

Maine State Library

**Digital Maine**

---

Transportation Documents

Transportation

---

6-11-2009

## 2010 Small Harbor Improvement Program Awards

Maine Department of Transportation

Civil Rights Office

Follow this and additional works at: [https://digitalmaine.com/mdot\\_docs](https://digitalmaine.com/mdot_docs)

---

# **"2010" Title VI Plan Update**



**State of Maine  
Department of Transportation  
Civil Rights Office  
#16 State House Station  
Augusta ME 04333-0016  
Phone: (207) 624-3042  
Fax: (207) 624-3021  
TTY: 888-516-9364**

**Submitted by: Theresa Savoy, Director, Civil Rights Office**

## **TABLE OF CONTENTS**

<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
NONDISCRIMINATION POLICY STATEMENT.....	3
ORGANIZATION AND STAFFING OF CIVIL RIGHTS OFFICE.....	4
TITLE VI MONITORING AND REVIEW PROCESS .....	7
TITLE VI/EJ PLAN UPDATES.....	9
TITLE VI ASSURANCES- FHWA.....	15
ACCOMPLISHMENT REPORT- FFY 2009.....	27
ANNUAL WORK PLAN- FFY 2010.....	29
STATE PROCEDURES, MANUALS, DIRECTIVES APPLICABLE TO FEDERAL– AID PROGRAMS .....	31

## **APPENDIX**

A.	Limited English Proficiency.....	32
B.	Title VI Authorities.....	35
C.	MUNICIPAL PLANNING ORGANIZATIONS.....	40
D.	FTA SPECIFIC ELEMENTS AND FIXED FACILITY IMPACT ANALYSES.....	43
E.	MAINE DEPARTMENT OF TRANSPORTATION REGIONAL OFFICES.....	63



JOHN ELIAS BALDACCI  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333 0016

DAVID A. COLE  
COMMISSIONER

## **NONDISCRIMINATION POLICY STATEMENT**

### **MAINE DEPARTMENT OF TRANSPORTATION EEO POLICY STATEMENT**

The Maine Department of Transportation is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants, and to ensuring that the public-at-large is afforded access to our programs and services.

To that end, no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Maine Department of Transportation program or activity on the grounds of race, color, national origin, income, sex, age, disability, or limited English proficiency. In accordance with Maine State Law, no person shall be subjected to discrimination on the grounds of sexual orientation. Maine Department of Transportation assures all its programs and activities will be free from discrimination, whether those programs and activities are federally funded or not.

Maine Department of Transportation conducts its Title VI/Environmental Justice Program in a team approach involving personnel from all program areas, with guidance from the Department's Title VI Specialist. I have designated the Department's Equal Employment Opportunity Officer within the Civil Rights Office to serve as the Title VI/EJ Specialist, to ensure the Maine Department of Transportation's compliance with Title VI/Environmental Justice implementing regulations.

Inquiries concerning the Maine Department of Transportation's policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI/Environmental Justice may be directed to:

**Gigi Ottmann-Deeves, EEO Officer**  
**Civil Rights Office**  
**Maine Department of Transportation**  
**#16 State House Station**  
**Augusta, Maine 04333-0016**  
**Telephone (207) 624-3519**  
**TTY (207) 287-3392**  
**[ggi.ottmann-deeves@maine.gov](mailto:ggi.ottmann-deeves@maine.gov)**

This Policy statement must be circulated throughout the Maine Department of Transportation and be included by reference in all contracts, agreements, programs and services administered by the Maine Department of Transportation.

June 11, 2009  
DATE

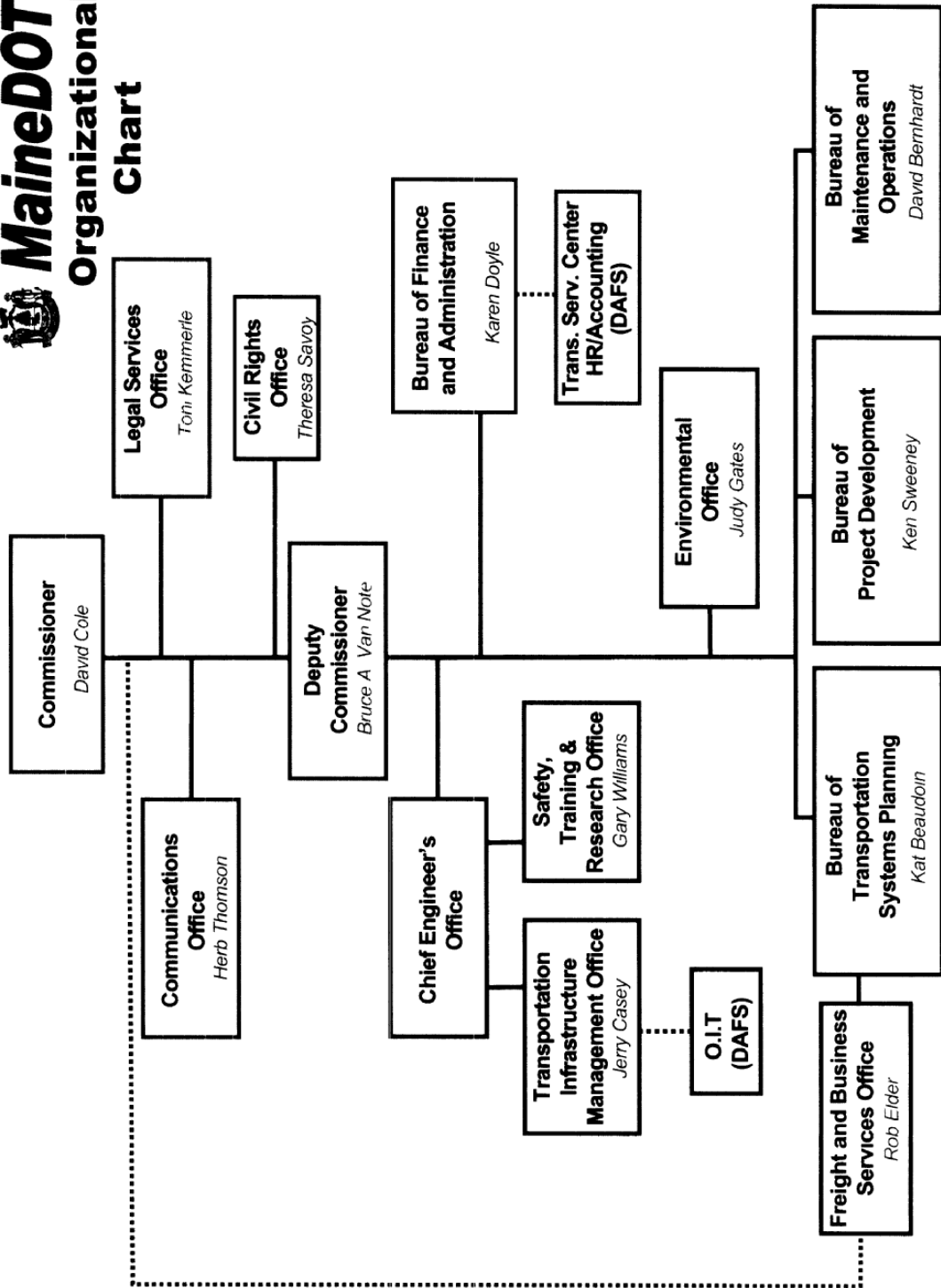
David A. Cole  
DAVID A. COLE, COMMISSIONER



PRINTED ON RECYCLED PAPER

THE MAINE DEPARTMENT OF TRANSPORTATION IS AN AFFIRMATIVE ACTION / EQUAL OPPORTUNITY EMPLOYER

# **MaineDOT** **Organizational Chart**



**ORGANIZATION AND STAFFING OF CIVIL RIGHTS OFFICE (CRO)**  
**NAMES AND TITLES OF STAFF**

Commissioner	David A. Cole	624-3003	<a href="mailto:David.a.cole@maine.gov">David.a.cole@maine.gov</a>
Director, Civil Rights Office	Theresa Savoy	624-3042	<a href="mailto:Theresa.savoy@maine.gov">Theresa.savoy@maine.gov</a>
EEO Officer	Jackie LaPerriere	624-3066	<a href="mailto:Jackie.laperriere@maine.gov">Jackie.laperriere@maine.gov</a>
EEO Officer	Gigi Ottmann-Deeves	624-3036	<a href="mailto:Gigi.ottmann-deeves@maine.gov">Gigi.ottmann-deeves@maine.gov</a>
Asst. Technician	Richard Stephens	624-3056	<a href="mailto:Richard.w.stephens@maine.gov">Richard.w.stephens@maine.gov</a>

## **DESCRIPTION OF ORGANIZATION AND STAFFING OF CIVIL RIGHTS OFFICE (CRO)**

The Commissioner of MaineDOT is responsible for ensuring the implementation of the MaineDOT's Title VI/EJ programs. The Civil Rights Director, on behalf of the Commissioner, is responsible for the overall management of the Title VI/EJ programs. The day-to-day administration of the program lies with the Director who will serve as the Title VI/EJ Specialist, under the supervision of the Commissioner. The Title VI/EJ Specialist at all times has direct access to the Commissioner. The Civil Rights Director shall have lead responsibility for coordinating the administration of the Title VI/Environmental Justice (Title VI/EJ) and related statutes program, plan, and assurances. Title VI Liaisons in special emphasis program areas will work with the Title VI/EJ Specialist to administer the program in their areas. Special emphasis program areas for MaineDOT are:

- Bureau of Transportation Systems Planning: Statewide Planning and Statewide Multimodal Planning Division
- Bureau of Project Development: Urban and Arterial Highway Program, Urban and Federal Bridge Program, Multimodal Program and Property Office
- Transportation Service Center (Human Resource)
- The Civil Rights Office.

### **Duties of Civil Rights Office:**

The efforts to prevent discrimination must address, but not be limited to:

- ❖ a program's impacts,
- ❖ access,
- ❖ benefits,
- ❖ participation,
- ❖ treatment,
- ❖ services,
- ❖ contracting opportunities,
- ❖ training opportunities,
- ❖ investigations of complaints,
- ❖ allocations of funds,
- ❖ Prioritization of projects, and the functions of right-of-way, research, planning, and design.

Authorities For nondiscrimination include but are not limited to:

Title VI of the Civil Rights Act of 1964, the Age Discrimination Acts of 1967 and 1975, Section 504 of the Rehabilitation Acts of 1973, the American with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, and Title 23, United States Code, Section 324.

## **TITLE VI MONITORING AND REVIEW PROCESS**

The Title VI/EJ Specialist is charged with the responsibility for implementing, monitoring and ensuring MaineDOT's compliance with the Title VI/EJ regulations and related statutes. Title VI/EJ responsibilities are as follows:

1. Monitor Title VI/EJ activities.
2. Provide training to MaineDOT staff as needed, and to outside agencies as requested.
3. Submit Title VI/EJ Program implementing plan annually to FHWA Division Office and to FTA Regional Office.
4. Develop Title VI/EJ information for dissemination (where necessary, in other language(s), format(s).
5. Prepare an annual accomplishment report and submit to FHWA Division Office and to FTA Regional Office annually.
6. Establish procedures to promptly investigate complaints, to identify and eliminate discrimination, to review programs and grant applications, to resolve deficiencies within 90 days, and to collect and analyze statistical data.
7. Develop a program to conduct Title VI/EJ reviews of program areas and conduct reviews of programs – with program personnel (for both FTA and FHWA sub-recipients).

