestablishment Expense Payment" program for assistance to remove physical barriers at replacement properties.

5. The Title VI Officer for the ROW is also responsible for assuring compliance with Title VI requirements with respect to the following subject matters:
- a. Sale of improvements from a project area.
 - b. Rodent control contracts.
 - c. Demolition contracts.
 - d. Disposal of surplus and excess land.
 - e. Utility removal activities.

CHAPTER IX. ADMINISTRATION FOR CONSTRUCTION PROJECTS AND MAINTENANCE ACTIVITIES

A. SCOPE

The Construction Division, Contract Administration Division and District Offices are responsible for the administration of new construction project. The Maintenance Division is responsible for the preservation and upkeep of the state transportation systems.

B. OPERATIONAL GUIDELINES

Construction Manual

Maintenance's Standard Operating Procedures

Standard Specifications for Road and Bridge Construction

23 CFR Part 200

49 CFR Part 21

C. CONSTRUCTION, CONTRACT ADMINISTRATION AND MAINTENANCE PROCESS

The Construction Division provides guidance and oversight for the decentralized administration of transportation construction projects by the District Offices and the District Project Engineers. The Contract Administration Division provides guidance and oversight for the statewide administration of all construction and maintenance contracts from letting and award to project closeout. The Maintenance Division develops an efficient program for highway maintenance by utilizing the resources of people, equipment, and materials in the most economical way.

D. TITLE VI RESPONSIBILITIES

1. The respective Divisions or Districts designated Title VI Officer has oversight responsibility for implementation of and compliance with Title VI requirements concerning the Construction, Maintenance, and Contract Administration of projects.
2. The appropriate Title VI Officer ensures that all Federal-aid construction contracts and applicable subcontracts contain provisions for compliance with Title VI as provided for in the Form FHWA-1273.
3. The appropriate Title VI Officer is to ensure that the Form FHWA-1273 is discussed at Pre-Construction Conferences.
4. The respective Title VI Officer ensures construction, maintenance and contract administration activities are also performed in accordance with 23 CFR Part 200 et seq., and 49 CFR Part 21 et seq.
5. The respective Title VI Officer oversees the monitoring of construction project work to ensure compliance with contract plans, specifications and civil rights special provisions.

6. The Contract Administration's Title VI Officer will review policies, rules and standard operating procedures to ensure compliance with Title VI requirements in all phases of the process for the selection and retention of contractors and subcontractor for highway contract construction to include:

BIDDING AND CERTIFICATION

1. The Mississippi Department of Transportation adopted a program that will assure there will be no discrimination in its selection and retention of contractors and subcontractors whose services are retained for, or incidental to, highway contract construction. The nondiscrimination policy and procedures of the Department are applicable to such federal-aid contractor's employment practices, solicitations for employment, selection of subcontractors and suppliers, and procurement of materials.
2. There is no entry on any bid document that identifies the prospective bidder as race, color, national origin, sex, age, or disability.
3. The Contract Administration Division provides an up-to-date listing of eligible certified DBE contractors with each federal-aid proposal that is sold to potential bidders each month.
4. Contractors are not required to be licensed to bid before award of a contract with the Mississippi Department of Transportation for any highway construction work if it is a federally assisted project. However, the State Board of Public Contractors requires a contractor to be licensed in order to submit a bid on any 100% state funded project where the bid is in excess of \$50,000. The Board does not prohibit anyone from seeking a license.

ADVERTISING FOR BIDS

1. When a project is ready to be advertised for contract, "Notices to Contractors" are sent to all contractors, suppliers, and contractual organizations that have requested to be entered on the Department's mailing list.
2. Advertisements are also placed in the Clarion Ledger which has statewide distribution. These advertisements are subsequently reprinted by local newspapers throughout the State of Mississippi in each county where a project is located.
3. The Contract Administration Division has responsibility for advertisements and news releases for "Notices to Contractors" (potential bidders).
4. Title VI statements shall be included in all solicitations for bids for construction work or materials and in all proposals for negotiated agreements.

AWARD OF CONTRACT AND BONDING REQUIREMENTS

1. The award of any highway construction contract for the Mississippi Department of Transportation is made to the lowest responsible bidder regardless of race, color, national origin, sex, age, or disability.

2. The Contract Administration Division contacts the Department of Insurance to ensure a Surety is licensed to do business in Mississippi. Sureties are encouraged to give any and all assistance possible to the DBE contractors. With assistance of the designated staff of the Contract Administration Division, the Title VI Officer reviews the bidding process and bonding requirements to determine whether there is uniform application to minority and non-minority contractors.

SUBCONTRACTS

1. When construction contractors of the Mississippi Department of Transportation select subcontractors, the selection process is done without restriction as to race, color, national origin, sex, age, or disability. Available and qualified minority and/or disadvantaged contractors must be considered in the selection process.
2. All requests for permission to sublet any portion of the work must be presented in writing from the prime contractor on Forms CAD-720, CAD-725, and CAD-521 on any Federal Contract. The Department, through its Contract Administration Division, assures that there will be no discrimination in the approval of subcontract requests. The Forms CAD-720, CAD-725, and CAD-521 do not distinguish between minority and non-minority subcontractors and are administered without regard to race, color, national origin, sex, age, or disability.

EQUAL EMPLOYMENT OPPORTUNITIES IN CONSTRUCTION PROJECTS

MDOT requires contractors on federal projects to comply with FHWA Form 1273. This form requires, among other actions, that contractors have an Equal Employment Opportunity (EEO) policy that prohibits unlawful discrimination while providing for affirmative action in employment practices.

CHAPTER X. CONSULTANT/CONTRACTOR SELECTION

A. SCOPE

The Consultant Services Unit is primary responsible for the managing the day to day administrative aspects of the professional services consultant selection and contract administration.

B. OPERATIONAL GUIDELINES

Standard Operating Procedures

23 CFR 172

C. CONSULTANT/CONTRACTOR SELECTION PROCESS

Consultant and contractor selection and services will be administered in accordance with all applicable regulations. Consultants would be selected in accordance with the requirements of Standard Operating Procedure ADM-24-01-00-000 (Consultant Selection and Administration of Consultant Contracts). A Consultant Services Unit representative will serve as Secretary to the contract selection committee.

B. TITLE VI RESPONSIBILITIES

1. The applicable Title VI Coordinator will perform, in coordination with the Title VI Coordinator, the following in accordance with Title VI requirements for their respective Division or District:
 - a. Monitoring of Title VI compliance by consultants/contractors.
 - b. Reviews of provisions of applicable contracts and agreements to ensure the inclusion of Title VI requirements.
 - c. Reviews of prequalification and/or bonding requirements and consultants/contractors selection procedures to ensure uniform application to non-minority and minority contractors.
 - d. Provide assistance to Division/District personnel in identification of minority and female consultants/contractors and in communicating contracting opportunities to minority and female consultants/contractors.
2. The Title VI Officer will ensure that Title VI language and related appendices of the Agency's Title VI Assurances, to include DBE goal attainment, is incorporated into all appropriate Request for Proposals and contracts. Additionally, Divisions will ensure that outreach efforts are undertaken to increase Disadvantaged Business Enterprise participation in consultant contracts in their respective program areas.
3. The respective Title VI Officer will ensure advertisement for consultant services contracts are place in newspapers of statewide circulation to ensure competitive selection.

CHAPTER XI. OFFICE OF CIVIL RIGHTS

A. **SCOPE**

The Office of Civil Rights is responsible for implementing the Department's Title VI Program and reviewing of program areas involving Planning, Research, Right-of-Way, Roadway Design, Bridge, Environmental, Construction, Maintenance, Contract Administration, District Offices, Training, and other areas to determine the effectiveness of their program areas activities.

B. **OPERATIONAL GUIDELINES**

23 CFR 200

Title VI of the Civil Rights Act of 1964

Executive Order 12898 – Environmental Justice

Executive Order 13166 – Limited English Proficiency

The 1970 Uniform Act

Section 504 Rehabilitation Act of 1973

The Federal Aid Highway Act of 1973

The Age Discrimination Act of 1975

The Civil Rights Restoration Act of 1987

C. **CIVIL RIGHTS PROCESS**

The Office of Civil Rights process follows Federal and State laws in ensuring nondiscrimination in MDOT's transportation programs, activities and services.

D. **TITLE VI RESPONSIBILITIES**

The Office of Civil Rights is charged with the oversight of the agencies Title VI activities, the Disadvantaged Business Enterprise (DBE), the On-the-Job Training (OJT) Program, the Equal Opportunity (EO) Contract Compliance Program, the Internal Equal Employment Opportunity (EEO) and the American with Disabilities Act compliance. Any deficiencies found due to noncompliance with Title VI in any of the above-mentioned areas will be resolved in accordance with guidelines established in "Appendix H" entitled "Resolving Deficiencies".

TITLE VI ACTIVITIES

1. The Department assures that all management staff, sub-recipients, cities, counties, contractors, consultants, suppliers, universities, colleges, planning agencies and other recipients of Federal-aid highway funds are aware of the provisions of Title VI.
2. The Civil Rights Director oversees the administration of the implementation plan for Title VI requirements and assists the Executive Director in carrying out the Title VI responsibilities of the Department.

3. The Office of Civil Rights has assigned the responsibility of monitoring MDOT's Title VI Program activities to its Title VI Coordinator with the assistance of the designated Title VI Officers. Accordingly, the Title VI Coordinator is responsible for:
 - a. Conducting annual reviews of program area.
 - b. Reviewing complaint investigation
 - c. The preparation and submission of an annual accomplishment report for the past year and an annual work plan for the upcoming year.
 - d. Coordinating training for the Title VI Officers and others.
 - e. Schedule periodic meetings with Title VI Officers to discuss programmatic issues or changes and to work toward increasing the Agency's overall awareness and commitment to Title VI.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

1. The goal of the DBE Program is to ensure that firms owned and controlled by minorities, women, and other socially and economically disadvantaged persons have the opportunity to grow and become self-sufficient so that they are able to compete on equal basis, with non-disadvantaged businesses for contracts and subcontracts in the transportation industry. The responsibility of implementing and monitoring the DBE Program for the Department is that of the State DBE Coordinator.
2. The DBE Coordinator and the DBE Certification Officer in coordination with the DBE Supportive Services consultant/contractor is responsible for locating and certifying all eligible DBE contractors that desire to become involved in highway construction in the State of Mississippi.

ON-THE-JOB TRAINING (OJT)

1. The purpose of the OJT Program is to provide training for minority, female and economically disadvantaged individuals in order that they may develop marketable skills and gain journey status in the skilled classifications in which they are being trained.
2. The OJT Program was designed to be used by participating contractors and subcontractors in meeting their training needs. The contractors and subcontractors must follow book uniform and basic procedures in training and keeping records of trainees' progress. Contractor is to submit a termination form to the Department's OJT Coordinator upon trainee's completion or termination from the program.
3. The responsibilities of the OJT Coordinator toward the OJT Program consist of but not limited to the following:
 - a. Monitor payrolls for payment of correct wage rates and fringe benefits.

- b. Conduct interviews of trainees periodically during the training period to assess their performance and training program.
- c. Develop and maintain a master list by contractor name, trainee name and social security number to use as an aid for monitoring multiple projects.

