

Title VI Program Plan

October 1, 2015 – September 30, 2016



Michael Hancock, Acting Secretary
Tyra L. Redus, Esq., Executive Director
Vincent C. Thomas, Sr. Administrative Branch Manager
Office for Civil Rights and Small Business Development



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I. GLOSSARY/DEFINITIONS

Area Development Districts: focus on developing and sustaining the fundamental building blocks for state, regions, and local communities in today's rapidly changing global marketplace. Including, but not limited to, traditional emphasis on strategic planning and project funding for clean and safe drinking water systems, health care facilities, affordable housing, small business development, and transportation improvements.

Affirmative Action: a good-faith effort to eliminate past and present discrimination in all federally assisted programs and to ensure future nondiscriminatory practices.

African Americans: A person having origins in any of the black racial groups of Africa.

American Indian or Alaska Native: A person having origins in any of the original peoples of North and South America (including Central America) who maintains cultural identification through tribal affiliation or community attachment.

Applicant: an eligible public entity or organization that submits an application for financial assistance under a program administered on behalf of the State.

Asian: A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Assurance: A written statement or contractual agreement signed by the agency head in which a recipient agrees to administer federally assisted programs in accordance with civil rights laws and regulations.

Beneficiary: any person or group of people (other than states) entitled to receive benefits, directly or indirectly, from any federally assisted program (*e.g.*, relocated persons, impacted citizens, communities, etc.).

Black: (see *African Americans* above.)

Complaint: A verbal or written allegation of discrimination that indicates that a federally assisted program is operated in such a manner that it results in disparity of treatment to persons or groups of persons because of race, color, or national origin.

Compliance: a satisfactory condition wherein an applicant, recipient, or sub recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good-faith effort toward achieving this end has been made.

Contract: a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and obligating the buyer to pay for them. Throughout this document, a lease is considered a contract.

Contractor: any person, corporation, partnership, organization, or incorporated association that participates, through a contract or subcontract, in any program or activity covered by this plan, including lessees.

Discrimination: involves any act or inaction, whether intentional or unintentional in any program or activity of a Federal-aid recipient, sub recipient, or contractor, which results in disparate (unfavorable) treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, sex, national origin, age, disability or in the case of disability, failing to make a reasonable accommodation.

Division: one of the administrative subdivisions of an office of the Kentucky Transportation Cabinet. The term *district* should be considered equivalent to *division* as an administrative subdivision of an office of the KYTC.

Executive Directors: In accordance with KRS 12.040, the departmental heads of the Kentucky Transportation Cabinet (KYTC) are responsible to the KYTC Secretary for the direction of their respective divisions and have authority to appoint Title VI Designee(s) within their divisions.

Federal assistance:

- Grants and loans of federal funds
- The grant or donation of federal property and interests in property
- The detail of federal personnel
- The sale and lease of, and the permission to use (on other than a casual or transient basis), federal property or any interest in such property without consideration or with nominal consideration, or with consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient
- Any federal agreement, arrangement, or other contract that has, as one of its purposes, the provision of assistance

Federal Highway Administration or FHWA: agency within the U.S. Department of Transportation that supports State and local governments in the design, construction, and maintenance of the Nation's highway system (Federal Aid Highway Program) and various federally and tribal owned lands (Federal Lands Highway Program).

Grantee: any public or private agency, institution, or organization to whom federal financial assistance is intended for any program.

Hispanic or Latino: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

Kentucky Transportation Cabinet or KYTC: the agency of Kentucky charged by its laws with the responsibility for all modes of transportation.

Limited English Proficiency or LEP: Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient.

Metropolitan Planning Organization or MPO: policy board of an organization created and designated to carry out the metropolitan transportation planning process. MPOs are required to represent localities in all urbanized areas (UZA) of populations over 50,000, as determined by the US Census. MPOs are designated by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law. When submitting the transportation improvement program (described below), to the State for inclusion in the statewide program, MPOs self-certify that they have met all Federal requirements.