### **Title VI/EJ Liaisons in Special Emphasis Programs**

In addition to the Title VI/EJ Specialist, each of the special emphasis program areas shall have a designated a Title VI/EJ liaison. The special emphasis program areas are:

- Bureau of Transportation Systems Planning: Statewide Planning and Statewide Multimodal Planning Division
- Bureau of Project Development: Urban and Arterial Highway Program, Urban and Federal Bridge Program, Multimodal Program and Property Office
- Transportation Service Center (Human Resource)
- The Civil Rights Office.

The Liaisons shall be responsible for ensuring Title VI program development in their areas, sharing Title VI information and resources, ensuring compliance of their sub recipients, Title VI program monitoring, and reporting to the Civil Rights Office the results and goals of their respective programs.



## **Data Collection and Reporting**

Special Emphasis Program area reports will be required for each of the special emphasis program areas. The Title VI/EJ Liaisons will be responsible for coordination and compilation of these reports into an annual report submitted by July 25th each year to the Civil Rights Office Manager. These reports will include statistical data regarding race, color, national origin, English language ability and sex of participants in, and beneficiaries of MaineDOT programs, e.g., relocatees, impacted citizens, transport users, and affected communities. The report shall specifically review Title VI/EJ accomplishments achieved during the year by the special emphasis area program including training given by or taken by the MaineDOT employees, dissemination of public information, complaints, and reviews as well as any other related activity. The report will clearly show the work plan for goals for the next year.

## Title VI/EJ Plan Updates

An annual update of the Title VI implementation plan will be submitted by October 1 each year to the Federal Highway Division Administrator for approval or disapproval. The Title VI/EJ Specialist will be responsible for submitting the report. A copy of this report is to be sent to FTA by August 31 every three years (2008, 2011, 2014, etc.)

The current assignments for Title VI Liaisons are:

Program Area	Details	Title VI Liaison	Phone# / e-mail
Civil Rights Office	DBE ADA OJT Contract Compliance Title VI/EJ Labor Compliance	Theresa Savoy Director	207-624-3042 <a href="mailto:Theresa.savoy@maine.gov">Theresa.savoy@maine.gov</a>
Bureau of Trans. System Planning	Statewide Planning	Michael LaBerge, Transportation Planning Analyst	207-624-3280 <a href="mailto:Michael.Laberge@maine.gov">Michael.Laberge@maine.gov</a>
	Statewide Multimodal Planning Division (Transit)	Diana True Transportation Analyst	207-624-3559 <a href="mailto:Diana.L.True@maine.gov">Diana.L.True@maine.gov</a>
Project Development	U&F Bridge	David Sherlock Program Manager	207-624-3421 <a href="mailto:david.sherlock@maine.gov">david.sherlock@maine.gov</a>
	U&A Highway	Brad Foley Program Manager	207-624-3539 <a href="mailto:Brad.foley@maine.gov">Brad.foley@maine.gov</a>
	Multimodal	Norman Baker Program Manager	207-624-3437 <a href="mailto:Norman.baker@maine.gov">Norman.baker@maine.gov</a>
	Property Office	William Pulver Director	207-624-3551 <a href="mailto:William.pulver@maine.gov">William.pulver@maine.gov</a>
Human Resources	Internal Personnel Programs and Services	Christy Cross	207-624-3063 <a href="mailto:christy.cross@maine.gov">christy.cross@maine.gov</a>

## **Bureau of Transportation System Planning (BTSP)**

This Bureau develops the State's Biennial Transportation Improvement Program (BTIP), the 6-Year Plan and the 20-Year Plan, and the Statewide Transportation Improvement Program (STIP) to meet present and future needs for safe, adequate, and efficient transportation. The Regional Planning Committees and the Municipal Planning Organizations (MPO's) provide information in developing these planning documents. This Bureau also encompasses clean air issues, safety, bridge and pavement management, transportation analysis, transportation reporting, inventory, research, mapping, major project studies and training and technical assistance for communities. This Bureau includes the Plan and Program Development Division, Transportation Research Division, Community Services Division, and Systems Management Division and Statewide Multimodal Planning Division (SMPD).

The BTSP's SMPD is responsible for coordinating passenger-related functions, including bus, van pool, car pool, air, rail, and marine transportation and pedestrian and bicycle programs. The SMPD is responsible for developing transportation alternatives that are environmentally sound, cost effective and politically acceptable.

Two Liaisons will be assigned from BTSP. One will focus on the statewide planning and the other will focus on passenger related functions.

### **Title VI/EJ Responsibilities:**

#### **Statewide planning:**

- ➔ Designate a Title VI/EJ liaison who will:
  - Ensure that all aspects of the planning process operation, including environmental impact reviews, comply with Title VI/EJ.
  - Serve as a resource person for the Bureau of Planning, helping to develop and document procedures that ensure participation of a cross section of people representative of the affected population, including identifying and proactively reaching out to various and diverse social, economic, and ethnic interest groups, and ensuring the groups are represented in the planning process.
  - Provide training and information to planning staff, MPO's, and Regional Planning Organizations regarding Title VI/Environmental Justice annually.
  - Provide statistical data on race, color, national origin, income and sex of populations/population groups in all areas impacted by programs or services.
  - Ensure equal opportunity for participation on Regional Planning Committees.
  - Ensure Title VI/EJ language is included in every Bureau of Planning sub-recipient contract.
  - Perform reviews annually of MPO's and of other Bureau sub-recipients to ensure Title VI/EJ adherence.
  - Provide the Title VI/EJ Specialist with an annual report of Title VI/EJ accomplishments for the previous year and goals for the next year, and results of Title VI/EJ reviews. Report is due to the Civil Rights Office by July 25<sup>th</sup> each year.

### **Statewide Multimodal Planning Division**

- ➔ Designate a Title VI/EJ liaison who will:
- Ensure that all aspects of passenger-related functions/programs/contracts/grant programs comply with Title VI/EJ.
- Disseminate Title VI and related information to sub-recipients and the public.
- Provide annual training to sub-recipients to ensure they can implement Title VI effectively for their Maine DOT contracts/grants.
- Provide the Title VI/EJ Specialist with an annual report on Title VI/EJ accomplishments for the previous year and goals for the next year. (See Appendix C: "FTA Circular 4702.1A data collection and reporting requirements") Report is due to the Civil Rights Office by July 25<sup>th</sup> each year.
- Ensure Title VI/EJ language is included, or incorporated by reference, in every sub-recipient contract.
- Provide Title VI and Environmental Justice assistance to transit providers and staff regularly.
- Perform reviews annually of Office of Passenger Transportation sub-recipients to ensure Title VI/EJ adherence.

### **Bureau of Project Development**

The Bureau of Project Development assumes complete multiple phases of construction projects, including: advertising for bids, conducting public hearings, obtaining legal title to property, and supervising construction. Program areas within the Bureau of Project Development for purposes of Liaison responsibilities are the Property Office, Multimodal Program, Urban and Arterial Highway Program, Urban and Federal Bridge Program.

#### **Title VI/EJ Specialist Responsibilities:**

- Designate Title VI/EJ liaisons who will:
- Monitor all Project Development activities to ensure nondiscrimination within program areas.
- Provide the Title VI/EJ Specialist with an annual report on Title VI/EJ accomplishments for the previous year and goals for the next year. Report is due to the Civil Rights Office by July 25<sup>th</sup> each year.
- Perform reviews as needed of Bureau of Project Development sub-recipients to ensure Title VI/EJ adherence.
- Provide statistical data on race, color, national origin, income and sex of populations/population groups in all areas impacted by programs or services.
- Ensure Title VI/EJ language is included in every Bureau of Project Development program area sub-recipient contract and sub-contract.
- Serve as a resource person for Program area, helping to ensure participation of a cross section of people representative of the affected population, including various and diverse social, economic, and ethnic interest groups, are represented in the project development process.
- Ensure Maine DOT implements appropriate ADA standards and training for staff responsible for design and construction of facilities.

- Provide training and information to program area staff annually regarding Title VI/EJ.

### **Civil Rights Office**

Coordinates external civil rights for FTA, FAA and FHWA sub-recipients; wage issues; programs and policies in the areas of Nondiscrimination, Affirmative Action, and Equal Opportunity,  
Title VI/EJ Responsibilities:

Designate a Title VI/EJ Liaison who will:

- Gather information for the annual Title VI/EJ report on Supportive Services, on the On-the-Job Training Program, and on the Disadvantaged Business Enterprise Program.
- Ensure Title VI/EJ language is included in every Civil Rights Office sub-recipient contract and subcontract.
- Perform reviews annually of Civil Rights Office sub-recipients to ensure Title VI/EJ adherence.
- Perform Title VI reviews with liaisons of sub-recipients in other program areas.
- Provide training and technical assistance to Title VI liaisons.
- Compile and forward all Title VI/EJ reports to FTA by August 1<sup>st</sup> each year and to FHWA by October 1<sup>st</sup> each year.
- Maintains the Title VI Plan and ensures Title VI and EEO are implemented fully in Department external programs.

### **Office of Human Resources**

Designate a Title VI/EJ Liaison who will

- Coordinate Internal Civil Rights Issues and ensures nondiscrimination for Maine DOT personnel.
- Trains supervisors and other employees in nondiscrimination areas.
- Monitors and ensures nondiscrimination, EEO, and AA programs for MaineDOT employees.
- Investigates and resolves complaints of discrimination made by MaineDOT employees.
- Provide the Title VI/EJ Specialist with an annual report on Title VI/EJ accomplishments for the previous year and goals for the next year. Report is due to the Civil Rights Office by July 25<sup>th</sup> each year.
- Provide statistical data on race, color, national origin, income and sex of populations/population groups internally for all programs or services.
- Ensure ADA regulations are followed in MaineDOT employment process.
- Provide training and technical assistance to MaineDOT personnel regarding ADA compliance as needed.

The Civil Rights Office reviews the nondiscrimination policies of each contractor and applicant as part of the prequalification processes for selection. This process happens each year, with some firms being qualified for up to three years. The

policies are reviewed again at recertification periods and during any compliant investigation or a scheduled EEO Contractor Compliance Review.

### MaineDOT Internal Compliance Reviews

Special emphasis program reviews will be conducted based on the annual summary of Title VI activities, accomplishments and problems. The reviews will be conducted by

The Title VI/EJ Specialist, with the corresponding Title VI/EJ liaisons, to assure effectiveness in their compliance of Title VI/EJ provisions. The Title VI/EJ Specialist and departmental program Liaisons will coordinate efforts to ensure the equal participation in all their programs and activities at all levels.

The following questions will be used to assess the Title VI programs in special emphasis areas of MaineDOT:

1. Has the program submitted Title VI Assurances from any sub recipients (i.e. MPO's, municipalities, transit providers) to the Civil Rights Office?
2. Are Contractors and consultants aware they are bound by contract provisions?
3. Are all the nondiscrimination statutes included?
4. Does the Program have a Title VI Liaison assigned?
5. Has the Liaison monitored Title VI activities and prepared required reports?
6. Has the Liaison conducted training and disseminated public information regarding Title VI and related acts?
7. Has the Liaison been trained in conducting compliance reviews and complaint investigations?
8. Is the Liaison collecting and analyzing statistical data regarding participants in and beneficiaries of all state programs?
9. Are Title VI and related requirements included in all contracts and program directives?
10. Has the Liaison conducted Title VI reviews of sub-recipient (contractors, consultants, universities, MPO's, etc.)?

The Programs will develop action plans with specific activities, responsible individuals, and due dates in response to these answers in order to fully implement Title VI in their programs. The Civil Rights Office will conduct the program reviews, and provide support and training to the liaisons as requested to ensure program success.