EQUAL OPPORTUNITY (EO) CONSTRUCTION CONTRACT COMPLIANCE PROGRAM

1. The EO Construction Contract Compliance Program is a monitoring tool used to assure Federal contractors and subcontractors do not discriminate in their employment and contracting practices based race, sex, color, religion or national origin. The Division's Contract Compliance Coordinator is charged with overseeing the program.
2. The Contract Compliance Coordinator will review contractors to determine their compliance with all contractual requirements, including:
 - a. Non-discrimination in selection and retention of subcontractors, material suppliers and vendors.
 - b. Maintenance of nonsegregated facilities.
 - c. Adequate representation and utilization of minorities and women (by craft/trade) in the contractor's workforce.
3. The Title VI Coordinator will examine, on a selective basis, the results of the contract compliance reviews to ascertain whether eligible and available minority and female contractors have been contacted as potential subcontractors by prime contractors. The task is performed as part of the Office of Civil Rights annual review process
4. The Contract Compliance Coordinator in coordination with the Title VI Coordinator will investigate complaints of discrimination against contractors.

EXTERNAL EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND THE AMERICANS WITH DISABILITIES ACT (ADA)

The Department's Civil Rights Director acts as the responsible official in matters relating to with the EEO and ADA compliance to ensure that the Department is operating according to the procedures set forth by the EEO and ADA statements.

APPENDIX A – DISCRIMINATION ASSURANCES

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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, 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, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, 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 will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the

contractor may request the United States to enter into the litigation to protect the interests of the United States.

**APPENDIX B – DISCRIMINATION ASSURANCES
CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Mississippi Transportation Commission will accept title to the lands and maintain the project constructed thereon in accordance with Title 23, United States Codes, the Regulations for the Administration of Federal-Aid Programs, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions 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 Mississippi Transportation Commission all the right, title and interest of the U.S. 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 the Mississippi Transportation Commission 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 provision of similar services or benefits and will be binding on the Mississippi Transportation Commission, its successors and assigns.

The Mississippi Transportation Commission, 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 will 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 with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Mississippi Transportation Commission will 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, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. 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 make clear the purpose of Title VI.)

APPENDIX C - DISCRIMINATION ASSURANCES
CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE
ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Mississippi Highway Commission pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, 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. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds 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.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the Mississippi Transportation Commission will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Mississippi Transportation Commission will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Mississippi Transportation commission 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 D - DISCRIMINATION ASSURANCES
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 the Mississippi Transportation Commission 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 of, 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 Non-discrimination covenants, the Mississippi Transportation Commission will have the right to terminate the (license, permit, 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, the Mississippi Transportation Commission will there upon revert to and vest in and become the absolute property of the Mississippi Transportation Commission 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.)

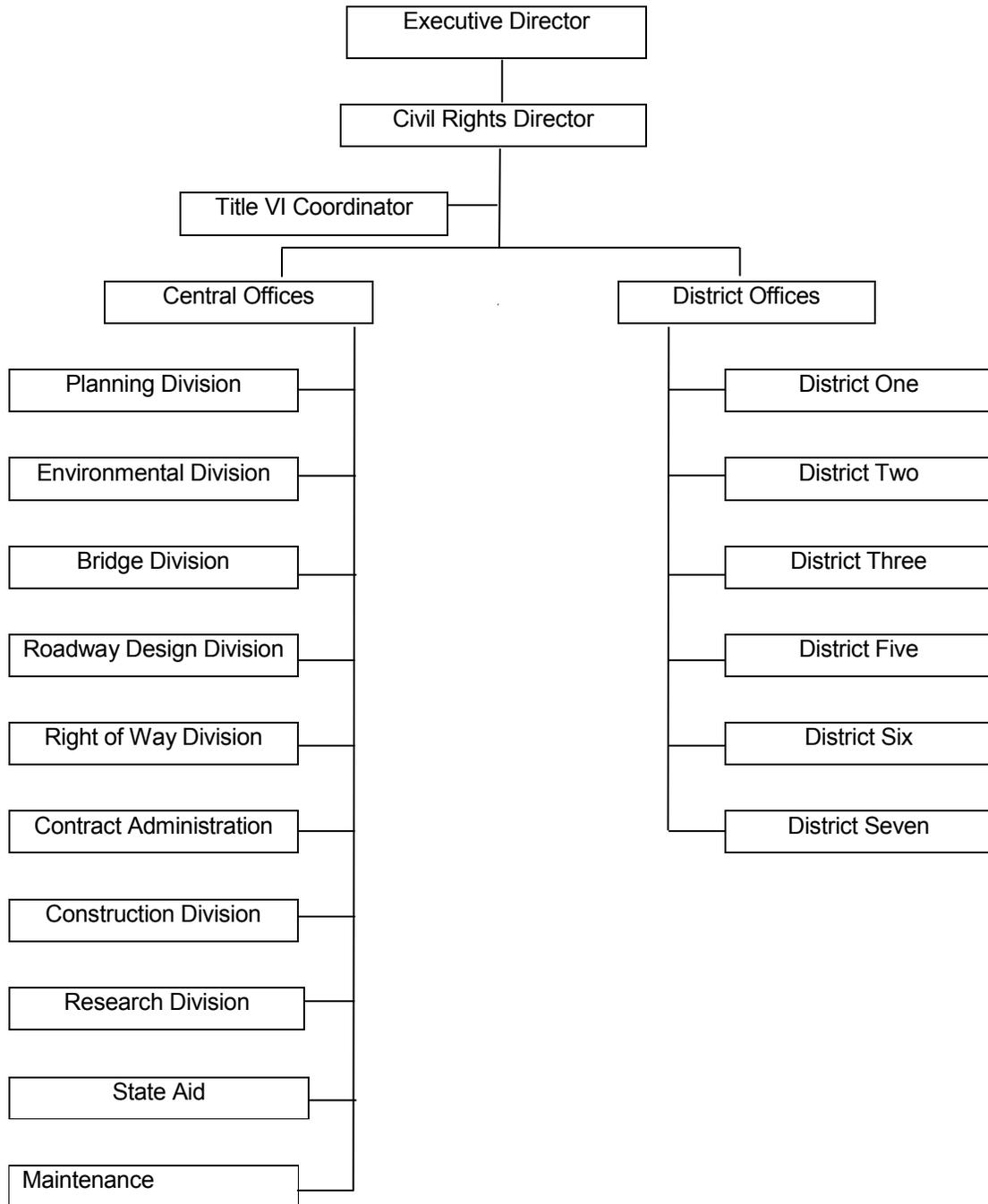
APPENDIX E - DISCRIMINATION ASSURANCES

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 non-discrimination statutes and authorities; including but not limited to:

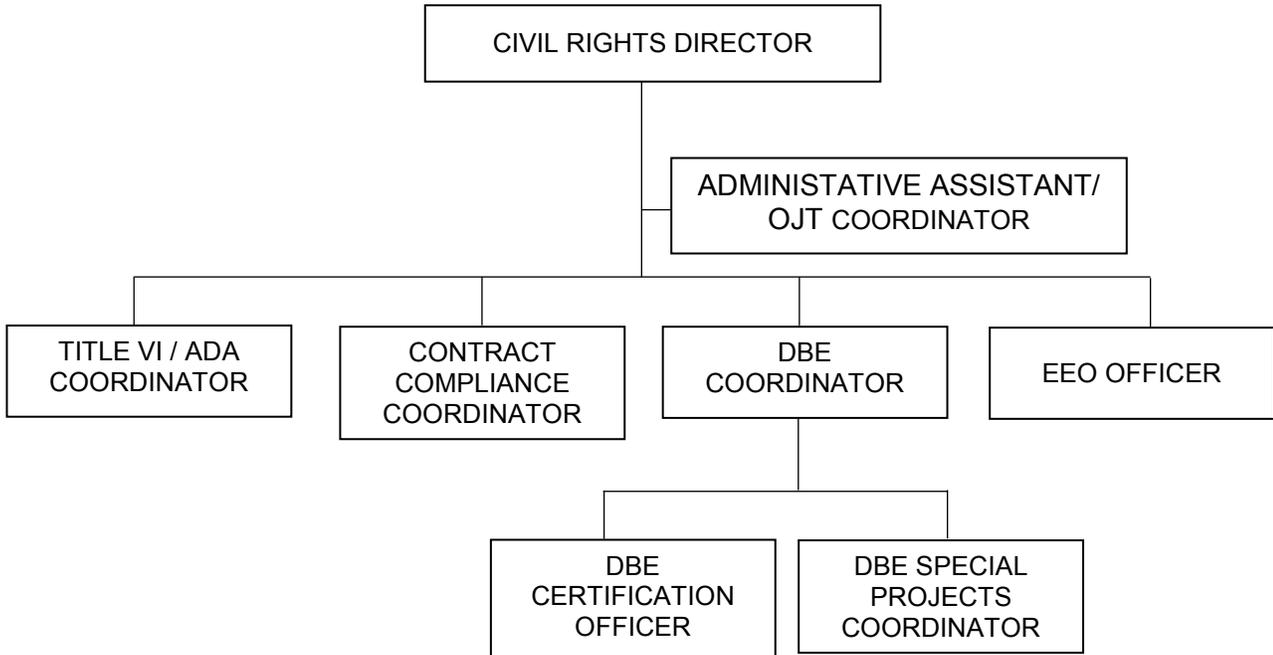
Pertinent Non-Discrimination Authorities:

- 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 USC § 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 at 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 discrimination 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 F - AGENCY ORGANIZATION AND STAFFING CHART FOR TITLE VI



APPENDIX G - OFFICE OF CIVIL RIGHTS ORGANIZATION CHART



APPENDIX H - DEFINITIONS

1. The following definitions apply for the purpose of this plan:
 - a. "Affirmative action" - A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.
 - b. "Beneficiary" - Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocatees, impacted citizens, communities, etc.
 - c. "Citizen participation" - An open process in which the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.
 - d. "Civil Rights Director" or "CRD" - The Civil Rights Director acts as the responsible Departmental official in matters relating to Title VI and assists the Executive Director in carrying out the Title VI responsibilities of the Department.
 - e. "Compliance" - That 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.
 - f. "Contract" - A mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of this definition, a lease is a contract.
 - g. "Contractor" - any person, corporation, partnership, or incorporated association that participates, through a contract or subcontract, in any program or activity covered by this Plan, and includes lessees.
 - h. "Deficiency status" - The interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI Program guidelines, but has not been declared in noncompliance by the Secretary of Transportation.
 - i. "Department" - The Mississippi Department of Transportation.
 - j. "Director" - The chief officer of an Office of the Mississippi Department of Transportation.
 - k. "Disadvantaged Business" - A small business concern which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and whose

management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

- l. "Discrimination" - That act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, color, national origin, sex, age, or disability, has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Mississippi Department of Transportation.
- m. "Division" - One of the administrative subdivisions of an Office of the Mississippi Department of Transportation. The term "District" should be considered equivalent to "Division" as an administrative subdivision of an Office of the Department.
- n. "Executive Director" - The chief administrative officer of the Mississippi Department of Transportation.
- o. "Facility" - Includes all, or any part of, structures, equipment or other real or personal property, or interests therein, and "the provision of facilities" includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.
- p. "Federal assistance" - Includes:
 - (1) Grants and loans of Federal funds,
 - (2) The grant or donation of Federal property and interests 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.
- q. "Federal Highway Administration" or "FHWA" - The administrative subdivision of the U.S. Department of Transportation (DOT) with authority for the administration of certain federal financial assistance involving highway construction and related activities.
- r. "FONSI" - Finding of No Significant Impact
- s. "Lessee" - a business or person that leases, or is negotiating to lease, property from MDOT or a MDOT subrecipient on MDOT's facility or the facility of MDOT's subrecipient for the purpose of operating a transportation related activity or for the provision of goods or services to the facility or to the public on the facility.