Minority: A person or groups of persons differing from others in some characteristics who may be subjected to differential treatment based on race, color, or national origin. Includes African Americans, Hispanics or Latinos, *American Indian or Alaska Native, Asians, and Native Hawaiian or Other Pacific Islander.*

Native Hawaiian or Other Pacific Islander: A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Non-compliance: the condition wherein a recipient has failed to meet prescribed requirements and has shown a lack of good-faith effort in implementing all of the Title VI requirements.

Non-minority or non-minority group people: Caucasians

Persons: Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: "White not of Hispanic origin," "Black not of Hispanic origin," "Hispanic," "Asian or Pacific Islander," "American Indian or Alaskan Native." Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

Public participation: an open process in which the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

Primary recipient: KYTC or any department, division, or agency authorized to request federal assistance on behalf of sub-recipients and to distribute financial assistance to sub-recipients' contracts for carrying out a program.

Program: includes any highway, project, or activity that provides services, financial aid, or other benefits to individuals, including education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient (e.g. Planning, Environment, Design, Right-of-Way, Construction, Safety, and Research).

Program area officials: the officials who are responsible for carrying out technical program responsibilities.

Recipient: Kentucky, or any political subdivision or instrumentality thereof; or any public or private agency, institution, or organization, or other entity; or any individual in Kentucky to whom federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term **recipient** does not include any ultimate beneficiary under any such program. Examples of recipients include MPO's, COG's, towns, cities, counties, school districts, or any sub recipient.

Secretary: The chief administrative officer of the Kentucky Transportation Cabinet or KYTC.

Statewide Transportation Improvement Program or STIP: statewide transportation improvement program (STIP) for all areas of the State, covering a period of at least four years. The STIP is a staged, multi-year, statewide intermodal program of transportation projects, consistent with the statewide transportation plan and planning processes as well as metropolitan plans, transportation improvement programs (TIP), and planning processes. The STIP must be developed in cooperation with the metropolitan planning organizations (MPO), public transit providers, and any Regional Transportation Planning Organizations (RTPO) in the State, and must be compatible with the TIPs for the metropolitan areas in the State.

Statewide Transportation Plan or STP: a long-range transportation plan that provides for the development and implementation of the multimodal transportation system (including transit, highway, bicycle, pedestrian, and accessible transportation) for the State. This plan must identify how the transportation system will meet the State's economic, transportation, development, and sustainability goals for at least a 20-year planning horizon.

Sub-grantee: Any public or private agency, institution, or organization to whom federal financial assistance is intended (through another recipient) for any program.

Transportation Improvement Programs or TIP: plan developed by Metropolitan Planning Organization cooperation with the State and public transit providers detailing a list of upcoming transportation projects, covering a period of at least four years. It should include

capital and non-capital surface transportation projects, bicycle and pedestrian facilities and other transportation enhancements, Federal Lands Highway projects, and safety projects included in the State’s Strategic Highway Safety Plan. The TIP should include all regionally significant projects receiving FHWA or FTA funds, or for which FHWA or FTA approval is required.

Title VI Coordinator: refers to the responsible KYTC official in matters relating to Title VI. The Title VI Coordinator reports to and assists the Executive Director of OCRSBD in carrying out the Title VI responsibilities of the Kentucky Transportation Cabinet.

Title VI Program: the system of requirements developed to implement Title VI of the Civil Rights Act of 1964. When appropriate, the phrase “Title VI Program” also refers to the civil rights provisions of other federal non-discrimination authorities to the extent that they prohibit discrimination on the grounds of race, color, national origin, sex, age, and disability, including income level and Limited English Proficiency (LEP) in programs or activities receiving federal financial assistance.

White: A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

II. OVERVIEW & POLICY STATEMENT

Title VI of the Civil Rights Act of 1964 is a non-discrimination statute. Specifically, Title VI provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (42 U.S.C. Section 2000d). Each Federal department and agency, which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, federal personnel, or any federal agreement contract is authorized and directed to make the provisions of Section 2000d of this title.