### Title VI/EJ Reviews on Sub-Recipients

Title VI/EJ compliance reviews will be conducted on a sample of sub recipients annually by the Title VI/EJ Specialist and/or the relevant departmental program representatives. Priority for conducting reviews will be given to those local governments, the Municipal Planning Organizations (MPO's), Regional Planning Committees, and other recipients of federal (US Department of Transportation) funds with the greatest potential of impact to those groups covered by the act.

The reviews will entail examination of the recipients' adherence to all Title VI/EJ requirements. The status of each review will be reported in the annual update and report to relevant US Department of Transportation (US DOT) modes (e.g. Federal Highway Administration, Federal Transit Administration).

A preliminary schedule for the reviews follows in the Workplan for FFY 2010. Reviews will be conducted jointly by the Civil Rights Office and the Title VI Liaisons for the program areas.

#### FTA Title VI Compliance Reviews

A report will be submitted to FTA at least every three years, by August 31st, in accordance with FTA Circular 4702.1A, Title VI Program Guidelines for Federal Transit Administration Recipients. The report may be submitted more often should conditions warrant.

The objectives of FTA's Title VI requirements, as set forth in FTA Circular 4702.1A, "Title VI Program Guidelines for Federal Transit Administration Recipients", are:

- To ensure that FTA-assisted benefits and related services are made available and are equitably distributed without regard to race, color, or national origin;
- To ensure that the level and quality of FTA-assisted transit services are sufficient to provide equal access and mobility for any person without regard to race, color, or national origin;
- To ensure that opportunities to participate in the transit planning and decision-making process are provided to persons without regard to race, color, or national origin;
- To ensure that decisions on the location of transit services and facilities are made without regard to race, color, or national origin; and
- To ensure that corrective and remedial action is taken by all applicants and recipients of FTA assistance to prevent discriminatory treatment of any beneficiary based on race, color, or national origin.

#### Identification of deficiencies, remedies, and sanctions

Every effort will be made to identify and resolve deficiencies in an informal and collaborative manner. Notation of resolutions will be made part of the Title VI review reports and/or complaint investigations files. Should sanctions be required, the Civil Rights Office will document in the sanctions notification the noted deficiencies and the remedies required.



STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333 0016

JOHN ELIAS BALDACCI  
GOVERNOR

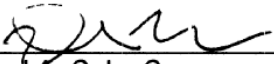
DAVID A. COLE  
COMMISSIONER

**FEDERAL HIGHWAY ADMINISTRATION CIVIL RIGHTS ASSURANCE**

The Maine Department of Transportation HEREBY CERTIFIES THAT, as a condition of receiving Federal financial assistance under the Federal Transit Act of 1964, as amended, it will ensure that

- 1 No person on the basis of race, color, or national origin will be subjected to discrimination in the level and quality of transportation services and transportation-related benefits
- 2 The Maine Department of Transportation will compile, maintain, and submit in a timely manner Title VI information required in compliance with the Department of Transportation's Title VI regulation, 49 CFR Part 21.9
- 3 The Maine Department of Transportation will make it known to the public that those person or persons alleging discrimination on the basis of race, color, or national origin as it relates to the provision of transportation services and transportation-related benefits may file a complaint with the Federal Highway Administration and/or the U.S. Department of Transportation

The person or persons whose signature appears below are authorized to sign this assurance on behalf of the grant applicant or recipient

  
\_\_\_\_\_  
David A. Cole, Commissioner  
Maine Department of Transportation

DATE 11/19/09



100% RECYCLED PAPER

THE MAINE DEPARTMENT OF TRANSPORTATION IS AN AFFIRMATIVE ACTION / EQUAL OPPORTUNITY EMPLOYER



**MAINE DEPARTMENT OF TRANSPORTATION TITLE VI ASSURANCE  
FEDERAL HIGHWAY ASSISTED PROGRAMS**

The Maine Department of Transportation (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat 252, 42 U S C 2000d-42 U S C 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, 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 the Department of Transportation, including the Federal Highway Administration and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement This assurance is required by subsection 21 7(a) of the Regulations

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal Transit Program

- 1 That the Recipient agrees that each "program" and each "facility" as defined in subsections 21 23(e) and 21 23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations
- 2 That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with the Federal Transit Program and, in adapted form in all proposals for negotiated agreements

The Maine Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat 252, 42 U S C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award

- 3 That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to this Act and the Regulations
- 4 That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein
- 5 That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith
- 6 That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property
- 7 That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties (a) for the subsequent transfer of real property acquired or improved under the Capital Program and (b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the Federal Transit 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 shall 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, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance

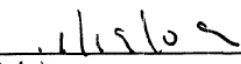
10 The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations and this assurance

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation under the Federal-aid Highway Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal-aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient

Maine Department of Transportation  
(Name of Recipient)

  
(Signature of Authorized Official)

David A. Cole, Commissioner

  
(Date)

Attachments  
Appendices A, B, and C

**(APPENDIX A TO MAINEDOT TITLE VI ASSURANCE)  
Federal Highway Administration Assisted Programs**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows

(1) Compliance with Regulations The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Maine Department of Transportation (hereinafter, "MaineDOT")

Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract

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

(3) Solicitations for 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin

(4) Information and Reports The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Maine Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the Maine Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information

(5) Sanctions for Noncompliance In the event of the contractor's noncompliance with nondiscrimination provisions of this contract, the Maine Department of Transportation shall impose contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to

(a) withholding of payments to the contractor under the contract until the contractor complies, and/or

(b) cancellation, termination, or suspension of the contract, in whole or in part

(6) Incorporation of Provisions The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Maine Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Maine Department of Transportation to enter into such litigation to protect the interests of the Maine Department of Transportation, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States

(APPENDIX B TO MaineDOT TITLE VI ASSURANCE)  
Federal Highway Administration Assisted Programs

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

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the Maine Department of Transportation will accept title to the lands and maintain the project constructed thereon, in accordance with the Title 23, United States Code, the Regulations for the Administration of the Federal-aid Highway Administration Program and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat 252, 42 U S C 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Maine Department of Transportation all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Maine Department of Transportation 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 shall be binding on the Maine Department of Transportation, its successors and assigns

The Maine Department of Transportation, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, 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 Maine Department of Transportation shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction \*

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

(APPENDIX C TO MAINEDOT TITLE VI ASSURANCE)  
Federal Highway Administration Assisted Programs

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

The (grantee, licensee, lessee, permittee, etc , as appropriate) for herself/himself, 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc ) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee lessee, permittee, etc ) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination of Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended

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

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

[Include in deeds]\*

That in the event of breach of any of the above nondiscrimination covenants, Maine Department of Transportation shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of Maine Department of Transportation and its assigns

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

The (grantee, licensee, lessee, permittee, etc , as appropriate) for herself/himself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in case of deeds, and leases add "as a covenant running with the land") that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing services thereon, no person on the grounds of race, color, or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that the (grantee, licensee, lessee, permittee, etc ) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended

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

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

[Include in deeds]\*

That in the event of breach of any of the above nondiscrimination covenants, Maine Department of Transportation shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of Maine Department of Transportation and its assigns

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



STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA MAINE  
04333 0016

JOHN ELIAS BALDACCI  
GOVERNOR

DAVID A. COLE  
COMMISSIONER

**FEDERAL TRANSIT ADMINISTRATION CIVIL RIGHTS ASSURANCE**

The Maine Department of Transportation HEREBY CERTIFIES THAT, as a condition of receiving Federal financial assistance under the Federal Transit Act of 1964, as amended, it will ensure that

1 No person on the basis of race, color, or national origin will be subjected to discrimination in the level and quality of transportation services and transit-related benefits

2 The Maine Department of Transportation will compile, maintain, and submit in a timely manner Title VI information required by FTA Circular 4702.1 and in compliance with the Department of Transportation's Title VI regulation, 49 CFR Part 21.9

3 The Maine Department of Transportation will make it known to the public that those person or persons alleging discrimination on the basis of race, color, or national origin as it relates to the provision of transportation services and transit-related benefits may file a complaint with the Federal Transit Administration and/or the U.S. Department of Transportation

The person or persons whose signature appears below are authorized to sign this assurance on behalf of the grant applicant or recipient

  
\_\_\_\_\_  
David A. Cole, Commissioner  
Maine Department of Transportation

DATE Nov. 19, 2009



100% RECYCLED PAPER

THE MAINE DEPARTMENT OF TRANSPORTATION IS AN AFFIRMATIVE ACTION / EQUAL OPPORTUNITY EMPLOYER



MAINE DEPARTMENT OF TRANSPORTATION TITLE VI ASSURANCE  
Federal Transit Administration Assisted Programs

The Maine Department of Transportation (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat 252, 42 U S C 2000d-42 U S C 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, 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 the Department of Transportation, including the Federal Transit Administration and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement This assurance is required by subsection 21 7(a) of the Regulations

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Capital Program

1 That the Recipient agrees that each "program" and each "facility" as defined in subsections 21 23(e) and 21 23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations

2 That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with the Transit Programs and, in adapted form in all proposals for negotiated agreements

The Maine Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat 252, 42 U S C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award

3 That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to this Act and the Regulations

4 That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein

5 That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith

6 That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property

7 That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements enter into by the Recipient with other parties (a) for the subsequent transfer of real property acquired or improved under the Federal Transit Program and (b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the Federal Transit Program

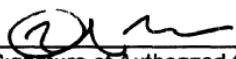
8 That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, 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 shall 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, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance

10 The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations and this assurance

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation under the Federal Transit Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Transit Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient

Maine Department of Transportation  
(Name of Recipient)

  
(Signature of Authorized Official)  
David A. Cole, Commissioner

1/16/05  
(Date)

Attachments  
Appendices A, B, and C



(APPENDIX A TO MaineDOT TITLE VI ASSURANCE)  
Federal Transit Administration Assisted Programs

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows

(1) Compliance with Regulations The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Maine Department of Transportation (hereinafter, "MaineDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract

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

(3) Solicitations for 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin

(4) Information and Reports The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Maine Department of Transportation or the Federal Transit Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the Maine Department of Transportation or the Federal Transit Administration as appropriate, and shall set forth what efforts it has made to obtain the information

(5) Sanctions for Noncompliance In the event of the contractor's noncompliance with nondiscrimination provisions of this contract, the Maine Department of Transportation shall impose contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to

(a) withholding of payments to the contractor under the contract until the contractor complies, and/or

(b) cancellation, termination, or suspension of the contract, in whole or in part

(6) Incorporation of Provisions The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Maine Department of Transportation or the Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Maine Department of Transportation to enter into such litigation to protect the interests of the Maine Department of Transportation, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States

**(APPENDIX B TO MaineDOT TITLE VI ASSURANCE)**  
**Federal Transit Administration Assisted Programs**

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

**(GRANTING CLAUSE)**

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the Maine Department of Transportation will accept title to the lands and maintain the project constructed thereon, in accordance with the Title 23, United States Code, the Regulations for the Administration of the Federal Transit Program and the policies and procedures prescribed by the Federal Transit Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat 252, 42 U S C 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Maine Department of Transportation all the right, title and interest of the Maine 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 Maine Department of Transportation 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 shall be binding on the Maine Department of Transportation, its successors and assigns

The Maine Department of Transportation, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, 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 Maine Department of Transportation shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction \*

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

**(APPENDIX C TO MaineDOT TITLE VI ASSURANCE)  
Federal Transit Administration Assisted Programs**

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

The (grantee, licensee, lessee, permittee, etc , as appropriate) for herself/himself, 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc ) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee lessee, permittee, etc ) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination of Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended

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

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

[Include in deeds]\*

That in the event of breach of any of the above nondiscrimination covenants, Maine Department of Transportation shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of Maine Department of Transportation and its assigns

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

The (grantee, licensee, lessee, permittee, etc , as appropriate) for herself/himself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in case of deeds, and leases add "as a covenant running with the land") that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing services thereon, no person on the grounds of race, color, or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that the (grantee, licensee, lessee, permittee, etc ) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended

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

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

[Include in deeds]\*

That in the event of breach of any of the above nondiscrimination covenants, Maine Department of Transportation shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of Maine Department of Transportation and its assigns

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



## **ACCOMPLISHMENT REPORT**

### **Annual Work Plan FFY 2009 - Accomplishments**

- **Objective:** Train Title VI Liaisons. Fully implement the Title VI Liaison function in Maine DOT
- **Result:** MaineDOT restructured the Civil Rights Office and hired the Director in August 2009. Although the Department did not have Liaisons in place by the end of the FY 2009, the Director worked with key management staff to define emphasis program areas and in December, 2009 Title VI Liaisons were assigned to each emphasis program areas which are:
  - Bureau of Transportation Systems Planning: Planning and Statewide Multimodal Planning Division
  - Bureau of Project Development: Urban and Arterial Highway Program, Urban and Federal Bridge Program, Multimodal Program and Property Office
  - Transportation Service Center (Human Resources)
  - The Civil Rights Office

Director is currently working with FHWA to develop and deliver Title VI training to Director and Liaisons. (Spring 2010)

- **Objective:** Review one or more sub-recipients for Title VI compliance. Include consultants as well as contractors.
- **Result:** Gigi Ottmann-Deeves, MaineDOT, Maryellen Mayer, FHWA and State Transit staff to conduct compliance review of BACT's on June 18, 2009.
- **Objective:** Develop an EEO/AA Guide for Consultants. (by 3/30/06)
- **Result:** "Consultant and Professional Procurement Manual" was complete and sent to FHWA for approval in October 2009.
- **Objective:** Provide technical assistance to consultants, contractors, and DOT staff regarding Title VI, ADA, and related acts.
- **Result:** Both proactive training/information and in response to issues. MaineDOT CRO Provides information to contractors at annual forums i.e. Local Project Administration (certification course), Contract Administration

➤ **Objective:** Incorporate information regarding gender and race into the Staff Development and Training tracking database. (By August 2006).

➤ **Result:** A decision was made at a State Administrative level that the system that was being developed would not be implemented in its current form. There is discussion going on to develop a new system and date for implementation has not been set.

➤ **Objective:** Obtain translation service by phone in transit vehicles for at least the following languages (depending on the transit area needs) (by July 31, 2006):

➤ **Result:** MaineDOT still intends to do this and is in negotiations with the State of Maine to implement.

## **ANNUAL WORK PLAN 2010**

- **Objective:** Train new CRO Director in all aspects of Title VI program delivery.
- **Result:** CRO Director will be proficient in Title VI Compliance and will develop improved Title VI Program at MaineDOT. (October 2010)
- **Objective:** Train Title VI Liaisons. Fully implement the Title VI Liaison function in Maine DOT
- **Result:** Civil Rights Office Director is working with FHWA to develop training program for newly appointed Liaisons (December 2009) and deliver that training in the spring of 2010.
- **Objective:** Develop on-line intranet training program for employees who work with public and develop certification process. Liaisons will develop a list of employees who will need to be trained.
- **Result:** All employees determined by their program liaison who come in contact with the public will have basic training in Title VI Compliance. (September 2010)
- **Objective:** Continue to provide technical assistance to consultants, contractors, and DOT staff regarding Title VI, ADA, and related acts.
- **Result:** Both proactive training/information and in response to issues.. MaineDOT CRO Provides information to contractors at annual forums i.e. Local Project Administration (certification course), Contract Administration Seminar, and Documentation Training to internal MaineDOT Residents and Project Managers Seminar, and Documentation Training to internal MaineDOT Residents and Project Managers. (All year)
- All employment applications are screened by HR personnel to ensure nondiscrimination. HR personnel also make top candidate recommendations for interviews and monitor interviews for positions which have any potential for discriminatory selection. Additionally, all maintenance position interviews are monitored by HR personnel.
- MaineDOT is engaged in a pilot program funded by the State of Maine Workers Compensation Division to develop validated pre-employment physical testing procedures to help accurately assess an applicant's ability to perform the essential functions of the job for which they are being hired. When the program is implemented it will help MaineDOT match employee's who are requesting

- There were no Title VI internal complaints filed with MaineDOT's EEO Coordinator in FFY 2009. GOAL Training for all Project Development employees in harassment avoidance, ADA and reasonable accommodation, and Family Medical Leave. The harassment avoidance training will be done in tandem by both external and internal civil rights staff to better address not just employment law but federal contract requirements. The dates are:
- January 19 & 20
- February 2 & 3
- March 3 & 4
- March 9 & 10

**Objective:** BSTP and SMPD Title VI liaisons will work by the following schedule to conduct Title VI reviews of sub recipients:

Maine Department of Transportation-Recipients TENTATIVE SITE VISITS SCHEDULES 2009-2011 Includes Civil Rights Compliance Review		
	PACTS,	April, 2010
Done	ARTS	June 09, 2009
Done	BACTS	June 18, 2009
	GPCOG	February 3, 2010
	SMRPC	March 31, 2010
Done	SP BUS	February 23, 2010
	AVCOG	May 13, 2010
Done	WHCA	April 29, 2009
	WEST'S	April 14, 2010
	RTP	July 15, 2010
	COASTAL	November 10, 2010
	WALDO	January 27, 2010
	KVCAP	June 9, 2010
	WMTS	February 6, 2011
	PENQUIS	November 5, 2011
Done	CITY OF BATH	March 16, 2010
	BANGOR-BAT	January 13, 2010
Done	BSOOB	February 2, 2009
	DTI	May 6, 2010
	YCCAC	July 20, 2010

## **STATE PROCEDURES, MANUALS, DIRECTIVES** **APPLICABLE TO FEDERAL-AID PROGRAMS**

1. Maine DOT Right of Way Manual
  - a. <http://www.state.me.us/mdot/technical-publications/rowmanual.php>
2. Maine DOT Public Involvement and Transportation Decision Making Manual
  - a. [http://www.maine.gov/mdot/public-involvement/pdf/pip4\\_2003.pdf?tloc=4&loc=29](http://www.maine.gov/mdot/public-involvement/pdf/pip4_2003.pdf?tloc=4&loc=29)
3. Maine DOT Administrative Policy Memorandums (APMs)
  - a. Contact Office of Human Resources for a Copy – 207-624-3050
4. Maine's Handbook for Local & Inter-Community Rules of the Sensible Transportation Policy Act
  - a. <http://www.maine.gov/mdot/planning-documents/stpa/handbook/cover.pdf>
5. Working with the Maine Department of Transportation: a Guide for Municipal Officials
  - a. <http://www.state.me.us/mdot/working-with-dot/pdf/2007workingwithmainedot.pdf>
6. Maine DOT A Contractor's Guide to Equal Employment Opportunity
  - a. <http://www.state.me.us/mdot/disadvantaged-business-enterprises/pdf/eeo%20handbook2007.pdf>
7. Maine DOT Consultant Procedures for Professional, Architectural, Engineering and Environmental Services
  - a. <http://www.maine.gov/mdot/aco/documents/consultant-general-conditions.pdf>
8. Maine DOT Disadvantaged Business Enterprise Program Manual
  - a. <http://www.state.me.us/mdot/disadvantaged-business-enterprises/dbe-home.php>
9. Maine DOT On-the-Job Training Program Manual
  - a. <http://www.state.me.us/mdot/disadvantaged-business-enterprises/pdf/2008%20dbe%20program%20manual.pdf>
10. Maine DOT Contract Compliance Review Process
  - a. Contact Civil Rights Office for a Copy – 207-624-3036
11. Maine DOT Affirmative Action Plan
  - a. Contact Office of Human Resources for a Copy – 207-624-3050
12. Maine DOT Office of Passenger Transportation Biennial Operations Plan
  - a. Contact Office of Passenger Transportation for a Copy – 207- 624-3250
13. Maine DOT Local Project Administration Certification course manual & Reference Guide
  - a. <http://www.maine.gov/mdot/locally-administrated-projects/LocalProjectAdministration1.php>
14. Maine DOT Standard Specifications – Section 100 and Appendix A
  - a. [http://www.state.me.us/mdot/contractor-consultant-information/ss\\_standard\\_specification\\_2002.php](http://www.state.me.us/mdot/contractor-consultant-information/ss_standard_specification_2002.php)



## **APPENDIX A**

### **Limited English Proficiency**

Compliance with Title VI includes Limited English Proficient (LEP) persons. Language barriers prohibit people who are LEP from obtaining services and information relating to transportation services and programs. Because people who are LEP are not able to read instructions or correspondence written in English and may not understand verbal information, they often are not aware of regulatory requirements and legal implications of the services they seek.

It is essential that MaineDOT personnel, transportation providers, professionals, and other sub-recipients of federal funds become informed about their diverse clientele from a linguistic, cultural and social perspective. These individuals should become culturally competent so they can encourage vulnerable LEP minority populations to access and receive appropriate transportation services with more knowledge and confidence.

U.S. DOT guidelines require that recipients of federal financial assistance provide “meaningful access to programs and activities” by giving LEP persons adequate and understandable information and allowing them to participate in programs and activities, where appropriate. The Department will take “reasonable steps” to remove barriers for LEP individuals.

In order to provide meaningful access to programs and facilities, the Department must identify and understand how to reach the LEP population areas in Maine. The following U.S. Census 2002 tables summarize Maine’s LEP data. These charts should be used by the project managers, planners, municipalities, and consultants to aid in identifying LEP areas near projects or transit systems. Once identified, the parties organizing public involvement and information should make every reasonable effort to ensure the LEP populations have timely and inclusive access to the information and processes through any of the methods that have worked in Maine in the past or any of the methods suggested in the US DOT Federal Highway Administration Guide entitled ***“How to Engage Low-Literacy and Limited English Proficiency Populations in Transportation Decision making”***. The document can be found electronically at the following web address: <http://www.fhwa.dot.gov/hep/lowlim/index.htm> .

LEP individuals riding on Transit in minority service areas will have access to bus schedules published in languages other than English, including, but not limited to Spanish, French, and Somali, depending upon the needs of the transit area.

Public notices and other public information or resources shall be printed in languages other than English where a concentration of LEP individuals requires the need for translation. Generally, this is when more than 2% of a census area speaks the primarily same language other than English. Maine currently has no such areas. However, transit routes in Portland do have some information printed in other languages.

The decision to engage in an LEP outreach plan should be determined on a case by case basis at the program level. Any LEP individual directly impacted or benefiting from MaineDOT programs should be offered translation proactively as a rule. For 2006 we will require transit providers to hire a translation service to be available for transit users. The service should be similar to the AT&T Language Line service and available on all busses. <http://www.languageline.com/>

All programs and services shall make use of the U.S. Census "I Speak" Language identification flash card to identify a language that a LEP individual can understand, then refer to the Bureau of Developmental Services for a translator at public gatherings or negotiations as needed. The **United States Census 2000 Language Identification Flashcard** is available by contacting the Civil Rights Office or any Title VI liaison. The Flashcards can be found on the web via the following link: [http://www.aafp.org/PreBuilt/census2000\\_ispeakcards.pdf](http://www.aafp.org/PreBuilt/census2000_ispeakcards.pdf)

A list of language interpreters is available by contacting the Title VI/EJ Specialist or through the **State of Maine Bureau of Developmental Services** website:

<http://www.maine.gov/dhhs/oma/interpreters.html>

Other reasonable steps will depend on:

- The number and proportion of LEP persons potentially served by the recipient's programs or activities and the variety of languages spoken in the recipient's service area.
- The frequency with which LEP individuals are affected by the program or activity.
- The importance of the effect of the recipient's program on LEP individuals.
- The resources available to the recipient and the urgency of the situation.
- The level of services provided to fully English proficient people.
- Whether LEP persons are being excluded from services or provided a lower level of services.
- Whether the recipient has adequate justification for restrictions, if any, on special language services or on speaking languages other than English.