- t. "Mississippi Department of Transportation" or "MDOT" - The department, commission, board, or official of the State charged by its laws with the responsibility for highway construction. The terms "State", "Department", and "Departmental" should be considered equivalent to "Mississippi Department of Transportation" or "MDOT" when the context so implies.
- u. "Metropolitan Planning Organization" or "MPO" - The forum for cooperative transportation decision-making for a metropolitan planning area. A metropolitan planning area is the geographic area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and section 8 of the Federal Transit Act must be carried out.
- v. "Noncompliance" - A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all of the Title VI requirements.
- w. "Office of Civil Rights" - the office responsible for civil rights activities which reports administratively to the Executive Director of the Department of Transportation concerning Title VI requirements.
- x. "Persons" - Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: "White not of Hispanic origin", "Black not of Hispanic origin", "Hispanic", "Asian or Pacific Islander", "American Indian or Alaskan Native." Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.
- y. "Plan" - The Department's description of its Title VI Program developed to comply with Title VI of the Civil Rights Act of 1964.
- z. "Program" - Includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient.
- aa. "Program area officials" - The officials in FHWA who are responsible for carrying out technical program responsibilities.
- bb. "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.

- cc. "ROD" - Record of Decision
- dd. "Secretary" - The Secretary of Transportation or the Federal Highway Administrator to whom the Secretary has delegated his authority in specific cases.
- ee. "Supportive Services" - Those services and activities provided in connection with disadvantaged business enterprise programs which are designed to increase the total number of disadvantaged businesses active in the highway program and contribute to the growth and eventual self-sufficiency of individual disadvantaged businesses so that such businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts.
- ff. "Title VI Program" - The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. Where appropriate, the terms "Title VI requirements" also refer to the civil rights provisions of other federal statutes to the extent that they prohibit discrimination on the grounds of race, color, national origin, sex, age, or disability in programs receiving federal financial assistance of the type subject to Title VI itself.

APPENDIX I - REGULATIONS OR OPERATING AUTHORITIES

Administration and Training

Outreach's Standard Operating Procedures (SOP)

Environmental and Public Involvement

National Environmental Policy Act (NEPA)

Title 23 CFR 771

Title 49 CFR 522, 635, 640, 712, 771

Executive Order 12898 on Environmental Justice

Planning and Metropolitan Planning Organizations

23 United States Code 307(c)

23 CFR 450

Project Design

AASHTO Design Manual

23 CFR 771

Executive Order 12898 on Environmental Justice

Research

23 United States Code 307(c)

State Planning and Research Part II

23 CFR 420, subpart B

Right of Way

ROW Standard Operating Procedures

ROW Manual

23 CFR 130

49 CFR 24

Miss. Code Ann. Title 65

Administration for Construction Projects and Maintenance

Construction Manual

Maintenance's Standard Operating Procedures

Standard Specifications for Road and Bridge Construction

23 CFR 200

49 CFR 21

Consultant/Contractor Selection

Standard Operating Procedures

23 CFR 172

Office of Civil Rights

23 CFR 100

Title VI of the Civil Rights Act of 1964

Executive Order 12898 – Environmental Justice

Executive Order 13166 – Limited English Proficiency

The 1970 Uniform Act

Section 504 Rehabilitation Act of 1973

The Federal Aid Highway Act of 1973

The Age Discrimination Act of 1975
The Civil Rights Restoration Act of 1987

APPENDIX J - HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Public:

Alcorn State University, Lorman
Jackson State University, Jackson
Mississippi Valley State University, Itta Bena

Private:

Tougaloo College, Tougaloo
Rust College, Holly Springs

**APPENDIX K - LISTING OF METROPOLITAN PLANNING ORGANIZATIONS
(MPOS)**

Mr. Larry Smith
Planning Director
Central Mississippi PDD
P.O. Box 4935
Jackson, MS 39296-4935
601-981-1511

Mr. Willie Horton
Executive Director
Hattiesburg-Petal-Forrest-Lamar MPO
P.O. Box 1898
Hattiesburg, MS 39043-1898
601-545-4609

Ms. Elaine G. Wilkinson
Executive Director
Gulf Regional Planning Commission
1232 Pass Road
Gulfport, MS 39530
228-867-1164

Mr. Jim McDougal
Executive Director
DeSoto County Planning Commission
365 Loshier Street, Suite 200
Hernando, MS 38632

APPENDIX L - DISTRIBUTION LIST FOR PUBLIC HEARING NOTICE

Environmental documents including Draft EA, FONSI, DEIS, FEIS or ROD are enclosed with a copy of a legal notice which is advertised in the local newspaper of the project and/or nearest daily newspaper

A copy of each document along with the legal notice and cover letter attached are forwarded to:

- Federal Highway Administration*
- District Engineer*
- Project Office*
- Right of Way
- Planning
- Bridge
- Construction
- Central Records
- Roadway Design
- Civil Rights
- Mayor's Office*
- County Board of Supervisors*
- Chancery Clerk's Office*
- Local Public Library*
- Statewide Clearinghouse***
- State Resource Agencies
- Federal Regulatory and Resource Agencies**

* Requested locations to review document
** DEIS, FEIS or ROD only unless requested
*** FONSI and ROD only

APPENDIX M – TITLE VI COMPLAINT PROCEDURE

Rule No.: 941 - 6203 - 00300

Agency: Mississippi Department of Transportation

Agency Effective Date: May 15, 2005

Agency Issued Date: March 8, 2005

Secretary of State Authority Date: May 15, 2005

Supersedes Rule:

Division: Office of Civil Rights

Rule Title: COMPLAINT PROCEDURES FOR THE MS DEPARTMENT OF TRANSPORTATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED

The person to be contacted regarding the proposed rule is: Facility and Records Management Director

Name of person originating the proposed rule: Carolyn Bell, Civil Rights Director

Name of supervisor or person who approved the proposed rule: Larry L. Brown, Executive Director

Purpose:

To comply with Title VI of the Civil Rights Act of 1964, as amended, authority has been delegated to the Civil Rights Director (hereinafter CRD) for civil rights compliance. The procedures set out in the Title VI Implementation Plan are intended to identify the responsibilities between the CRD and MDOT Divisions and District Offices for prompt processing and disposition of Title VI complaints received directly by MDOT to the end that no person in the United States shall, on the grounds of race, color, national origin, sex, age, handicap, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the U.S. Department of Transportation including the Federal Highway Administration.

Such discrimination is also prohibited against the traveling public and business users of the federally-assisted highways in their access to and use of the facilities and service provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed on, over, or under the right-of-way of such highways or on property which is disposed of by the Department. In addition, such discrimination by the Department and its agents is prohibited against eligible persons in making relocation payments and in providing relocation advisory assistance where relocation is necessitated by highway right-of-way acquisitions.

Summary:

This document is issued by the Mississippi Department of Transportation (hereinafter MDOT) which sets forth procedures for enforcing the requirements of Title VI of the Civil Rights Act of

1964 with respect to the filing, processing, investigating, and disposing of complaints of discrimination.

The full text of the proposed rule is:

All cites herein refer to the most current version of the cited document.

I. SCOPE.

A. MDOT. The procedures apply to all Divisions and Districts under the authority of the Department.

B. Subrecipients and Contractors. These procedures apply to all MDOT's primary and secondary recipients of federal-aid, including contractors and subcontractors.

II. FILING OF COMPLAINTS.

A. Who May File A Complaint. Any person who believes that he or she, any specific class of persons, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964 may by himself or herself or by a representative file a complaint. The basis of the discrimination charge would include race, color, national origin, sex, age, handicap, or disability, or retaliation for opposing any practice made unlawful by Title VI and its parallel statutes or for participating in any stage of administrative or judicial proceedings under such laws prohibiting discrimination.

B. Computation of Time for Filing.

1. The complainant must file a complaint not later than 180 days after:
 - a. The date of the occurrence of the alleged discrimination; or
 - b. Where there has been a continuing course of prohibited conduct, the date on which the conduct was discontinued.
2. Time periods in these procedures that are set forth in terms of days constitute calendar days unless otherwise stated.
3. In computing any period of time prescribed or allowed by these procedures the day of the act or event from which the designated time period begins to run shall not be counted. The last day of the period shall be included unless it falls on a Saturday, a Sunday, or a legal holiday, as defined by statute, or any other day when MDOT Offices are closed, whether with or without legal authority, in which case the period shall be extended to run until the end of the next business day.
4. The Executive Director of MDOT or the CRD for cause shown may at any time in his/her discretion extend the time for filing or waive the time limit in an equitable

manner in the interest of justice. In any event, this action must be approved by the Federal Highway Administration.

5. Timely filing of a complaint constitutes the following:

- a. delivery of the written complaint in person by the complainant or representative of the complainant within the applicable filing period; or
- b. delivery by mail postmarked before the expiration of the applicable filing period; or
- c. delivery by facsimile.

C. Contents of Complaints. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. In addition, each complaint should contain the following:

1. The full name, address and telephone number of the person making the complaint;
2. The full name(s) and address(es) of the person(s), governmental entity, or business organization(s) against whom the complaint is made (the respondent);
3. A statement setting forth as fully as possible the facts and circumstances surrounding the claimed discrimination including the date of the alleged unlawful act(s) or event(s) and explanation of efforts, if any, that the complainant attempted to make to resolve the complaint's issues with the respondent; and
4. A statement disclosing whether the complaint or other statement describing the alleged discriminatory act(s) or event(s) has been filed with other State, Local or Federal agencies and, if so, the dates of such filings, the name, and address of the agencies.

In the event that a person makes a verbal complaint of discrimination to an official or employee of MDOT, the official or employee should report the complaint to the designated Division or District Title VI Coordinator or to the CRD. The Title VI Coordinator or CRD will then interview the person making the verbal complaint. 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 and verification. The complaint will then be handled in the manner as herein set forth.

III. PROCESSING OF COMPLAINTS. Complaints must be processed internally according to S.O.P. No. ADM-09-01-00-000.

Dismissals of Complaints. A complaint will be dismissed for the following reasons:

Where the complainant fails or refuses to provide requested information, fails or refuses to appear or to be available for interviews or conferences as determined necessary, or otherwise fails or refuses to cooperate with MDOT's inquiries or investigation.

IV. INVESTIGATIONS.

A. Within 45 days of the complaint receipt date, an investigation will be conducted and completed. The identity of complainants will be kept confidential except to the extent necessary to satisfy the requirements of these procedures and federal law, including the conduct of any investigation, hearing, or judicial proceeding.

B. Resolution of Complaints. Within 90 days of receipt of a complaint, the Executive Director will send a written decision to the complainant to include the following:

1. The proposed disposition of the whole matter;
2. Notification to the complainant of his/her appeal rights with the Federal Highway Administration or U.S. Department of Transportation, if he/she is dissatisfied with the final decision rendered by MDOT; and
3. The final decision will also be communicated to the respondent(s). FHWA will be provided with a copy of the decision and summary of findings.

APPENDIX N - PROCEDURE FOR CONDUCTING SUBRECIPIENT TITLE VI REVIEWS

In addition to reviewing internal Programs, MDOT is required to review sub-recipients. This section describes the process for conducting compliance reviews of sub-recipients, i.e., cities, counties, universities, etc. The theories of discrimination, guidelines for collecting and analyzing evidence and other general technical guidance also apply to the conduct of compliance reviews.

Purpose

MDOT is responsible for ensuring that all programs and activities for which it is responsible are conducted, managed and administered in a nondiscriminatory manner. A major tool that the agency will use to accomplish this is the civil rights compliance review. Compliance reviews are systematic, planned investigations conducted by MDOT that assess and evaluates the civil rights and equal opportunity policies, procedures and practices of sub-recipients to determine their compliance with applicable civil rights statutes, regulations, standards and policies.