The Kentucky Transportation Cabinet works to ensure nondiscriminatory transportation in support of our mission to provide a safe, secure, reliable, highway system that ensures the efficient mobility of people and goods, thereby enhancing both the quality of life and the economic vitality of the Commonwealth.

The Kentucky Transportation Cabinet is working to incorporate suggestions presented by the FHWA during the Annual Title VI On-Site review conducted in December 2014, including but not limited to addressing the development and implementation of a comprehensive Title VI Program Sub-recipient Monitoring Program and the Title VI Program Training section of this plan. The KYTC is committed to a workplace fully compliant with Title VI of the Civil Rights Act of 1964.

NON-DISCRIMINATION AUTHORITIES

- Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.)
- Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324)
- Age Discrimination Act of 1975
- Section 504 of the Rehabilitation Act of 1973
- Americans With Disabilities Act of 1990
- Civil Rights Restoration Act of 1987
- 49 CFR Part 21
- 23 CFR Part 200
- USDOT Order 1050.2
- Executive Order #12898 (Environmental Justice)
- Executive Order #13166 (Limited-English-Proficiency)



TRANSPORTATION CABINET

Frankfort, Kentucky 40622
www.transportation.ky.gov/

Steven L. Beshear
Governor

Michael W. Hancock, P.E.
Secretary

TITLE VI POLICY STATEMENT

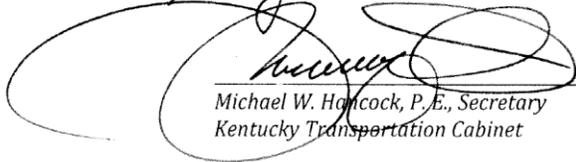
OFFICIAL ORDER 107328

It is the policy of the Kentucky Transportation Cabinet ("Cabinet") to afford equal opportunity to all persons to the end that no person in the United States shall, on the grounds of race, color, sex, disability, age or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the U. S. Department of Transportation.

Program and activities to which this policy applies include, but are not limited to, the use of grants in connection with federal-aid highway systems, the Surface Transportation and Relocation Assistance Act of 1987, the Highway Safety Act of 1966, and the National Traffic and Motor Vehicle and Safety Act of 1966, leases of real property and the grant of permits, licenses, easements and rights of way covering real property, Urban Mass Transportation Research Programs, and other grants for the support of basic scientific research.

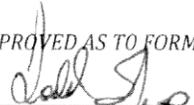
This policy shall be prominently posted in all personnel office, EEO offices, and on the Cabinet's internal website.

Signed and approved this 10th day of February, 2012.



Michael W. Hancock, P.E., Secretary
Kentucky Transportation Cabinet

APPROVED AS TO FORM AND LEGALITY



Todd Shipp, Esq., Special Assistant
Office of Legal Services

I have read this policy statement and understand the provisions contained within and acknowledge the receipt of this policy.

Signature Date

Social Security Number



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III. RESPONSIBLE OFFICIAL

A. Secretary

The Governor of Kentucky appoints the Kentucky Transportation Cabinet's Secretary. The Secretary is responsible for organizing and administering the KYTC. Each Title VI program area has designated a Title VI Liaison to assist in their department's compliance efforts. Program areas are responsible for the collection and maintenance of sub-recipient participation.

B. Executive Director Office for Civil Rights and Small Business Development

The Executive Director is responsible for the Cabinet's adherence and compliance with Equal Opportunity, Title VI, and Small Business Development (Disadvantaged Business Enterprise Program) via program implementation and policy development.

The Office for Civil Rights and Small Business Development is responsible for the following:

- Monitoring Equal Employment Opportunity programs, including enforcement of Titles VI and VII of Civil Rights Act
- Investigating all complaints of discrimination based on race, color, national origin, sex, religion, disability, age, sexual orientation, veteran status, income-level, or Limited English Proficiency (LEP)
- Counseling at-risk employees and employees facing disciplinary action or identified as having difficulties that may interfere with or jeopardize employment (EEO)
- Administering, coordinating, supports, and monitors progress of Disadvantaged Business Enterprise (DBE) Program and Supportive Services/On-the-Job Training Programs (DBE/OJT)
- Publishes directory of certified and prequalified DBE firms
- Certifies small businesses owned and controlled by socially and economically disadvantaged individuals, including minorities and women, to participate in USDOT assisted contracts in accordance with 49 Code of Federal Regulations 26 (49 CFR Part 26) (DBE)