Specific guidance by DOT programs:

**Planning Process:** Follow all guidelines above and make use of the US DOT Guide.

**Public Meetings:** Outreach ahead of time, find out how to communicate with affected area. Make use of the US DOT Guide. Bring "I Speak" cards.

**Property Acquisition:** Bring "I Speak" cards. Arrange for translators.

**Construction:** Have "I Speak" cards on hand. Arrange for translators.

**Transit Programs:** Use “I Speak” cards as a polling tool. Become familiar with languages used on the routes. Consider publishing in most predominant languages other than English. Obtain translation phone service. For public process and planning refer to US DOT Guide.

**Other Services or any questions:** Contact the Civil Rights Office at (207) 624-3042 for Assistance.

## **APPENDIX B**

### **Title VI Authorities**

**Title VI of the 1964 Civil Rights Act, 42 U.S.C. 2000d to 2000-4;**

**42 USC 4601 to 4655; 23 USC 109(h);** "No person in the United State shall, on the grounds of race, color, 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." (Prohibits Discrimination in impacts, services, and benefits of, access to, participation in, and treatment under a Federal-Aid recipient's programs or activities)

**The Civil Rights Restoration Act of 1987**, P.L. 100-209, Clarification of the original intent of Congress in Title VI of the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973.

(Restores the broad, institution-wide scope and coverage of the non-discrimination statutes to include all programs and activities of Federal-Aid recipients, sub recipients and contractors, whether such programs and activities are Federally assisted or not)

**The Federal-aid Highway Act**, 49 U. S. C. 306: Outlines the responsibilities of the U.S. Department of Transportation and, at outlines the Secretary's authority to decide whether a recipient has not complied with applicable Civil Rights statutes or regulations, requires the Secretary provide notice of the violation, and requires necessary action to ensure compliance.

**The 1973 Federal-aid Highway**, 23 U.S.C. 324, provides: "No person shall on the grounds of sex be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Title or carried on under this title" (Prohibits discrimination on the basis of sex)

**The Age Discrimination Act of 1975**, as amended 42 U.S.C. 6101, provides: "No person in the United State shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (Prohibits discrimination based on sex)

**The Americans with Disabilities Act**, P.L. 101-336, provides: "No qualified individual with a disability shall, by such reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or a local government." (Provided enforceable standards to address discrimination against people with disabilities)

**Section 504 of the Rehabilitation Act of 1973**, 29 U.S.C. 790, provides that: "(N)o qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance." (Prohibits discrimination based on physical or mental handicap)

**The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, 42 U.S.C. 4601, provides: "For the fair and equitable treatment of persons displaced as direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance." (Provides for fair treatment of persons displaced by Federal and Federal-aid programs and projects)

**The Uniform Relocation Act Amendments of 1987**, P.L. 101-246, provides: "For fair, uniform, and equitable treatment of all affected persons;...(and) minimizing the adverse impact of displacement...(to maintain)...the economic and social well-being of communities; and to establish a lead agency and allow for State certification and implementation." (Updated the 1970 Act and clarified the intent of congress in programs and projects which cause displacement)

**The Civil Rights Act of 1991**, in part, amended Section 1981 of 42 U.S.C. by adding two new sections that provided: (b) For the purposes of this section, the term 'make and enforce contracts' includes the making performance, modification, and termination of contracts and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c)The rights protected by this section are protected against impairment by non-governmental discrimination and impairment under color of State law."

**Title VIII of the 1968 Civil Rights Act**, 42 U.S.C. 3601, provides that: "(I) It shall be unlawful...to refuse to sell or rent after making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion or national origin." (Prohibits Discrimination in the sale or rental of housing-HUD is the primary interest agency, but FHWA and States under Title VI are responsible for preventing discrimination in the function of Right-of-Way)

**The National Environmental Policy Act of 1969**, 42 U.S.C. 4321

Requires that consideration of alternatives, including the "no build" alternative, consideration of social, environmental and economic impacts, public involvement, and use of a systematic interdisciplinary approach at each decision making stage of Federal-aid project development.

**Title IX of the Education Amendments of 1972**

Makes financial assistance available to institutions of higher education to: (1) strengthen , improve and, where necessary, expand the quality of graduate and professional programs leading to an advanced degree; (2) establish, strengthen, and improve programs designed to prepare graduate and professional students for public service; and (3) assist in strengthening undergraduate programs of instruction in certain instances.

### **NONDISCRIMINATION EXECUTIVE ORDERS**

**E.O. 12250:** Department of Justice Leadership and Coordination of Nondiscrimination Laws.

**E.O. 12259-** HUD Leadership and Coordination of Federal Fair Housing Programs

**E.O. 12292-** Amended E.O. 12259, in part and addressed leadership and coordination in Federal Fair Housing Programs. It affirmatively furthers fair housing in all Federal programs and activities relating to housing and urban development throughout the United States.

**E.O. 12898:** Federal Actions to Address Environmental Justice in Minority populations and low-income populations

**E.O. 13160-** Nondiscrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in a Federally conducted education and training programs

**E.O. 13166-** August 11, 2000-requires Federal agencies and their recipients to improve access to federally sponsored programs for persons with Limited English Proficiency.

**E.O. 13175-** Consultation and Coordination with Indian Tribal Governments

## **NONDISCRIMINATION REGULATIONS**

**23 CFR Part 200-** FHWA's Title VI Program Implementation and Review Procedures

**23 CFR Part 420.121(h)-**the part of FHWA's planning regulations that specify the applicability of Title VI of the 1964 Civil Rights Restoration Act of 1987 to FHWA funded planning and research activities

**23 CFR Part 450-** FHWA's and FTA's Statewide and Metropolitan Planning Regulations

**23 CFR Part 450.316(b) (2) & (3) -** requires the metropolitan planning process to be consistent with Title VI of the 1964 Civil Rights Act and the Title VI Assurances

**23 CFR Part 633, Subpart A-** specifies required contract provisions to be included in all Federal aid construction contracts, including Title VI and other prescriptions included in Form FHWA 1273

**23 CFR Part 633, Subpart B, Appendix A-** specifies the types of contracts to which Title VI of the 1964 Civil Rights Act applies

**23 CFR Part 771.105(f) -** FHWA Policy on Title VI-expands on 23 CFR 200.7 and names categories covered b with wording similar to Title VI of the Civil Rights Act of 1964- race, color, national origin, age, sex, handicap

**28 CFR Part 35-** the Department of Justice's regulations governing Nondiscrimination on the basis of disability in State and local government services

**28 CFR Part 41-** requires the Department of Justice to coordinate the implementation of Section 504 of the Rehabilitation Act (Provides guidelines for determining discretionary practices)

**28 CFR Part 42, Subpart C-** DOJ's regulation implementing Title VI of the Civil Rights Act of 1964

**28 CFR Part 42.200, Subpart D-** "Nondiscrimination in Federally-assisted Programs- Implementation of Section 815 © (1) of the Justice System Improvement Act of 1979"- Also implements Executive Order 12138

**28 CFR 50.3:** DOJ's Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

**49 CFR Part 21-**DOT's Guidelines for the enforcement of Title VI, Civil Rights Act of 1964

**49 CFR Part 24-** DOT's regulation implementing the Uniform Relocation and Property Acquisition Act for Federal and federally assisted programs requiring compliance with Nondiscrimination Statutes and Executive Orders

**49 CFR Part 25-** DOT's implementation of Title IX of the Education Amendments Act of 1972

**49 CFR Part 26-** Participation by disadvantaged Business Enterprises in DOT Financial Assistance Programs

**49 CFR Part 27-** DOT's regulation implementing Section 504 of the Rehabilitation Act of 1973 as amended

**49 CFR Part 28-** Enforcement of Nondiscrimination on the Basis of handicap in Programs or Activities Conducted by the Department of Transportation

**49 CFR Part 37-** Transportation Services for Individuals with Disabilities, implementing the transportation and related provisions of Title II and III of the ADA

### **NONDISCRIMINATION DIRECTIVES & GUIDANCE**

**DOT Order 1000.12-** Implementation of the DOT Title VI Program

**DOT Order 1050.2-** Standard Title VI Assurances

**DOT Order 5610.2-** USDOT Order on Environmental Justice

**FHWA Order 4710.1-**Right of Way Title VI Review Program

**FHWA Order 4710.2-** Civil Rights Compliance Reviews of Location Procedures

**FHWA Order 4720.6-** Impacts of the Civil Rights Restoration Act of 1987 on FHWA Programs September 2, 1992

**FHWA Order 6640.23-** Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (See also DOT Order 5610.2 on Environmental Justice)

**Joint FHWA/FTA Memo dated October 7, 1999-** (published in the Federal Register May 19,2000)- providing guidance on implementing Title VI in Metropolitan and Statewide Planning

**DOT Policy Guidance Document dated December 14, 2005-** Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) persons,- Federal Register Vol. 70 No 239 (DOT's initial LEP guidance regarding recipients' obligation was released on January 22, 2001)

**DOJ Policy Guidance Document dated October 26, 2001-** Memo re: E.O. 13166, Improving Access to Services for persons with Limited English Proficiency

**DOJ Policy Guidance Document dated January 11, 2002-** Memo re: E.O. 13166, Improving Access to Services for persons with Limited English Proficiency

**DOJ Policy Guidance Document dated January 18, 2002**- Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

**DOJ Policy Guidance Document dated April 18, 2002**- Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons-Federal Register Vol. 67, No 75

**NONDISCRIMINATION MANUALS & REPORT**

**DOJ's Title VI Legal Manual** (<http://www.usdoj.gov/crt/cor/cord/vimanual.pdf>).

DOJ's Investigation Procedures Manual for the Investigation and Resolution of Complaints Alleging Violations of Title VI and Other Nondiscrimination Statutes  
(<http://www.usdoj.gov/crt/cor/Pubs/manuals/complain.pdf>)

**Federal Title VI Enforcement to Federally-assisted Programs**, June 1996 Report of the U.S. Commission on Civil Rights



## **APPENDIX C**

### **MUNICIPAL PLANNING ORGANIZATIONS**

#### **1.5.1 Municipal Planning Organizations (MPO's)**

The Federal Highway Act requires that a Municipal Planning Organization (MPO) be designated for each urbanized area defined by the U.S. Census. The designation is based on population density. The MPO is responsible for insuring that the urbanized area has a continuing, cooperative, and comprehensive transportation planning process. The process must result in plans and programs that consider all transportation modes and support Municipal community development and social goals. These plans and programs must lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods. MPO's must coordinate with the MaineDOT when planning projects in urbanized areas. There are presently four MPO's in the State of Maine: Androscoggin Transportation Resource Center (ATRC); Bangor Area Comprehensive Transportation

BACTS), Kittery Area Comprehensive Transportation Study (KACTS); and Portland Area Comprehensive Transportation Study (PACTS). The MPO's consist of municipal and state officials who serve on policy, planning and/or technical committees. The committees meet on a regular basis to establish priorities and allocate specific categories of federal transportation related funds to the area.