Responsibilities

MDOT Office of Civil Rights provides overall leadership and direction with regard to Title VI. In doing so, it ensures that the Department:

1. Conducts compliance reviews of sub-recipients and their programs and activities;
2. Establishes criteria for the selection of agencies and organizations that will undergo compliance reviews;
3. Establishes criteria for conducting compliance reviews;
4. Directs and guides the implementation of Compliance Action Plans negotiated with Sub-recipients found to be in noncompliance;
5. Monitors compliance review activity within the agencies; and
6. Provides agencies with technical assistance and training.

****All MDOT sub-recipients are responsible for regularly and systematically monitoring and evaluating their [own] policies, procedures and practices to ensure that there is no unlawful discrimination and that there is an equal opportunity to participate in agencies' programs and activities.***

Types of Compliance Reviews

At its discretion, MDOT may conduct either an agency review or a program review. MDOT will be guided by the policies, legal standards and requirements that have been established in Federal statutes, Executive Orders, regulations, etc. and make such policies applicable to DOT- conducted programs and activities.

MDOT may conduct compliance reviews of all of the programs and activities administered by a sub-recipient, limit reviews to a particular program or activity, or in the context of a compliance review schedule, conduct a combination of compliance review types, over the course of a fiscal year.

Compliance Review Targeting Criteria

The decision to conduct a compliance review will be based on neutral criteria or evidence of a violation. Criteria to be considered in targeting compliance reviews include:

- A routine review cycle which is driven by the need to review all programs and activities on a regular schedule;
- Issues identified for special attention in strategic plans, annual work plans, plans of operations, etc.;
- Issues frequently identified as problems faced by program applicants and participants;
- Geographic areas where problems have been identified or geographic areas in which there has been little compliance activity;
- Issues raised in complaints or identified during the investigation of complaints that could not be fully covered within the scope of the complaint investigation process;
- The identification of problems and issues by community groups, advocates and other representing protected classes;
- Issues flagged by FHWA or Executive Management within MDOT.

Scope of Compliance Reviews

It is within the discretion of the Civil Rights Director to determine the scope of any compliance review. If the compliance review is based on neutral criteria, the review itself may be limited to a desk audit. A desk audit is a review of the documentation submitted to MDOT by the agency. Desk audits may be extended to include onsite visits. If the review is based on evidence of a violation, the review will include a site interview.

Solicitation of Documents

In requesting documentation, MDOT will take into consideration three factors:

- Whether or not the requested documentation is material and relevant to conduct the compliance review or desk audit;
- Whether or not the request for documents is properly limited in scope; and
- The criteria used to target the compliance review.

Mandatory Elements of Compliance Reviews

Regardless of the type of compliance review, MDOT will cover, at a minimum, the following areas in their compliance reviews, based on the requirements set below, which will be limited only by the type of review being conducted:

- Civil Rights Resources
- Training for Civil Rights Professionals and Others
- Public Notification and Outreach
- Data Collection Systems
- Complaints Processing in Conducted Programs
- Program Availability and Accessibility to Persons With Disabilities
- Service to LEP Persons
- Local Planning and Advisory Committees and Boards
- Program Delivery
- Contracting Opportunities

Civil Rights Resources

Sub-recipients should dedicate sufficient resources to administer their civil rights responsibilities. During compliance reviews, these resources will be identified by staff hours/full time equivalencies and budget allocations.

Training for Civil Rights Professionals and Others

Sub-recipients must take the necessary steps to ensure that civil rights professionals and officials who are responsible for integrating civil rights requirements into programs and activities receive the technical training necessary to properly carry out their responsibilities. During compliance reviews, it will be ascertained:

- Who has received training by title, level of authority, race, national origin and disability status;
- The subject matter covered and the number of hours of training received;
- The existence or absence of training needs inventories, employee development plans or other documents that identify the need for the requisite civil rights training;
- The process used to provide civil rights technical training to new employees or employees new to technical responsibilities in the civil rights area; and
- The role of national, regional and other civil rights offices within the agency in identifying and validating the need for specific civil rights training;

Public Notification and Outreach

Sub-recipients must have in place an effective public notification system that adequately informs applicants and participants of the availability of programs, benefits and services, MDOT's policy of nondiscrimination, and procedures for filing a discrimination complaint. Some of the attributes of an effective public notification and outreach system, which should be reviewed, are:

- Nondiscrimination statements printed on all publications and outreach materials providing information to the public;
- Photographic and outreach materials that display diversity of participants and staff; and
- Evidence of outreach and linkages to grassroots organizations, advocacy groups and referral sources representing members of protected classes.

Data Collection Systems

Sub-recipients must develop, implement and maintain data collection systems that yield accurate, relevant and reliable statistical information. The systems will be used to identify:

- Composition of service areas by race, national origin, sex and disability;
- Total number of applicants and program participants in programs, activities and specific services or benefits, as appropriate, by race, national origin, sex and disability;
- Nominations and memberships, by race, national origin, sex and disability on local and national planning and advisory boards and committees;
- Data on service areas where LEP persons reside, including:

1. Primary language of each LEP group;
2. Estimated number of persons in each LEP group; and
3. Total number of agency staff who are bilingual in the identified LEP languages and the number and position of such staff by each LEP language identified.

Complaints Processing in Conducted Programs

From public notification to complaint closure or settlement, Sub-recipients are required to cooperate in the processing of complaints filed in DOT-conducted programs.

MDOT will also review the effectiveness and efficiency of the interface with agency civil rights professionals and/or the agency's' headquarters requirements. The following should be included:

- The degree of cooperation and assistance provided by the sub-recipients to applicants and participants on how to file a complaint;
- The number of complaints filed by applicants and program participants by race, sex, national origin and disability;
- Effectiveness of efforts to implement provisions of settlement/conciliation agreements, as appropriate;
- Efforts to eliminate policies or practices that gave rise to allegations of discrimination;
- Trends or patterns and practices that are identifiable; and
- Other activities being conducted to avoid and reduce the number and types of discrimination complaints filed by program applicants and participants.

Program Availability and Accessibility to Persons with Disabilities

MDOT will review programs and activities to ensure that requirements of Section 504 of the Rehabilitation Act, as amended, are being implemented. In conducting compliance reviews, it will be determined if a self-evaluation of the facility under review has been conducted. If the self-evaluation has not been conducted, MDOT will ensure that the evaluation is conducted as soon as possible. If the evaluation has been conducted, the Coordinator will acquire a description or copy of the self-evaluation, which should include, at least:

- A list of persons with disabilities or other interested person(s) who were consulted;

- A description of areas examined, any identified problems and modifications or remedial steps undertaken;
- Procedures currently used (or planned) in order to disseminate information to current and potential program participants about the existence and location of services and facilities that are accessible to persons with disabilities;
- Notification of program applicants and program participants of nondiscrimination policy, services, waivers of rights and treatment; and
- Evidence of the timeliness and methods used to communicate civil rights policy, program materials, proposed rules, advisory committee solicitations, and other information to sensory impaired persons.

MDOT will also review explanations on the availability of auxiliary aids. The review will include a description of aids that are available, how the aid selected will ensure effective communication with current and potential applicants, and program participants who have disabilities. MDOT will also review staff training, communications, and methods used by applicant to notify current and potential beneficiaries of available auxiliary aids.

Service to LEP Persons

MDOT at all levels, has an affirmative responsibility pursuant to Executive Order 13166 to provide LEP persons with meaningful opportunities to participate in programs and activities conducted by MDOT and its sub-recipients. During compliance reviews, it will be ascertained what actions have been taken (or are planned) to communicate with and assist individuals with LEP and other special needs. During compliance reviews, MDOT will verify if:

- (1) Sub-recipients have in place, strategies, processes, and/or procedures that ensure:
- Thorough assessment of the language needs of the population to be served;
 - Effectuation of a comprehensive written communications policy and plan on LEP assistance;
 - Staff training to increase understanding and capability to carry out the policy effectively; and
 - Vigilant monitoring to ensure that LEP persons can meaningfully access programs and activities.

Local Planning and Advisory Committees and Boards

Agencies should diversify internal and external advisory boards and committees. During compliance reviews, the internal and external planning and advisory committees should be reviewed. Some of the factors that should be considered are:

1. Efforts to solicit diverse nominations for committees and advisory boards;
2. The selection and appointment process(es) that are used to staff committees and advisory boards;
3. Any qualifying mandatory or discretionary membership criteria that are imposed internally and externally and their impact on diversity;
4. Efforts to remove or revise discretionary criteria where their impact has been negative or adverse; and
5. Any other factors that affect planning and advisory committee membership

Program Delivery and Contracting Opportunities

Agencies are required to ensure nondiscrimination in its conducted programs and activities, including those affecting minorities, women, and persons with disabilities, thereby improving service delivery to historically under-served populations.

This includes programs and activities having environmental justice implications. In addition, sub-recipients are required to ensure equal opportunity for minority, women-owned and small and disadvantaged business in all USDOT contracting activities.

Compliance reviews should, in the context of effective planning and program delivery, review:

- Barrier removal; and
- Contracting, consulting or other relations with Historically Black Colleges and Universities (HBCUs), either directly or indirectly, i.e., through another institution of higher learning or research organization.

Timeframe for Compliance Review Process

Where practical, MDOT will provide adequate notice in conducting reviews. Unless otherwise stated, all days are calendar days.

Agencies will receive notice from MDOT of plans to conduct a compliance review at least sixty (60) days prior to the date on which the review will commence. This notice will include a description of the scope of the review, data and information required from the sub-recipient, and the date by which the information must be submitted.

Sub-recipients will acknowledge the MDOT notice within five (5) working days and consult with MDOT on submission of the requested data and information. MDOT compliance reviews will be completed within **180** days following the receipt of the requested data and information from the sub-recipient subject to review.

Within thirty (30) days of the completion of the compliance review, MDOT will provide an initial compliance review report to the agency Civil Rights director and the head of the agency. Voluntary compliance efforts may be initiated at any time.

The Sub-recipient must respond within fifteen (15) **WORKING DAYS** following receipt of the initial compliance review report with a proposal of specific actions it will undertake to remedy any findings of noncompliance. MDOT may require that the proposal be in the form of a voluntary compliance agreement or Compliance Action Plan.

Within thirty (30) days of receipt of the sub-recipient's response, the Title VI Coordinator will issue the final compliance review report along with any voluntary compliance agreement reached with the sub-recipient or, where no agreement has been reached on issues of noncompliance findings, a request that the sub-recipient submit a proposed Compliance Action Plan within thirty (30) days to the Title VI Coordinator. The final MDOT compliance review report will be issued to the:

- Sub-Recipient
 - MDOT agency head
 - MDOT agency civil rights director
 - Civil Rights Specialist for FHWA

Compliance Review Plan

The Title VI Coordinator will prepare a Compliance Review Plan that will guide the review. This plan will contain the following components:

- Name of agency and/or program(s) to be reviewed;
- Purpose of review;
- Sites to be reviewed;
- Scheduled dates and times;
- Scope of review (including issues to be covered and the extent of coverage);
- Statutory requirements, standards and/or criteria;
- Background information, including:

- a. Compliance and civil rights history;
 - b. Status of any existing court orders or pending agency action(s);
 - c. Types of programs and activities to be reviewed; and
 - d. Information on the community (demographics).
- List of interviewees and expected area(s) of information;
 - Interview questions;
 - Employment and program participation data to be reviewed;
 - Names of boards, councils and committees and data on the membership of each;
 - Date of Letters of Notification; and
 - Schedule for completion of review and final report.

Conducting Onsite Reviews, Closure and Follow-Up

On-Site Activities

- a. **Entrance Conference:** Upon arrival, the Title VI Coordinator or appropriate Designee and team members will meet with the Sub-recipient officials and the liaison for introductions and set the tone for the onsite process. The Title VI Coordinator will review the goals and objectives of the review, explain how it will be conducted and answer any questions about the review process. This is an opportunity to also confirm any last minute scheduling or logistical changes. The goal of the entrance conference is to set the officials at ease and to promote an atmosphere of cooperation.

If the exit conference has not been set prior to arrival onsite, the Coordinator will schedule it at this time.

- b. **Interviews:** With the help of the liaison, onsite interviews of randomly selected employees will be conducted. Team members are responsible for clarifying the purpose of the review with employees. Interviews with the following categories of employees will be conducted:
 - Employee Interviews:** It is important that the team interview a cross-section of the agency non-supervisory work force that can provide information on how programs and activities are actually implemented. Such interviews will provide insight on common practices as compared with official policy.

- Management interviews:** Onsite interviews of randomly selected management staff also will be conducted. The focus of these interviews will be on the officials' involvement, participation and support of civil rights programs. Any management concerns, issues and barriers from managers' perspectives, should be surfaced during these interviews.
- Other interviews:** Other interviewees may come from a wide spectrum of persons who have information about the agency and its programs and services. These interviewees include, but are not limited to program participants, board/council/committee nominees and members, community leaders, local chapters of grassroots organizations, local advocates, etc.

c. **Record Examinations:** Examine records relevant to the program areas and activities. Compare the records with information obtained from interviews and outside sources to confirm facts about the agency's programs, activities and practices. Some typical records that should be reviewed include, but are not limited to:

- Training plans, inventories of needs;
- Curriculum and other materials for staff;
- Training sign-up sheets;
- Procedures for informing participants of their rights;
- Procedures for processing program complaints;
- Strategic plans, operating plans, business plans, etc.;
- Monthly, quarterly and annual program and civil rights reports;
- Performance plans and accomplishment reports;
- Civil Rights Policy statement;
- Agency Nondiscrimination Statement;
- Copies of civil rights laws and regulations;
- Internal policies and procedures;
- Examples of news clips, brochures, etc.;
- Mailing and board/committee/council membership lists;
- Program eligibility and enrollee files and applications;
- Self-evaluation reports; and

- Applicant, program participation and other relevant statistical data/ information.
- d. **Compliance Criteria:** The following criteria may be used to help in determining if the agency is in compliance with the legal and regulatory requirements, which apply to conducted programs:
- Adherence to program and civil rights regulations and policies;
 - Involvement and accountability (issuance of civil rights policies, description of goals, objectives, expectations, results, and correction of deficiencies);
 - Use of outreach to inform potential applicants and program participants of programs and activities;
 - Adequacy of procedures and efforts to address trends and patterns;
 - Short and long term effectiveness of civil rights training;
 - Infrastructure (impact of agency structure, functions, budget, staffing, and internal communications);
 - Accommodation, accessibility and availability of information, programs, activities and facilities to all protected groups;
 - Sufficiency of data collection, monitoring, analysis and assessment of civil rights programs; and
 - Other criteria that is applicable to management of civil rights implementation within the agency.
- e. **Observations:** The team members will take time to look at the physical facilities with the specific purpose of observing:
- Prominent placement of posters informing of civil rights and complaint procedures;
 - Accessibility features, such as ramps, TDD and other devices;
 - Information posted or distributed in languages other than English;
 - Pictures displaying diversity of staff and program participants;
 - Traffic flow and mix of people in key areas of the facility; and
 - Other physical aspects of the facilities that will verify, document and/or offer insight into how the facilities are used to promote equal opportunity and provide access to participants in USDA programs and activities.
- f. **Preliminary Evaluation Report:** A preliminary report of findings will be developed prior to completing the onsite investigation. This preliminary report serves two functions. First, it enables the team to identify information gaps,

conflicting data and information, and areas for further investigation. Second, as a way to promote voluntary compliance, the report can provide the agency with "early warning" of areas of concern. This enables the agency to begin efforts immediately to remedy any areas of noncompliance prior to the issuance of a final letter of findings.

- g. **Exit Conference:** An exit conference will be held with sub-recipient management. During the exit conference, the Title VI Coordinator/Designee will share preliminary concerns as well as identify areas that are in compliance, and answer any questions about the compliance review and the post-onsite process.

Final Compliance review Report

- a. A final report of the findings of the compliance review will be completed and signed by the person(s) who conducted the compliance review. The report will include, at a minimum, the following components:
- Background information;
 - Statement of issues;
 - Legal standards applicable to each issue;
 - Summary of documentation, analysis and conclusion;
 - Recommendations; and
 - Additional comments or observations.
- b. The final report will be submitted to the Civil Rights Director for approval.

Final MDOT Decision: Letter of Findings

Upon completion of the review, the final report will be issued to the sub-recipient. The letter of findings will include information about the agency's rights and timelines for response.

Compliance Action Plan

- a. A Compliance Action Plan will be developed to remedy areas of noncompliance. The Compliance Action Plan may include actions and goals suggested by the sub-recipient in addition to those suggested by MDOT.
- b. The Compliance Action Plan establishes specific actions, benchmarks and timetables that the sub-recipient will implement to move from noncompliance to compliance status. The plan will also identify any periodic reports, reviews and other activities. The Compliance Action Plan must be approved by the Civil Rights Director.

Execution of Compliance Action Plan

When the agency completes corrective actions, the Civil Rights Director will prepare a notice for approval by the Executive Director, stating that the sub-recipient has met compliance requirements. The notice of compliance will be sent to the:

- Sub-recipient
- FHWA Civil Rights Officer

Closure of Compliance Review Case File

Upon issuance of the final compliance review report, the compliance review case file will be closed.

Oversight, Monitoring and Follow-Up

The Title VI Coordinator is responsible for guiding, directing and monitoring implementation of the Compliance Action Plan, and will provide quarterly monitoring reports. When the sub-recipient has accomplished the specified actions and goals, MDOT will issue a letter of compliance stating that the agency has satisfied the terms and conditions of the Compliance Action Plan and the agency has been determined to be in compliance.

Retention

MDOT and sub-recipients will retain the complete review file in accordance with current retention policies.

Procedures for Reviewing MDOT Internal Title VI Program Directives

Regularly review directives, policies, and procedures of Programs and ensure they contain all Title VI and related requirements. An example of compliance with this requirement is MDOT's review of contracts and contract language to ensure that the appropriate nondiscrimination clause is included (49 CFR 26.13(b)). Additional directives and procedures that may be reviewed include, but are not limited to:

- Consultant selection procedures and personnel who monitor consultants for Title VI compliance;
- Procedures for identifying and selecting fee appraisers/fee attorneys to ensure nondiscrimination;

- Procedures to ensure uniform application to minority and non-minority contractors:
and
- Procedures and practices for communicating contracting opportunities to
minority contractors.

If it is determined that directives do not meet the requirements of Title VI and other related statutes, the Title VI Coordinator will advise the appropriate Title VI Officer and Division Head and provide recommendations for ensuring compliance.

APPENDIX O - RESOLVING DEFICIENCIES

General: MDOT will implement remedial action where it has determined that a recipient or sub-recipient, other than a contractor has discriminated or is found noncompliance with Title VI requirements, related status, laws, and regulations. In establishing remedial actions, MDOT intends for the recipient or sub-recipient to voluntarily agree to a plan of action to correct deficiencies and ensure continued compliance with Title VI. Every effort will be made to obtain compliance through remedial action before sanctions are imposed.

Letter of Finding: Where MDOT has conducted a compliance review, audit, or compliant investigation, and made a determination of “noncompliance,” the Executive Director will issue a Letter of Finding outlining the deficiencies within fifteen (15) days to the grant applicant, recipient, or sub-recipient. This letter will require the respondent to submit a Remedial Action Plan to address cited deficiencies. This plan will incorporate corrective actions deemed necessary by MDOT, if previously discussed.

Remedial Action Plan: Within thirty (30) days of receipt of the Letter of Finding, the respondent must submit a Remedial Action Plan, including, if any, sufficient reasons and justification for MDOT to reconsider any of its findings or recommendations. The Remedial Action Plan shall include:

1. A list of all corrective actions to be taken.
2. An implementation measure for each corrective action.
3. A written assurance that the respondent will implement all corrective action in the manner discussed in the plan.
4. A request for reconsideration that includes the specific finding or recommendation to reconsider, supporting documentation or evidence, and a written assurance that on the basis of the reconsideration, the respondent will comply with Title VI.

Final Remedial Action Plan: A committee comprised of representatives from the Office of Civil Rights, FHWA, and appropriate program area shall review the submitted Remedial Action Plan and any request for reconsideration. This committee will determine what remedial action(s) is necessary and appropriate to bring the respondent into compliance.

The committee shall issue a decision, including findings and recommendations, as part of a Final Remedial Action Plan. The Final Remedial Action Plan will be sent to the respondent for review and consent. Consent infers that the respondent agrees to initiate action(s) specified in the plan. The respondent has fifteen (15) days to agree or disagree with the Final Remedial Action Plan.

If the respondent agrees, MDOT will amend its Title VI finding to “compliance,” and a letter stating the amended compliance determination will be sent to the respondent. The respondent will have a maximum of ninety (90) days to implement corrective measure outlined in the plan. During the plan’s effective implementation, the respondent will be required to submit progress reports as indicated in the Remedial Action Plan. After ninety (90) days, a follow-up review will be conducted by the Title VI Coordinator to verify the effectiveness of all corrective actions.

If the respondent disagrees, he/she must submit a statement outlining the reasons for disagreement with the corrective actions contained in the plan. Under these circumstances, the respondent will be held in “noncompliance,” and the Executive Director will issue a show cause notice. Within 15 days, a conciliation hearing to resolve the stated disagreements will be scheduled. If conciliation efforts are unsuccessful, proceedings, as indicated under “Sanctions,” will be initiated. In addition, the Executive Director will notify the respective USDOT modal administration division office of the noncompliance finding.

Sanctions: Sanctions as outlined in the Policy and Assurance, Appendix A of this manual are taken by MDOT against an applicant, recipient, or sub-recipient in cases where all means of informal resolutions as outlined above have failed.

APPENDIX P - Environmental Justice Process

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means (1) that all persons share in the benefits of our investments; and (2) that no person (including racial, ethnic, or low-income groups) should bear a disproportionate share of the negative consequences resulting from the execution of Federal, State, and local programs and policies.

DOT Environmental Justice Program Goals

There are three fundamental environmental justice principles:

- (1) Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- (2) Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- (3) Prevent the denial of, reduction in or significant delay in the receipt of benefits by minority and low-income populations.

Definitions

- **Low-Income** – a person whose household income (or in the case of a community or a group, whose median household income) is at or below the U.S. Department of Health and Human Services poverty guidelines.
- **Low-Income Population** – Any readily identifiable group of low-income persons who live in a geographic area, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who would be similarly affected by a proposed DOT program, policy, or activity.
- **Minority Population** – Any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.
- **Community Resources** - any not for profit establishment that provides for or serves a segment of a community or the whole community's physical, mental or social well-being.

Minorities

- **Black** – a person having origins in any of the black racial groups of Africa.
- **Hispanic** – a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
- **Asian American** – a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.
- **American Indian and Alaskan Native** – a person having origins in any of the original people of North America and who maintain cultural identification through tribal affiliation or community recognition.

Participation

In order to identify potential EJ issues and work toward avoiding or mitigating disproportionate and adverse impacts as early as possible, the Office of Civil Rights will become involved once the project is defined.