The passage of federal authorizing legislation (August 10, 2005, the President signed into law the **Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users** (SAFETEA-LU) has increased and strengthened the transportation planning process. Responsibilities of the MPO's include:

- Support the economic vitality of the Municipal area, especially by enabling global competitiveness, productivity, and efficiency;
- Increase the safety and security of the transportation system for motorized and non motorized users;
- Increase the accessibility and mobility options available to people and for freight;
- Protect and enhance the environment, promote energy conservation, and improve quality of life;
- Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
- Promote efficient system management and operation; and
- Emphasize the preservation of the existing transportation system.

For more information on Municipal Planning Organizations in Maine, call MaineDOT's MPO Coordinator, at (207) 624-3280 or contact any of the following:

**ATRC:** Don Craig, Director - 783-9186 - E-mail: [dcraig@avcog.org](mailto:dcraig@avcog.org)

**BACTS:** Rob Kenerson, Director - 942-6389 - E-mail: [rkenerson@emdc.org](mailto:rkenerson@emdc.org)

**KACTS:** Tom Reinauer, Director - 324-2952 - E-mail: [treinauer@smrpc.org](mailto:treinauer@smrpc.org)

**PACTS:** John Duncan, Director - 774-9891 - E-mail: [jduncan@gpcog.org](mailto:jduncan@gpcog.org)

### **3.1.1 Regional Councils of Governments / Planning Commissions**

The advantage of using regional agencies for transportation planning assistance is that they draw on a very broad base of local knowledge, covering all aspects of those factors that control the demand for travel and transport, such as land use, and local demographic trends. They are also familiar with changes in land use and demographics in neighboring towns that may affect your community. The level of expertise in transportation planning and degree of specialization of staff varies considerably between agencies. For locally oriented transportation planning, a Regional Council/Planning Commission would be a sound choice. They have a regional perspective which is important to transportation systems. Dues-paying member communities usually receive free, or reduced-rate, transportation planning assistance. For larger projects beyond its capabilities or resources, a Regional Council/Planning Commission could advise a municipality about obtaining the services of a consultant, or assist in developing a joint Regional Council/ MDOT project. Additional information can be obtained from the following RPO's:

Northern Maine Development Commission

302 Main Street

PO Box 779

Caribou, ME 04736

(800) 427-8736

<http://www.nmdc.org/>

Eastern Maine Development Corporation

(Penobscot Valley Council of Governments and Washington County Council of Governments)

PO Box 2579

Bangor, Maine 04402-2579

(207) 942-6389

<http://www.emdc.org/>

Hancock County Planning Commission

395 State Street

Ellsworth, ME 04605

(207) 667-7131

<http://www.hcpcme.org/>

Mid Coast Regional Planning Commission  
166 Main Street, Suite 201  
Rockland, ME 04841  
(207) 594-2299  
<http://www.midcoastplanning.org/>

Mid-Coast Council for Business Development and Planning  
7 Park Street  
Bath, ME 04530  
(207) 443-5790  
<http://www.mcbdp.org/>

Kennebec Valley Council of Governments  
17 Main Street  
Fairfield, ME 04937  
(207) 453-4258 ext 25  
<http://www.kvcog.org/kvcog.html>

Androscoggin Valley Council of Governments  
125 Manley Road  
Auburn, ME 04210  
(207) 783-9186  
<http://www.avcog.org/index.php>

Greater Portland Council of Governments  
68 Marginal Way, 4th Floor  
Portland, ME 04101  
(207) 774-9891  
<http://www.gpcog.org/>

Southern Maine Regional Planning Commission  
21 Bradeen Street, Suite 304  
Springvale, ME 04083  
(207) 324-2952  
<http://www.smrpc.org>

## **APPENDIX D**

### **FTA SPECIFIC ELEMENTS**

[http://www.fta.dot.gov/laws/circulars/leg\\_reg\\_5956.html](http://www.fta.dot.gov/laws/circulars/leg_reg_5956.html)

### **FIXED FACILITY IMPACT ANALYSES**

The description of a Fixed Facility Analysis is below:

When possible MaineDOT conducts NEPA and the FFIA's simultaneously.

FFIA's are required for construction projects to assess the effects on minority communities. If this information has been prepared as a result of an environmental assessment or environmental impact statement, the applicant, recipient, or sub-recipient should reference the relevant information by document, page number(s), and date of submission to FTA.

MaineDOT analysis included:

- (1) A discussion of the potential impact on minority communities and minority-owned businesses during and after construction;
  - Review all local communities for existence (census blocks and neighboring census blocks) of minority communities and speakers of English as a second language. In addition to the locally prepared mapping which shows the level of LEP, minorities, low-income, we can refer to the census page below to do additional analysis.

[http://factfinder.census.gov/servlet/DatasetMainPageServlet?\\_ds\\_name=DEC\\_2000\\_SF3\\_U&\\_program=DEC&\\_lang=en](http://factfinder.census.gov/servlet/DatasetMainPageServlet?_ds_name=DEC_2000_SF3_U&_program=DEC&_lang=en)

Additional information can be obtained by using the following methods:

- Check data from school surveys regarding LEP.
- Ask for information from Town Officials.
- Cross check with Certified DBE's with MaineDOT's list (<http://www.maine.gov/mdot/disadvantaged-business-enterprises/dbe-home.php>) and SBA 8a programs.

- (2) A discussion of all potential negative environmental impact, such as noise, air, or water pollution;

This discussion will be included in the planning section of the report.

- (3) A detailed list of minority-owned businesses and households that will be affected by the construction project using the methods described above in (1);
- (4) A description of other significant changes or impacts on the minority community due to the construction project, such as increased traffic, reductions in the amount of available parking, etc.; and
- Provide location of community on map, see (3) above.
  - Assess impacts-DOT/MPO Traffic Information, Preliminary Design Reports if applicable
  - Compare to impacts of non minority community.
- (5) A description of the relocation program and/or other measures adopted by the applicant that will be used to mitigate any identified adverse social, economic, or environmental effect of the proposed construction project.
- No mitigation may be necessary. (result may be CE)
  - Should mitigation for adverse impacts be necessary, the Department will assess those impacts and mitigate with appropriate replacements or substitutes. I.E. Loss of public parking would be replaced in a public area close to the area where parking was removed. Loss of trees will be replaced with additional landscaping where possible or other architectural/physical features to screen areas from the roadway. These mitigations will be determined on a case by case basis involving the property owners, town officials, and affected community members during the planning and design stages of project development.
  - Construction traffic impacts: would be rare for a project in Maine to reach this level but we would work with the local community to determine the appropriate response. Traffic control plans are mandatory for construction projects in high traffic areas.
  - Our relocation program follows the Uniform Act. The right of way manual spells out how relocation is to be conducted and is in compliance with Title VI.

**Below is additional guidance which MaineDOT uses from the FTA on FFIA:**

**GUIDANCE ON CONDUCTING AN ANALYSIS OF CONSTRUCTION PROJECTS.**

In order to integrate, into environmental analyses, considerations expressed in the DOT Order on Environmental Justice, recipients and sub recipients should integrate an environmental justice analysis into their National Environmental Policy Act (NEPA) documentation of construction projects. (Recipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required.). Recipients preparing documentation for a categorical exclusion (CE) can meet this requirement by completing and submitting FTA's standard CE checklist, which includes a section on community disruption and environmental justice. FTA recommends that recipients preparing an environmental assessment (EA) or environmental impact statement (EIS) integrate into their documents the following components:

- a. A description of the low-income and minority population within the study area affected by the project, and a discussion of the method used to identify this population (e.g., analysis of Census data, minority business directories, direct observation, or a public involvement process).
- b. A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population.
- c. A discussion of all positive effects that would affect the identified minority and low-income population, such as an improvement in transit service, mobility, or accessibility.
- d. A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects, including, but not limited to, any special features of the relocation program that go beyond the requirements of the Uniform Relocation Act and address adverse community effects such as separation or cohesion issues; and the replacement of the community resources destroyed by the project.
- e. A discussion of the remaining effects, if any, and why further mitigation is not proposed.
- f. For projects that traverse predominantly minority and low-income and predominantly non-minority and non-low-income areas, a comparison of mitigation and environmental enhancement actions that affect predominantly low-income and minority areas with mitigation implemented in predominantly non-minority or non-low-income areas. Recipients and sub recipients that determine there is no basis for such a comparison should describe why that is so.

The following is a copy of the format for the fixed facility analysis that will be done for each project:

## Fixed Facility Impact Analysis

The proposed Facility \_\_\_\_\_ - will be constructed at the \_\_\_\_\_, (description of area, co-located?, etc.) Description of the general area and what activities happen in this area

\_\_\_\_\_ for example, 5 bus routes utilize this terminal from 6am to 10pm. List the major players in the area, for ex. This area also houses the City Garage and other light industrial complexes.

The impact expected is: i.e. none, minor, short term, etc. (It is not anticipated that there will be any impact on minority communities or minority-owned businesses during or after construction for the following reasons.

- (1) There will be no relocations: the facility will be sited entirely within (fill in description) \_\_\_\_\_ for ex. the industrial park or the city landfill, etc. and (for ex.) has no residential or private business components. The project site falls within a land use zone designated \_\_\_\_\_ for ex. "Government and Institutional Service District (G&ISD)". This zone is established to preserve and protect those areas of the City occupied by public and nonprofit institutional buildings or uses.
- (2) The census block in which the Facility will be located has X population. Of the X# census blocks that abut this census block, only X have population (list # of persons) and they contain X# of minority residents respectively. (US Census 2000)
- (3) The operations of the (bus?) system (are or are not) expected to increase because of construction of the facility: the fleet size is remaining the same or increasing/decreasing. Nearby residents (will/will not) be affected by increased (bus/ferry/train) traffic. Nearby residents are (which minority, income level, LEP)
- (4) Ex. There will only be a minor temporary increase in traffic during construction, as the facility is a simple design and is small: only 44' x 182'. As the completion time will be short, any construction related traffic would only be evident for a short time.
- (5) There will be X changes to traffic patterns on the roads adjacent to the site. Access to the new building will be accomplished using:
  - a. existing access to Maine Avenue,
  - b. alternate access both during and after construction.

There will be (no, some, the following list of) negative environmental impacts. On date \_\_\_\_\_ the list recipient here sought Categorical Exclusion status for the project from the Federal Transit Administration (attached) (or not). The submission was reviewed by FTA, who “determined that the specific conditions or criteria for a Categorical Exclusion under 23 CFR 771.117(d) 9 and 11 are satisfied and that significant impacts will not result”. The letter and determination (signed by Richard H. Doyle – Region 1 Administrator, and Margaret E. Foley – Regional Counsel) are attached.

**FURTHER GUIDANCE FOR THE FFIA ON HOW TO DETERMINE/DISTINGUISH SIGNIFICANT/NON-SIGNIFICANT EFFECTS**

“Significantly” requires considerations of both context and intensity:

**Context.** This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the local area rather than in the world as a whole. Both short- and long-term effects are relevant.

**Intensity.** This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

- Impacts that may be both beneficial and adverse. A significant effect may exist even if, on balance, the effect would be beneficial.

Non-significant effect means no substantial change to an environmental component and thus no material bearing on the decision-making process.

Scientific, technical, institutional, the public’s value, and the local economic conditions influence the meaning of significant effect.

If an alternative would provide a beneficial effect, then the alternative would cause no significant adverse effect. If an alternative would provide an adverse effect, the effect might be significant or the effect might be non-significant.

Determinations of “significant” and “non-significant” effects will be made by the Title VI/EJ Specialist or by the Civil Rights Office Director.



**Copies of the FTA certifications and assurances, the master agreement, and contract specifications regarding Title VI in FTA funded contracts that were implemented for all contracts over the last reporting period are included in the following pages:**

**From: 2009 Certifications & Assurances**

<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/07-5294.htm>

**Nondiscrimination Assurance**

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1A, "Title VI Program Guidelines for Federal Transit Administration Recipients," and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended, or for another purpose involving the provision of similar services or benefits, or as long as the Applicant retains ownership or possession of the project property, whichever is longer, the Applicant assures that:

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understand that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements.
- (3) It will include in each sub agreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements of 49 U.S.C. 5332 and 49 CFR part 21 to other parties involved therein including any sub recipient, transferee, third party contractor, third

party subcontractor at any level, successor in interest, or any other participant in the project.

- (4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.
- (5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.
- (6) It will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.

**And Certification .05 for Public Process as it affects non-discrimination in public access to projects and environmental justice applications.**

As required by 49 U.S.C.5323(b), the Applicant certifies that it has, or before submitting its application, it will have:

- a. Provided an adequate opportunity for public review and comment on the project preceded by adequate prior public notice of the proposed project, including a concise description of the proposed project, published in a newspaper of general circulation in the geographic area to be served;
- b. Held a public hearing on the project if the project affects significant economic, social, or environmental interests after providing adequate notice as described above;
- c. Considered the economic, social, and environmental effects of the proposed project; and
- d. Determined that the proposed project is consistent with official plans for developing the urban area.

## **From: 2008 Master Agreement**

### **Section 12. Civil Rights.**

#### **Civil Rights:**

All agreements entered into by the Maine Department of Transportation on behalf of FTA require the contractor to certify that no person on the grounds of race, color, creed, national origin, sex, age or disability, and to meet State requirements, sexual orientation, will be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part by FTA in accordance with Title VI and the Equal Employment Opportunity requirements. In addition, the State of Maine and all transportation providers certify at the Triennial Site Visit that a good faith effort is made to utilize Disadvantaged Business Enterprises as required by FTA Circular 5010.1C.

[http://www.fta.dot.gov/legal/guidance/circulars/5000/324\\_288\\_ENG\\_HTML.htm](http://www.fta.dot.gov/legal/guidance/circulars/5000/324_288_ENG_HTML.htm) All transportation providers who receive Federal and/or State subsidies are required to meet certain regulations delineated in the Certifications and Assurances.

There is also coordination between the Transportation Programs Unit and the Civil Rights Office (<http://www.maine.gov/mdot/disadvantaged-business-enterprises/dbe-home.php>) of the Maine Department of Transportation. The Civil Rights Office has responsibility for drafting, maintaining and updating a certified Disadvantaged Business Enterprise Directory as well as the Department's Disadvantaged/Minority/Women's Business Enterprise Program. This Program outlines how the various administrative and operating units of the Department shall work together to carry out the policy established by the Department.

Department of Transportation personnel assigned to the Transportation Programs Unit are assigned specific types of FTA Programs. In addition to providing technical assistance to local recipients, they also monitor the recipients to insure compliance with the requirements of Title VI, EEO, and Section 105(f) (DBE). This will be accomplished through the Site Visits to the provider agencies and administrative contacts. During the Site Visits, the Maine Department of Transportation's Office of Passenger Transportation and the Civil Rights Office will review the minority and low-income population in the area served by the provider based on Census 2000 data. The service provided and/or available to these identified groups will be determined by the provider and verified by the Civil Rights Office in conjunction with the Office of Passenger Transportation. The provider will be provided with all the appropriate census data for their region and all information available to the MaineDOT concerning contacts in their area with groups representing the minorities, low-income residents and those with Limited English Proficiency. At the time of the Annual Certifications and Assurances, providers will be required to certify their compliance with Title VI by signed letter.

In addition, during the Biennial Operations Planning process, all known representatives of these identified groups will be invited to participate. It will be through this process that the need for service using 5310 or 5311 funds will be identified and planned for within the limits of funding and regulations. MaineDOT will continue to be committed to coordinated service as it reaches out to these groups.

All RFP's directly advertised by the Dept. are posted on our Contractors web site and notices are sent to appropriate DBE's in addition to the standard advertising format.

The Recipient agrees to comply with all applicable civil rights statutes and implementing regulations including, but not limited to, the following:

- a. Nondiscrimination in Federal Transit Programs. The Recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each sub recipient at any tier under the Project, with the provisions of 49 U.S.C. § 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
- b. Nondiscrimination -- Title VI of the Civil Rights Act. The Recipient agrees to comply, and assures the compliance of each third party contractor and each sub recipient at any tier of the Project, with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21, and any implementing requirements FTA may issue.
- c. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, and with any implementing directives that U.S. DOT or FTA may promulgate, which prohibit discrimination on the basis of sex.
- d. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age.
- e. Access Requirements for Persons with Disabilities. The Recipient agrees to comply with the provisions of 49 U.S.C. § 5301(d), which sets forth the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use transit service and facilities, and that special efforts shall be made in planning and designing those services and

facilities to implement transportation accessibility rights for elderly persons and persons with disabilities. The Recipient also agrees to comply with all applicable requirements of the following Federal laws and any subsequent amendments thereto: section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicap; the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires accessible facilities and services to be made available to persons with disabilities; and the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to persons with disabilities. In addition, the Recipient agrees to comply with all applicable requirements of the following regulations and any subsequent amendments thereto:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; and
  - (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609;
  - (11) Any implementing requirements FTA may issue.
- f. Access to Services for Persons with Limited English Proficiency. The Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 Fed. Reg. 6733 *et seq.*, January 22, 2001.
  - g. Environmental Justice. The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note.
  - h. Other Nondiscrimination Statutes. The Recipient agrees to comply with all applicable requirements of any other Federal laws and regulations prohibiting discrimination that may apply to the Project.

MaineDOT incorporates Title VI compliance by reference to the annual Master Agreement in its Standard State of Maine Contract Language to sub-recipients.

### **Field Reviews of sub-recipients**

Office of Passenger Transportation (OPT) conducts general Title VI field reviews during Triennial Site Visits. The questions asked follow the current FTA guidelines which follow:

1. Has the sub-recipient received any Title VI complaints in the past three years? Does the grantee maintain a log of such complaints? How are such complaints identified and resolved?
2. Does the sub-recipient have any active lawsuits or complaints naming the recipient or sub recipient which allege discrimination on the basis of race, color, or national origin with respect to service or other transit benefits? (This list should include: the date the lawsuit or complaint was filed; a summary of the allegation; and the status of the lawsuit or complaint, including whether the parties to a lawsuit have entered into a consent decree.)
3. Ask the sub-recipient to provide a list of all pending applications for funding.

4. Ask the sub-recipient to provide a list of any active or pending construction projects and their FFIA's.
5. Copy of Title VI certification, usually on file or with annual Certifications and Assurances and Master Agreements.

#### **FTA CIRCULAR 4702.1A DATA COLLECTION AND REPORTING -- APPENDIX F**

"Title VI Program Guidelines for Federal Transit Administration (FTA) Recipients"

### **CHAPTER III**

OVERVIEW: The US Department of Justice (US DOJ) and the US Department of Transportation (US DOT) regulations implementing Title VI require recipients to establish, maintain and submit to the Urban Mass Transportation Administration (FTA) the following information, updated at a minimum every three years, or more often if conditions warrant. The information must be submitted by August 31.

A list of any active lawsuits or complaints naming the recipient or sub recipient which allege discrimination on the basis of race, color, or national origin with respect to service or other transit benefits. The list should include: the date the lawsuit or complaint was filed; a summary of the allegation; and the status of the lawsuit or complaint, including whether the parties to a lawsuit have entered into a consent decree.

1. A description of all pending applications for financial assistance, and all financial assistance currently provided by other Federal agencies.
2. A summary of all civil rights compliance review activities conducted in the last three years. The summary should include: the purpose of reason for the review; a summary of the findings and recommendations of the review; and a report on the status and/or disposition of such findings and recommendations.
3. A signed FTA Civil Rights Assurance that all the records and other information required under FTA Circular 4702.1A have been or will be compiled and maintained.
4. A signed standard DOT Title VI Assurance. This assurance will be maintained as part of the FTA "One-Time Submission" file.
5. For construction projects, a fixed-facility impact analysis to assess the effects on minority communities. If this information has been prepared as a result of an environmental assessment or environmental impact statement, reference the relevant information by document, page number(s), and date of submission to FTA. The analysis should include:

- a. A discussion of the potential impact on minority communities and minority-owned businesses during and after construction;
- b. A discussion of all potential negative environmental impact, such as noise, air, or water pollution;
- c. A detailed list of minority-owned businesses and households that will be affected by the construction project;
- d. A description of other significant changes or impacts on the minority community, such as increased traffic, reductions in the amount of available parking, etc.; and
- e. A description of the relocation program and/or other measures adopted by the applicant that will be used to mitigate any identified adverse social, economic, or environmental effect of the proposed construction project.

**FURTHER GUIDANCE FOR MAINE DOT IS FOUND IN THE FTA TITLE VI SUB RECIPIENT REVIEW FORMAT FOR TRIENNIAL REVIEWS– APPENDIX G, BELOW:**

### **Basic Requirement**

The grantee must ensure that no person in the United States shall on the grounds of race, color, or national origin be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. The grantee must ensure that Federally supported transit services and related benefits are distributed in an equitable manner.

### **Areas to Be Examined**

- 1. Responsibility for Title VI Coordination**
  - a. Certification of nondiscrimination (Annual Certifications and Assurances)
  - b. Implementation of Title VI provisions
- 2. Approved Title VI Program updates**
  - a. General reporting requirements (all grantees)
  - b. Program-specific requirements (areas with population of 200,000 and over)
- 3. Title VI Monitoring Procedures**
  - a. Limited English Proficiency (LEP)
  - b. Environmental Justice Assessment
  - c. Level and quality of service
- 4. Title VI Public Information and Complaints**
  - a. Public Notification of Rights
  - b. Complaint Procedures
    - a. List of Title VI complaints
    - b. List of Title VI lawsuits



## REFERENCES

1. FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients"
2. 49 CFR Part 21, "Nondiscrimination in Federally-assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964"
3. Federal Register: April 15, 1997 (Volume 62, number 72, pp18377-18381) "Department of Transportation (DOT) Order to Address Environmental Justice in Minority Populations and Low Income Populations"
4. Executive Order 13166: "Improving Access to Services for Persons with Limited English Proficiency"
5. Federal Register: December 14, 2005 (Volume 70, Number 239, pp 74087-74100) "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons"

## QUESTIONS FOR THE REVIEW

1. Has FTA conducted a Title VI Compliance Review during the past two Federal Fiscal years? If yes, when was the site visit? Is a review scheduled for the current fiscal year?

## EXPLANATION

As part of its project oversight functions, FTA periodically conducts Title VI reviews of selected grantees.

Even if such a review is scheduled for the current fiscal year or has been conducted, all questions in this section are still asked. If a Title VI review has been recently conducted, obtain a copy of the most recent report (draft or final) for input into the review.

## REFERENCE

Input to review

## SOURCES OF INFORMATION

Prior to conducting the desk review, review OTrak to determine if a Title VI review has occurred or has been scheduled and to analyze findings and corrective actions from completed Title VI reviews. The Regional Civil Rights Officer (RCRO) will also have information on Title VI review activities. Reports may be available at the regional office or from headquarters during the desk review.