When it is determined that Environmental Justice conditions are present, mitigations efforts should be handled by a mitigation team consisting of representatives from the following divisions as deemed appropriate:

- Environmental
- Office of Civil Rights
- District Office
- Roadway Design
- Federal Highway Administration (FHWA)
- Consultant

Environmental Justice Analysis Process

- Conduct a demographic analysis of the Study Area.
- Develop a Public Interaction/Involvement Plan (PIP)
- Determine impact(s), appropriate mitigation and benefit(s) with regard to EJ populations via public interaction with potentially affected communities.
- Develop the EJ analysis process

Step One:

Prior to the project kick off meeting, but after the project is defined, the OCR will become involved to assist with identifying potential EJ issues and work toward avoiding or mitigating disproportionate and adverse impacts. During this period, the Environmental Division or Consultant will conduct a demographic analysis of the project area using GIS and other relevant sources of data, map the results, and develop a PIP based on this analysis. The analysis will identify any environmental justice (EJ) populations broken out by age, disability, limited English proficiency, and income level to the extent possible. The Office of Civil Rights will be provided a copy of this analysis for review.

Step Two:

The Environmental Division will develop a Public Interaction/Involvement Plan (PIP) working with the Title VI Coordinator of the Office of Civil Rights as well as consultant(s). The PIP will be developed and modified to meet specific public and project needs as the project proceeds through the planning, environmental, project development, construction, and maintenance process. This plan will also decide how and where public interaction will occur in addition to circulating the usual reports for review and comments – as required or appropriate for project scoping. At a minimum, the PIP should also address the following:

Identify people and organizations to be reached based on demographics and relevant information. Be evaluated and modified as more information is obtained from the impacted community. Document the public interaction process and its results.

Step Three:

When alternatives are developed, potential impacts, mitigation and benefits will be identified and mapped prior to producing a draft document. Using this information, Environmental Division will refine the demographic analysis to determine if EJ communities are affected.

Disproportionately high and adverse effects on minority populations or low-income populations or Community Resources will only be carried out if the following criteria are met:

1. A substantial need for the program, policy or activity exists, based on the overall public interest; and
2. Alternatives that would have less adverse effects on protected populations have either:
 - a. Adverse social, economic, environmental, or human health impacts that are more severe; or
 - b. Would involve increase costs of an extraordinary magnitude.

Step Four:

MDOT will document the Environmental Justice Analysis in the form of the Environmental Justice Review document to be compiled by the Environmental Division. The document will at a minimum:

- Summarize related laws, regulations, and guidance
- Define “adverse” and “disproportionate” impacts
- Document data sources and methods of determinations
- Describe the study area and its demographics using narrative maps,
- Summarize public interaction strategy,
- Describe and map impacts, mitigation and benefits and those populations affected,
- Describe the specific interactions with the affected communities and results. All interactions and mediation discussion will be documented with official minutes of the meetings to be made a part of the file,
- Make an EJ determination(s)
- If the determination results in high and disproportionately adverse impacts, another determination should be made taking into consideration the effect that mitigation and benefits will have.
- If disproportionately high and adverse impacts on minority populations or low-income populations cannot be avoided, minimized or mitigated, a practicability determination should be made.
- In the event disproportionate and adverse impacts are identified during a Categorical Exclusion (CE) project development process, MDOT should follow the same procedures as outlined in this document.

Environmental Justice Impacts Identified at ROW and Construction Phases

In the event environmental justice impacts are not identified until the ROW or Construction Phase of the project the following steps will be taken:

- Mitigation efforts should be handled by a mitigation team consisting of representatives from the following divisions as deemed appropriate:
Environmental

Office of Civil Rights
District Office
Roadway Design
Federal Highway Administration (FHWA)
Consultant

- Identify people and organizations that are impacted
- Arrange meetings to discuss impacts and possible mitigation efforts
- Document the interaction process and its results
- MDOT will document the Environmental Justice Analysis as outlined in Step Four of this document.
- The final mitigation determination will be made a part of the NEPA document and shall be approved by the Transportation Commission.
- Provide NEPA documents to appropriate Districts and Divisions for preparation of any contractual requirements identified in the document.

APPENDIX Q - LIMITED ENGLISH PROFICIENCY PLAN



I. Introduction

It is the policy of the Mississippi Department of Transportation (MDOT) to assure full and affirmative compliance with Title VI of the Civil Rights Act of 1964, as amended, and related statutes and implementing authority. MDOT has given certain assurances to the U.S. Department of Transportation in this regard: MDOT assures that no person in the United States, on the grounds of race, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity for which the recipient receives federal assistance from the Department of Transportation, including Federal Highway Administration.

English is the predominant language of the United States. The United States is also, however, home to millions of national origin minority individuals who are “limited English proficient” (LEP). That is, they cannot speak, read, write or understand the English language at a level that permits them to interact effectively. Because of these language differences and their inability to speak or understand English, LEP persons are often excluded from programs, benefits and/or activities of agencies receiving Federal financial assistance.

Presidential Executive Order (EO) 13166 entitled “Improving Access to Services for Persons with Limited English Proficiency” was intended to improve access to federally conducted and assisted programs for persons who are LEP. The EO requires recipients of Federal financial assistance to develop and implement guidance on how the recipient will assess and address the needs of otherwise eligible limited English proficient persons seeking access to the programs and activities of recipients of federal financial assistance.

MDOT’s LEP guidance provides procedures that will assist MDOT in complying with Title VI responsibilities to ensure meaningful access to all programs, activities and/or benefits for LEP persons.

II. Limited English Proficiency Statement of Commitment

As a recipient of federal-aid funding, MDOT is committed to nondiscrimination in all its programs and activities whether or not those programs and activities are federally funded. This guidance clarifies MDOT’s fulfillment of responsibilities to limited English proficient (LEP) persons, pursuant to Executive Order 13166, entitled “Improving Access to services for persons with Limited English Proficiency.” MDOT will take reasonable steps to ensure meaningful access to the agency’s programs, activities, services and information that are normally provided in English are accessible to LEP persons. Failure to ensure that LEP persons can effectively participate in federally assisted programs and activities may violate the prohibition against national origin discrimination under Title VI of the Civil Rights Act.

The key to providing meaningful access to LEP persons is to ensure that LEP beneficiaries can communicate effectively and act appropriately based on that communication. The Department will ensure that every manager, supervisor, employee, and sub-recipient of federal-aid funds administered by MDOT takes reasonable steps to ensure meaningful access to MDOT recipients’ programs and activities. Where possible, the agency will collect and maintain demographic statistics on persons who participate in our programs and services. In addition, every district and division will post written notices in a public area regarding the right to free language assistance for persons conducting business with the Department in the most frequently encountered or likely to be encountered languages.

Allegations of discrimination should be brought to the immediate attention of the Civil Rights Division Director, the Title VI Coordinator, the Contract Compliance Coordinator, or a District or Division Title VI Officer.

III. Legal Authority

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person 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.” Section 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity “to effectuate the provisions of [section 601] * * * by issuing rules, regulations, or orders of general applicability.” 42 U.S.C. 2000d-1.

Department of Justice regulations promulgated pursuant to section 602 forbid recipients from “utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.” 28 CFR 42.104(b)(2). DOT’s Title VI regulations include almost identical language in this regard. *See* 49 CFR 21.5(b)(vii)(2) (portions of these regulations are provided in Appendix A).

The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted regulations promulgated by the former Department of Health, Education, and Welfare, including a regulation similar to that of DOJ, 45 CFR 80.3(b)(2), to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination. In *Lau*, a San Francisco school district that had a significant number of non-English speaking students of Chinese origin was required to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs.

On August 11, 2000, Executive Order 13166 was issued. “Improving Access to Services for Persons with Limited English Proficiency,” 65 FR 50121 (August 16, 2000). Under that order, every Federal agency that provides financial assistance to non-Federal entities must publish guidance on how its recipients can provide meaningful access to LEP persons and thus comply with Title VI regulations forbidding recipients from “restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program” or from “utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.”

On that same day, DOJ issued a general guidance document addressed to “Executive Agency Civil Rights Officers” setting forth general principles for agencies to apply in developing guidance documents for recipients pursuant to the Executive Order. “Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency,” 65 FR 50123 (August 16, 2000) (DOJ’s General LEP Guidance).

Pursuant to Executive Order 13166, DOT developed its own guidance document for recipients and initially issued it on January 22, 2001, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries." However, in light of the public comments received and the Assistant Attorney General's October 26, 2001, clarifying memorandum, DOT has revised its LEP guidance to ensure greater consistency with DOJ's revised LEP guidance, published June 18, 2002, and other agencies' revised LEP guidance. 67 FR 117 (June 18, 2002).

IV. Agency Guidelines for Full Participation of Limited English Proficient (LEP) Persons

1. Implementation

The Contract Compliance Coordinator is responsible for monitoring agency programs and activities to ensure meaningful access for LEP persons. The Civil Rights Director has designated the Contract Compliance Coordinator as the agency's LEP Liaison.

2. Agency Responsibilities

All managers and supervisors have been notified that they are full obligated to ensuring meaningful access to all programs and activities offered by the Mississippi Department of Transportation.

The Contract Compliance Coordinator along with management will identify language service needs and strategies for responding to those needs. The Contract Compliance Coordinator with assistance from the Title VI Coordinator is responsible for monitoring agency programs and activities to ensure meaningful access for LEP persons. The LEP Liaison duties include:

- Ensure identification and securing of existing and needed resources (in-house, new hire contract, resource sharing with other agencies, volunteers, or other) to provide oral and written language services.
- Identify and develop and recommend guidelines to implement the Plan.
- Identify criteria for designation of language for initial round of translation, based on demographic data;
- Create systems to distribute translated documents, post electronically, and maintain supply;
- Identify training needs to staff and managers needing to use language services, as well as language service providers on staff.
- Establish protocols for ensuring quality, timeliness, cost effectiveness, and appropriate levels of confidentiality in translations, interpretations, and bilingual staff communications.
- Identify and implement a system for receiving and responding to complaints.
- Exchange best practices information with Divisions and Districts.
- Review the progress of MDOT on an annual basis in providing meaningful access to LEP persons, develop reports, and recommend modification to LEP Guidelines as appropriate.

3. LEP Services

The LEP Liaison will identify and maintain an inventory of Language Assistance Services (LAS) providers available to all MDOT personnel. The inventory will include, but is not limited to, the following:

1. Contract language service providers (LSP) based on the following qualification factors:
 - The interpretation skill level of the LSP and its agents;
 - The length of time the LSP has been in business;
 - Any previous experience the agency may have had with the LSP,
 - The LSP's experience in providing LEP services in similar contexts, and
 - The timeliness in which they provide the service.
2. Contract document translators based on the following qualification factors:
 - The translation skill level of the contractor and its agents;
 - The length of time the contractor has been in business;
 - Any previous experience the agency may have had with the contractor,
 - The contractor's experience in providing LEP services in similar contexts, and
 - The timeliness and accuracy in which they provide the service.

These contracts would be available for use by all MDOT Divisions and Districts as a source of professional and responsive language translation and interpretation services. All requests for translation/interpreter services will be forwarded to the Contract Compliance Coordinator within the Office of Civil Rights. Requests for services will include the name of the person requesting the services, and the division or district name and number.

The Contract Compliance Coordinator will maintain a database for LEP requests, by division and district. This database will include, at a minimum, the name of the person requesting the service, type of service requested, name of LEP person affected, type of document to be translated, language translated from and to, and any other pertinent information for tracking language services.

The LEP Liaison will develop a form that each requestor for services will complete to evaluate the services performed by the Contractor. The evaluation forms will be sent directly to the Contract Compliance Coordinator.

All LAS will be made available to LEP persons at the expense of MDOT, where the circumstances indicate the provision of LEP services is appropriate and required.