## DETERMINATION

None

## SUGGESTED CORRECTIVE ACTION

None

2. Who is responsible for the coordination of Title VI Program/ environmental justice assessments? Who prepares the Title VI Program submissions and updates for FTA?

## EXPLANATION

While neither the DOT Title VI regulations nor FTA's C 4702.1A require that recipients appoint a person(s) to coordinate Title VI activities, many recipients have a person or office perform this task that can assist the reviewer in answering the subsequent questions of this section.

## REFERENCE

General Information

## SOURCES OF INFORMATION

Title VI submissions to RCRO may include the name of the person(S) responsible for coordinating and implementing the Title VI program/ environmental justice assessments. This information should be confirmed and/or updated at the site visit.

Determination

None

## SUGGESTED CORRECTIVE ACTION

None

3. Has the grantee's Title VI Program been approved by FTA? If yes, when does the approval expire? If the program has expired, please provide an explanation.

## EXPLANATION

**All direct grantees must submit a Title VI program that documents their compliance with** Chapter IV of FTA C 4702.1A every three years (every four years for MPO's that are direct recipients). Section 5307 recipients with service area populations of 200,00 or more must submit a Title VI program that documents their compliance with Chapter IV and Chapter V of FTA C 4702.1A

## REFERENCE

49 CFR 21.9 (b)

FTA C 4702.1A, Ch. II, Section 4; Ch. IV, Section 7; CH. V, Section 6; Appendices A and B

## **SOURCES OF INFORMATION**

The RCRO's files should include a copy of the most recently submitted program. There should be correspondence indicating when it was approved by FTA and when the approval expires.

## **DETERMINATION**

The grantee is deficient if no Title VI program has been submitted or if the Title VI program has expired and the grantee has not made a submission or requested and received an extension for submitting a new program or program update. (DEFICIENCY CODE: Program not submitted in a timely manner)

## **Suggested Corrective Action**

Direct the grantee to submit the required Title VI Program to the RCRO.

## **Explanation**

4. How do the grantee and sub recipients notify the public of their under Title VI?

## **EXPLANATION**

Grantees and sub recipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Grantees and sub recipients that provide transit service shall disseminate this information to the public through measures that can include, but shall not be limited to a posting on the agency's Web site.

This notice shall include: (1) a statement that the agency operates programs without regard to race, color, and national origin; (2) a description of the procedures that members of the public should follow in order to request additional information on the recipient's nondiscrimination obligations; and (3) a description of the procedures that members of the public should follow in order to file a discrimination complaint against the grantee or sub recipient. FTA C 4702.1A, chapter IV section 5b provides guidance on how to disseminate this notification.

Grantees need not necessarily refer to "Title VI of the Civil Rights Act of 1964" in their notification to the public, since most of the public is not aware of this provision. Rather, grantees can fulfill this requirement by notifying the public that they are committed to providing non-discriminatory service, and informing customers how to request more information and how to file a discrimination complaint.

Grantees can find examples of brochures published by the U.S. Department of Justice that notify the public of their rights under Title VI at <http://www.usdoj.gov/crt/cor/pubs.htm>.

## REFERENCE

49 CFR 21.9(d)

FTA C 4702.1A, Ch. IV, Section 5

## SOURCES OF INFORMATION

The grantee's Title VI program submissions should include a description of how this notification requirement is implemented. Review a copy of the materials that the grantee and sub recipients use to inform the public of their rights under Title VI and a description of how these materials are disseminated. Reviewers should also be able to view this notice, as posted, during the site visit.

## DETERMINATION

The grantee's is deficient if it has not developed a notification to the public, or if it has developed but not disseminated this notification, or if it's only means of dissemination consists of publishing the notice on the agency's website. (DEFICIENCY CODE: Title VI public notification deficiencies) it is also deficient if it cannot provide documentation of monitoring its sub recipients for compliance with this requirement. (DEFICIENCY CODE: Inadequate oversight of Title VI compliance)

### Determination

### Suggested Corrective Action

Direct the grantee to the RCRO a plan and timeline for developing and disseminating a notification to the public of its rights under Title VI, as well as a copy of the notification that will be disseminated.

### **5. How do the grantee and sub recipients identify, investigate and track Title VI complaints? Do these procedures afford the public due process for resolving complaints?**

### Explanation

FTA requires its grantees and sub recipients to maintain, as part of their records, a description of the process that they use to investigate Title VI complaints filed against the agency. FTA C 4702.1A states: "recipients and sub recipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to the public upon request."

The grantee and sub recipients should have a system in place whereby they can identify which, if any, complaints have been filed because the complainant believes that he or she was denied the benefits of, excluded from participation in, or subject to discrimination on the grounds of race, color, or national origin under any program or activity offered by the grantee. Although the complainant may not refer to Title VI in

the complaint, the grantee or sub recipient should be able to identify and classify this type of complaints as a Title VI complaint.

Most grantees have a well-established process and schedule for receiving and acknowledging complaints determining whether it is appropriate to investigate, conducting investigations, and issuing determinations. This process can be applied to Title VI complaints as long as it provides due process for complaints.

It has been noted that some complaint or complaint appeals processes do not afford due process to the complainant or the process itself serves to discourage the filing of complaints. For example, if a grantee adds to their complaint procedures a requirement that the complainant agree with the outcome of the resolution of the complaint in order for the investigation to occur, that could serve to discourage complaints.

## REFERENCE

49 CFR 21.9(b)

FTA C 4207.1A, CH, Section 2

## SOURCES OF INFORMATION

Review the Grantee's and sub recipients' procedures for investigating and tracking complaints in its Title VI submission. During the site visit, verify implementation. Request a copy of Title VI complaints received since the last review. Ask who or what office receives complaints and how staff is trained to identify complaints of discrimination under Title VI.

## DETERMINATION

### **Reason for the Question**

FTA C 4702.1A, IV-2c

### **Documentation**

The grantee should provide its monitoring procedures and its most recent analysis of the level and quality of transit service.

### **Determination**

If the grantee monitors the level and quality of transit service to determine compliance with Title VI, the grantee is not deficient. If the grantee does not monitor transit service to determine compliance with Title VI, the grantee is deficient.

### **Suggested Corrective Action**

The grantee must monitor the level and/or quality of transit service to determine compliance with Title VI and submit evidence to the CRO.

Did the grantee conduct an environmental justice assessment/ fixed-facility impact analysis during the past three years? If so, please have the analysis available and show how effects on minority communities were addressed.

### **Explanation**

For construction projects of any size, all grantees must conduct environmental justice assessments/ fixed-facility impact analyses to assess the effects on minority communities.

### **Reason for the Question**

FTA C 4702.1A, III.2f

### **Documentation**

The grantee should have copies of environmental justice assessments/fixed-facility impact analyses used to monitor Title VI compliance, if FTA has funded any construction projects in the past three years.

### **Determination**

If the project is a categorical exclusion or the grantee conducts environmental justice assessments/fixed-facility impact analyses for construction projects, the grantee is not deficient. If the grantee did not conduct an assessment/analysis for a construction project, the grantee is deficient.

### **Suggested Corrective Action**

The grantee must conduct an assessment/analysis of the construction project and submit its findings to the CRO.

Has the grantee received any Title VI complaints in the past three years? Does the grantee maintain a log of such complaints? How are such complaints identified and resolved?

### **Explanation**

Any person who believes that he or she has been subjected to discrimination has the right to file complaints alleging discrimination. The grantee is required to maintain a list of active Title VI lawsuits or complaints.

### **Reason for the Question**

FTA C 4702.1A, III-2, VII

## **Documentation**

A listing of all complaints filed with the grantee during the past three years and disposition of such complaints should be available. Individual complaint files can be reviewed.

## **Determination**

If the grantee has documentation indicating that any complaints received are being addressed, the grantee is not deficient. If no complaints have been received but the grantee provides a satisfactory explanation of how complaints would be processed, the grantee is not deficient. (There is no specific requirement that there be a written complaint handling process.) If complaints indicate that the grantee is violating Title VI Program regulations or if the complaints do not receive a response, the grantee is deficient.

## **Suggested Corrective Action**

The grantee must develop and implement procedures for handling Title VI complaints and provide evidence of such to the CRO.

## **Planning:**

The Planning Office has posted on the MaineDOT website a publication called Working Together to Build a Better Maine: Participate in the Maine Department of Transportation Planning Process. This publication contains a good explanation of Title VI and in particular Environmental Justice.

[http://www.state.me.us/mdot/publicinvolvement/pdf/dot\\_partnership2.pdf](http://www.state.me.us/mdot/publicinvolvement/pdf/dot_partnership2.pdf)

Received self certifications from all Maine MPO's and copies of their Title VI plans.

Municipal Planning Organizations:

MPO's provided signed self-certifications of compliance with Title VI:

- Greater Portland Council of Governments (GPCOG) July, 2006
- Bangor Area Comprehensive Transportation System (BACTS) June, 2009
- Androscoggin Valley Council of Governments (AVCOG) October 5, 2009
- Southern Maine Planning Commission (SMPC) August, 2006

## **APPENDIX E**

### **MAINE DEPARTMENT OF TRANSPORTATION REGIONAL OFFICES**

#### **1.4 Regional Offices of Bureau of Maintenance and Operations**

##### **Southern Region:**

Region 1, P.O. Box 358 (Pleasant Hill Rd.), Scarborough, Maine 04070-0358

Contact: John Cannell, Regional Manager Tel: (207) 885-7000

Kyle Hall, Regional Engineer

Brian Keezer, Traffic Engineer

##### **Mid Coast Region:**

Region 2, State House Station 98, 45 Commerce Drive, Augusta, ME 04333

Contact: Rhonda Waterman, Regional Manager Tel: (207) 624-8200

Jamie Andrews, Regional Engineer

Dave Allen, Traffic Engineer

##### **Western Region:**

Region 3, P.O. Box 817, (U.S. Route 2), Dixfield, Maine 04224

Contact: Norm Haggan, Regional Manager Tel: (207) 562-4228

Mark Hume, Regional Engineer

Gene Uhuad, Traffic Engineer

##### **Eastern Region:**

Region 4, P.O. Box 1208 (219 Hogan Rd.), Bangor, Maine 04401

Contact: Dale Doughty, Regional Manager Tel: (207) 941-4500

John Devin, Regional Engineer

Bruce Mattson, Traffic Engineer

##### **Northern Region:**

Region 5, P.O. Box 1178 (Rice Street), Presque Isle, Maine 04769

Contact: Bob Watson, Regional Manager Tel: (207) 764-2060

Brent Bubar, Regional Engineer

Jim McGinnis, Traffic Engineer



Maine Department  
of Transportation  
Maintenance Regions

Maine Department of Transportation  
Region Offices  
Contact Information

**Southern Region – Region 1**  
P.O. Box 358  
Pleasant Hill Road  
Scarborough, ME 04070-0358  
855-7000  
Region Manager – John Cannell

**Midcoast Region – Region 2**  
45 Commerce Drive  
98 State House Station  
Augusta, ME 04333-0098  
624-8200  
Region Manager – Rhonda Fletcher

**Western Region – Region 3**  
P.O. Box 517  
Route 2  
Duxfield, ME 04424  
562-4228  
Region Manager – Norm Haggan

**Eastern Region – Region 4**  
P.O. Box 1208  
219 Hogan Road  
Bangor, ME 04401-1208  
941-4500  
Region Manager – Buddy Spaulding  
(acting)

**Northern Region – Region 5**  
P.O. Box 1178  
Rice Street  
Presque Isle, ME 04769  
764-2060  
Region Manager – Robert Watson