4. Training

MDOT staff members and sub-recipients should know their obligations to provide meaningful access to information and services for LEP persons, and all persons in public contact positions should be properly trained. An effective training objective would likely include training to ensure that:

- MDOT staff and sub-recipients know about LEP policies and procedures.
- MDOT staff and sub-recipients who have contact with the public (or those in a recipient's custody) are trained to utilize interpreter services effectively.
- MDOT and sub-recipients shall include this training as part of the orientation provided for new employees.

Management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so they can reinforce its importance and ensure its implementation by staff. Training will be provided by the Office of Civil Rights.

5. Needs Assessment

The agency will, on a continuing basis, assess the need for language services on a district and/or statewide basis and make LAS available as deemed appropriate. In making this assessment, the agency will examine the prevalence of LEP stakeholders statewide, by district and/or by service area of program:

- The number or Proportion of LEP persons served or encountered in the eligible service population
- The frequency with which LEP individuals come in contact with the program
- The nature and importance of the program, activity, or service to people's lives
- The resources available to MDOT and costs to provide LEP services

In making this assessment, the agency will consider the following among other data sources:

- United States census results
- Data maintained by the agency
- The agency's past experience in providing services to LEP stakeholders
- Information sources maintained by private and public local entities, including community-based organizations and local social services departments

The Contract Compliance Coordinator and management will, on a continuing basis, identify vital documents that are routinely provided to stakeholders that will be translated into languages other than English. The translation of vital documents into languages other than English is particularly important where a significant number or percentage of the customers served and/or eligible to be

served have limited English proficiency. Whether or not a document is vital depends on how significant the impact on the health, safety, legal rights, or livelihood of an LEP person may be. Written documents include electronic documents and web sites. Vital documents may include materials such as:

- Emergency transportation information;
- Notices of public hearings and proposed transportation plans;
- Community education materials;
- Notices notifying LEP persons of language assistance at no cost to the LEP person;
- Markings, signs and packaging for hazardous materials and substances;
- Signs in waiting rooms, reception areas, and other initial points of entry;
- Instructions on how to participate in a recipient's program.

The Contract Compliance Coordinator will coordinate with the LSP to have identified documents translated accordingly. Translated documents will be made available on MDOT's website for divisions and districts' access.

6. Complaint Procedure

- a. Any LEP individual has a right to file a complaint against the agency where he or she believes that the agency did not provide necessary LEP services as appropriate. These complaints include those available under Title VI of the Civil rights Act of 1964.
- b. All complaints, alleging a violation under Title VI will be referred to the Title VI Coordinator or a Title VI Officer.
- c. The Title VI Coordinator and Civil Rights Director will take appropriate steps to resolve all complaints in accordance with the agency's discrimination complaint procedures.
- d. The Title VI Coordinator will maintain a database tracking requests for all complaints and their resolution. The database will include the following items:
 1. Source of complaint
 2. LEP request including relevant contact information
 3. Nature of complaint request
 4. Date complaint/request received
 5. Date complaint/request resolved
 6. Manner of resolution
 7. Comments
- e. Fact-finding procedures by Title VI Coordinator and Civil Rights Director will follow the investigation protocol in the Title VI Plan.
- f. Mediation and hearings:
- g. Interpreters will be made available to hearing participants upon request or where CRD staff identifies a need for an interpreter.

V. APPLYING THE FOUR-FACTOR ANALYSES

1. The number or proportion of LEP persons eligible in the MDOT service area who may be served or likely to encounter a MDOT program, activity, or service.

The MDOT examined the 2010-2012 American Community Survey 3 Year Estimates of the U.S. Census Bureau and was able to determine that approximately 3.7% or 103,533 of Mississippi population spoke language other than English. Of the 103,533 people reporting speaking a language other than English 42,330 or 40.9% of respondents speak English “less than very well” (See **APPENDIX A** Mississippi Language Spoken at Home Chart).

2. The frequency with which LEP individuals come in contact with a MDOT program, activity, or service

The MDOT assesses the frequency at which staff and contractors have or could possibly have contact with LEP persons. This includes documenting phone inquiries and verbally surveying staff via on-site visits and other reporting mechanisms. We have not received requests through our special emphasis program areas or transit agencies from individuals requesting interpreters. However we have required that all sub-recipients of FTA and FHWA federal funds develop a written plan to accommodate the possible need of interpreter services in the event that requests are received. The Public Transit and the Office of Civil Rights divisions maintain a copy of these written plans in our files. The staff and sub-recipients have had very little to no contact with LEP individuals.

3. The nature and importance of the program, activity, or service provided by the MDOT to LEP community

There is no large geographic concentration of any one type of LEP individuals in the Mississippi. According to the 2010-2012 American Community Survey 3- year Estimates of the U.S. Census Bureau, the overwhelming majority of the population, 96.3% or 2,667,440, speak only English.

Therefore, there have been no specific focused outreach efforts to get LEP communities involved in program, activity and/or services provided by the MDOT and/or sub-recipients. However, efforts are made via advertising, media, community meetings, etc. to insure that information about hearings, meetings, conference/workshops, planning activities are broadly circulated throughout the state of Mississippi. Alternative language format have been used by MDOT and sub-recipients in this effort although our prevalent population speaks English

4. The resources available to the MDOT and overall costs

The MDOT and contractors assessed its available resources that could be used for providing LEP assistance. This included identifying how much a professional interpreter and translation service would cost on as needed basis, which documents would be the most valuable to be translated if and when the populations supports, taking an inventory of available organizations that the MDOT and contractors could partner with for outreach and translation efforts, and what level of staff training is needed.

After analyzing the four factors, the MDOT developed the plan outlined in the following section for assisting persons of limited English proficiency.

LIMITED ENGLISH PROFICIENCY PLAN OUTLINE

a) **How to Identify an LEP Person who Needs Language Assistance** - Below are tools to help identify persons who may need language assistance:

- Examine records requests for language assistance from past meetings and events to anticipate the possible need for assistance at upcoming meetings.
- When MDOT or subrecipients sponsored workshops or conferences are held, set up a sign-in sheet table, have a staff member greet and briefly speak to each attendee. To informally gauge the attendee's ability to speak and understand English, ask a question that requires a full sentence reply.
- Have the Census Bureau's "I Speak Cards" at the workshop or conference sign-in sheet table (contained herein as **APPENDIX B**). While staff may not be able to provide translation assistance at this meeting, the cards are an excellent tool to identify language needs for future meetings. Also, have the cards available at the contractor sites.
- Frequently survey drivers and other first line staff of any direct or indirect contact with LEP individuals.
- Frequently survey MDOT's district and division offices of any direct or indirect contact with LEP individuals.

b) **Language Assistance Measures** - The MDOT has or will implement the following LEP procedures. The creation of these steps are based on the very low percentage of persons speaking other languages or not speaking English at least "well," and the lack of resources available in the MDOT service area:

- Census Bureau's "I Speak Cards" are to be located at each division and district reception area or business office locations at all times.
- When needed, staff will be able to use a telephonic language communication provider to connect with the language need of LEP customers. Service is activated by using a call in number to the language interpreter services call center. The customer will be put on the phone where the language interpreter service call center will be able to determine what language is required if not already known.
- When the MDOT's website is redesigned, AltaVista Babel Fish translation will be an added feature. This will aid LEP persons seeking services with MDOT.

c) **Outreach Techniques** - MDOT does not have a formal practice of outreach techniques due to the lack of LEP population and resources available in the service area. However, the following are a few options that the MDOT will incorporate when and/or if the need arises for LEP outreach:

- If staff knows that they will be presenting a topic that could be of potential importance to an LEP person or if staff will be hosting a meeting or a workshop in a geographic location with a known concentration of LEP persons, meeting notices, fliers, advertisements, and agendas will be printed in an alternative language, based on known LEP population in the area.
 - When running a general public meeting notice, staff will insert the clause, based on the LEP population and when relevant, that translates into “A (insert alternative Language) translator will be available”. For example: “*Un traductor del idioma español estará disponible*” This means “*A Spanish translator will be available*”.
 - Key print materials, including but limited to schedules and maps, will be translated and made available at meetings or public hearings in communities where a specific and concentrated LEP population is identified.
- d) **Monitoring and Updating the LEP Plan** - This plan is designed to be flexible and is one that can be easily updated. At a minimum, the MDOT will follow the Title VI Program update schedule for the LEP Plan. However, major updates most likely will not occur until the next Census in 2010 unless the MDOT finds it necessary and crucial for an update before such time.

Each update should examine all plan components such as:

- How many LEP persons were encountered?
 - Were their needs met?
 - What is the current LEP population in the State of Mississippi?
 - Has there been a change in the types of languages where translation services are needed?
 - Is there still a need for continued language assistance for previously identified MDOT programs? Are there other programs that should be included?
 - Have the MDOT’s available resources, such as technology, staff, and financial costs changed?
 - Has the MDOT fulfilled the goals of the LEP Plan?
 - Were any complaints received?
- e) **Dissemination of the MDOT Limited English Proficiency Plan** - MDOT’s LEP Plan will be posted on MDOT’s website where any person, including social service, non-profit, and law enforcement agencies and other community partners with internet access will be able to access the plan. Notice of protection for LEP persons is included in MDOT’s Title VI brochure titled “Your Rights under Title VI of the Civil Rights Act of 1964”. Brochures are distributed at public hearings and meetings.

Copies of the LEP Plan will be provided, on request, to any person(s) requesting the document via phone, in person, by mail or email. LEP persons may obtain copies/translations of the plan upon request.

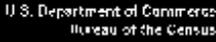
Any questions or comments regarding this plan should be directed to the MDOT's Title VI Coordinator or Contract Compliance Coordinator.

Office of Civil Rights
Mississippi Department of Transportation
P. O. Box 1850
Phone: 601-359-7466
Fax: 601-576-4504
Email: sroberts@mdot.state.ms.us or jrigby@mdot.state.ms.us

APPENDIX A - MISSISSIPPI LANGUAGES SPOKEN AT HOME

<p align="center">Mississippi Languages Spoken at Home Based on 2010 -2012 American Community Survey 3- Year Estimates Provided by the US Census Bureau</p>		
<p>LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER</p>	Total	Percent of population
Total resident population 5 years and over:	2,770,973	100.00%
Speak only English	2,667,440	96.3%
Language other than English	103,533	3.7%
Speak Spanish	63,125	2.3%
Speak English less than "very well"	28,383	1.0%
All other languages	40,408	1.5%
Speak English less than "very well"	13,947	0.5%

APPENDIX B - CENSUS BUREAU'S "I SPEAK CARDS"

  	
LANGUAGE IDENTIFICATION FLASHCARD	
<input type="checkbox"/> املأ هذا المربع إذا كنت تقرأ أو تتحدث العربية.	Arabic
<input type="checkbox"/> Արձգե՛ք այս քառակուսին, եթե խոսում եմք կամ կարդում եմք հայերեն:	Armenian
<input type="checkbox"/> যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন	Bengali
<input type="checkbox"/> បញ្ជាក់ចុះក្នុងក្របខណៈ: បើអ្នកអាន ឬនិយាយភាសាខ្មែរ	Cambodian
<input type="checkbox"/> Maken i kahhon kormu un tséai pat un sang i Chamorro.	Chamorro
<input type="checkbox"/> 如果您是只有中文閱讀和會話能力，請在本空格內標上X亂號。	Chinese
<input type="checkbox"/> Make kazyo sa a si ou li oswa ou pale kreyòl ayisyen.	Creole
<input type="checkbox"/> Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.	Croatian (Serbo Croatian)
<input type="checkbox"/> Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.	Czech
<input type="checkbox"/> Kruis dit vakje aan als u Nederlands kunt lezen of spreken.	Dutch
<input type="checkbox"/> Mark this box if you read or speak English.	English
<input type="checkbox"/> اگر خواندن و نوشتن فارسی برعکسین، این مربع را علامت بگذارید.	Farsi

VI. FREQUENTLY ASKED QUESTIONS

Q. Who is a Limited English Proficient (LEP) individual?

A. Individuals 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 language assistance with respect to a particular type or service, benefit, or encounter.

Q. Does a recipient have to provide translation services in every language?

A. No. Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. What is "reasonable" is based on the four-factor analysis. Once the recipient researches the demographics and takes resources available and costs into consideration it may be that they only provide language services in the largest number of LEP persons served or encountered by a program or service.

Q. Will providing language services increase the risk of litigation and liability for recipients as a result of LEP Guidance?

A. No. *Alexander v. Sandoval* holds principally that there is no private right of action to enforce Title VI disparate regulations. The LEP Guidelines are based on Title VI and DOT's Title VI regulations at 49 CFR Part 21 and does not provide any private right of action beyond that which exists in those laws. Thus LEP Guidance does not increase the risk of recipient's legal liability to private plaintiffs. DOT does not dismiss the fact that although there is no legal grounds this does not prevent persons from initiating legal actions.

Q. What is a "safe harbor?"

A. "safe harbor means that if a recipient provides written translations under certain circumstances, such action will be considered strong evidence of compliance with the recipient's WRITTEN translation obligations under Title VI. The following actions will be considered strong evidence of compliance with the recipient's written translation obligations: (a) the DOT recipient provides written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served; (b) if there are fewer than 40 persons in a language group that reaches the 5% trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Q. Does the Executive Order apply to federally conducted activities overseas or to foreign recipients of federal financial assistance?

A. No. The Department of Justice has determined that EO 13166 applies only within the United States and its territories and does not apply extraterritorially.

However, agencies that conduct activities overseas must still submit a plan for making their domestic activities accessible to people who are limited English proficient. That plan will indicate that the agency conducts federal activities abroad, but that DOJ has determined that the EO does not apply to those activities.

Similarly, agencies that provide federal financial assistance abroad and domestically must still create guidance for their domestic recipients, and may include a statement in the guidance indicating that the guidance does not apply extraterritorially.

Q. What are recipients of federal funds and federal agencies required to do to meet LEP requirements?

A. Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and
4. The resources available to the grantee/recipient or agency, and costs. As indicated above, the intent of this guidance is to find a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, or small nonprofits.

APPENDIX R - ACCOMPLISHMENT REPORT

Title VI July 2014 – June 2015

1. The Office of Civil Rights mailed out 146 Title VI Assessment Reports and received our highest percentage (97%) of reports back. There was a special emphasis placed on contacting the LPA's during the reporting period. None of the LPA's reported any Title VI related complaints during the review period.
2. The Office of Civil Rights staff attended the 2015 Southern Transportation Civil Rights Training Symposium August 3rd – 6th in Fort Lauderdale, Florida. Some of the topics discussed were: Best practices in Local Public Agency Compliance with Title VI and ADA, ADA Transition Planning and Emerging Issues, Data collection and analysis for EEO and LEP, Best practices in conducting Title VI and ADA investigations and How to integrate Civil Rights into overall programs.
3. The Civil Rights Director is continuing to serve as a Committee Member of the Southern Transportation Civil Rights Executive Council. The primary purpose of the Southern Transportation Civil Rights Executive Council is to promote the advancement of Civil Rights Program initiatives within member states.
4. The agency employed the services of a minority owned and operated consulting firm, Systems Consultants Associates, Inc., to assist in the task of establishing the requisite goal for the DBE Program. Systems Consultants Associates (Systems) has a long standing and highly successful experience with DBE and related programs.

As a result, Systems findings and due Consideration of the FHWA, the Agency adopted a goal of 9.71 percent for DBE participation of which 4.13 percent is race-conscious and 5.58 percent race-neutral.

5. The Office of Civil Rights continues its effort to locate minority and female firms qualified to be certified as disadvantaged businesses. A total of forty (40) firms were certified as DBEs during the review period of which Twenty-three (23) are minority male owned firms and seventeen (17) are minority female owned firms.
6. Other significant accomplishments for the program year include the following:

The MDOT ADA Coordinator along with the Roadway Design Division continued to provide training on Designing Pedestrian Facilities for Accessibility.

MDOT's ADA Coordinator attended numerous meetings with the City of Jackson's ADA Advisory Council. The Council meets once a month to discuss concerns and needs in the community.

MDOT's ADA coordinator traveled to various LPA's to provide additional training on ADA and Title VI during the year.

- **Roadway Design Division**

The Department awarded twelve (12) design contracts to consultant firms. The total value of all contracts combined was \$5,142,982. None of these contracts are held by minority/women owned firms.

There were no Title VI complaints in the design program areas.

- **District Offices**

There were a total of 119 preconstruction conferences held in the Districts during the program year. During the conferences district personnel discussed with suppliers, subcontractors and contractors the Title VI requirements associated with their contracts or agreements.

During EEO Inspections there were a total of two (2) cases where employees were underpaid. The project office then contacted each contractor so that a back payment could be processed for these employees.

During the employee interview session of the EEO inspections there were not any complaints.

None of the District Offices received any Title VI related complaints during the program year.

- **Research Division**

There are approximately five (5) projects currently underway. (4) are university projects. One of these is with Jackson State University, which is HBCU. The other project is with a consultant that is not minority or female owned.

Even if a university or consulting firm is not female/minority-owned or the university is not an HBCU, the principal investigators (PIs), professors, graduate students, and other people working on research projects represent a very diverse group in the engineering field. For example, Mississippi State University is not an HBCU, but many professors and graduate students are minority and or female.

A consulting firm that is not minority /female –owned still may have a minority /female person working on a particular project. A more appropriate question to ask Research may be something like how many projects have a female/minority PI.

There were no Title VI complaints filed regarding research projects.

- **Contract Administration/Maintenance Division**

There was not any contractor found not to be in compliance with the EEO provisions of their Federal-aid highway contract or maintenance agreement.

There were no Title VI related complaints filed in regards to competitive bidding of construction or maintenance contracts.

- **Planning/MPOs**

A review of the MPOs revealed the following findings:

Several public hearings were held in reference to transportation planning, organizations and communities were notified by newspaper, local radio, email and flyers to neighborhood associations.

The Central Mississippi Planning and Development District (CMPDD):

There were several public hearings held in reference to transportation planning. Organizations and communities were notified by newspaper, local radio, email and flyers sent to neighborhood organizations.

Significant actions planned for the ensuing year are revision of the Long Range Transportation Plan and Public Participation Plan and the Hazard Mitigation Plan.

There were no Title VI complaints or consultant planning agreements awarded during the reporting period.

Hattiesburg MPO: There were no studies conducted this year to provide data relative to minority persons, neighborhoods and income levels. Several public hearings were held in reference to transportation planning. Organizations and communities were notified by newspaper, local radio, e-mail and flyers to neighborhood organizations.

There were no Title VI complaints or consultant planning agreements awarded during the reporting period.

Memphis MPO:

There were no Title VI complaints or consultant planning agreements awarded during the reporting period. The MPO prepares all comprehensive plans for local governments in-house.

I-269 TN Regional Vision Study that aligns goals, objectives and regional vision of the Memphis Urban Area MPO as expressed in the Direction 2040 Long Range Transportation Plan.

There were several public hearings held in reference to transportation planning. Organizations and communities were notified by newspapers (Spanish Language and Tristate Defender African American), local radio, email and flyers to neighborhood organizations.

Gulf Regional Planning Commission:

The following studies were done during the reporting period.

For the 2040 Long Range Transportation Plan, census data on demographics were used to locate Environmental Justice areas within the planning area.

- Transportation Safety Management Program – Get to B
 - i. Land Use Study
 - ii. Regional Apartment Study

There were six (6) public meetings in the three coastal counties on long range transportation planning, including roads, transit, bike/pedestrian and safety concerns. The Public was encouraged to ask questions and submit written comments on all plans. Minorities attended all meetings as individuals and representing community organizations. The MPO published notices in the newspapers, regionally and locally; gave TV interviews, received radio advertisement and articles in the newspapers.

There were no Title VI complaints during the reporting period. One consultant planning agreement was awarded to perform a FTA emergency transportation recovery study.

Significant accomplishments for the reporting period would be the GRPC Public Participation Plan and revision of the Long Range Transportation Plan.

- **Right of Way Division**

There were no Title VI related complaints received during the right of way stages. Twenty (20) appraisers were utilized during the program year to include five (5) that were minorities. Four (4) of the appraisers were female and one of those was a minority.

There were 342 parcels acquired or condemned during the reporting period. There were no complaints filed by minorities or women concerning their option in the negotiation phase.

Relocation assistance was provided to approximately Forty- three (43) persons to include six (6) minorities, twelve (12) females, nine (9) elderly and one (1) handicapped.

- **Bridge Division**

The Department awarded thirteen (13) design contracts to consultant firms. The total value of all contracts combined was approximately \$9,098,481.

There were no Title VI complaints in the Bridge design program areas.

- **Environmental Division and Public Involvement**

The Department held five (5) public hearings concerning the location of projects. The hearings were advertised by newspaper and press releases. In soliciting the involvement of minority leaders, the Department held neighborhood field reviews, passed out flyers, business and government bulletin boards, used census data, public officials meetings and one on one meetings in the community. During the reporting period the minority publications, Jackson Advocate and Mississippi Link, were used to advertise public hearings. The following consultants were used during the reporting period. Neel-Schaffer and Pritchett Planning. One (1) of the consultants is minority owned.

There were no Title VI complaints in the Environmental program areas.

- **State Aid Division**

During the reporting period, State Aid utilized the following consultant and/or contractor services:

1. D & D Hinton Management Services
2. Lefkowitz Systems, Inc.
3. Michael Baker, Jr., Inc.
4. Richard E. Turner
5. Vixio Technology, LLC
6. Scott-Robert and Associates, LLC

There were no Title VI complaints in the State Aid program areas.

APPENDIX S - ANNUAL WORKPLAN

The following constitutes an outline of the Title VI activities planned for the federal fiscal year beginning July 1, 2015 through June 30, 2016.

1. Duties performed by the Office of Civil Rights Director, the Title VI Coordinator and the Interdisciplinary Team will continue as recognized in the Title VI Program and Implementation Plan.
2. The Office of Civil Rights will continue to monitor LPA's ADA Transition Plans. All information on individual LPA's will be linked to the MDOT ADA Transition Plan online at GoMDOT.com.
The Title VI Coordinator will coordinate Title VI training for sub recipients. The training will focus on sub recipients' responsibilities and obligations to the program. During the training, sub recipients will be informed of the annual Title VI review and the review process. We are looking to provide this training as a Webinar or on-site if needed.
3. The Civil Rights Director will continue to serve on the Southern Transportation Civil Rights Executive Council and participate on the planning committee for the Regional Civil Rights Conference.
4. The Office of Civil Rights will continue to attend the AASHTO National Civil Rights training and the Southern Transportation Civil Rights Training Symposiums.
5. The Office of Civil Rights will continue to update the Civil Rights Division website.
6. The Office of Civil Rights will continue to recruit new firms as well as provide training and technical assistance to existing firms as a means to develop DBE participation.
7. MDOT will continue to reach out to the media and target minority and low income audiences to enlist their participation in public involvement as well as make them aware of their rights under Title VI.
8. The MDOT ADA Coordinator will provide ADA training along with the MDOT Roadway Design Division. The training will consist of ADA design guidelines as well as information concerning completion of ADA Self-evaluation and Transition Plans.
9. The Office of Civil Rights will continue to participate in MDOT sponsored conferences and events to publicize the Title VI Program and its requirements.