C. Civil Rights Branch Manager/Affirmative Action Officer

The Civil Rights Branch Manager/Affirmative Action Officer (AAO) is responsible for the oversight and coordination of KYTC's compliance with the affirmative action programs and internal equal employment opportunity investigations and all related statutes, regulations, and directives. General responsibilities of the Civil Rights Branch Manager/AAO include but are not limited to updating the KYTC's Affirmative Action Plan, the State Employment Practice

Report, and providing district directors with data on hiring accomplishments and areas of opportunity.

D. Title VI Program Coordinator

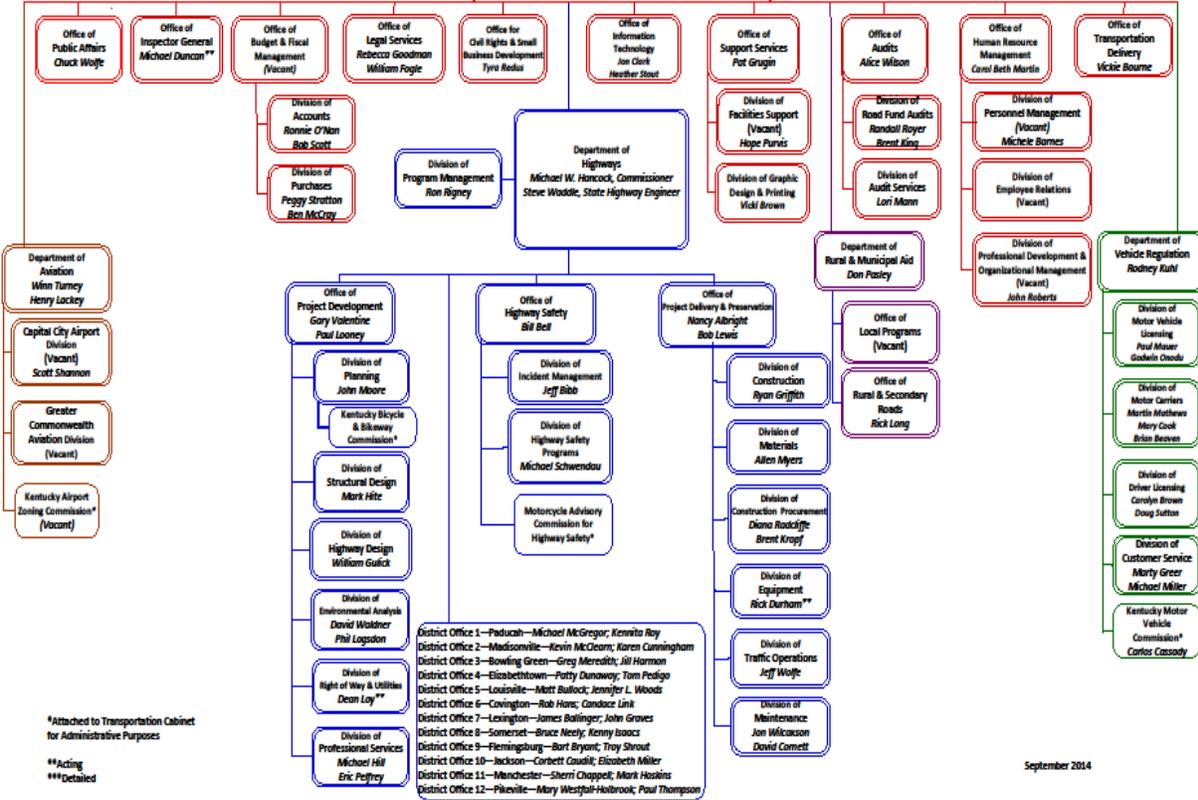
The Title VI Program Coordinator is responsible for the oversight and coordination of KYTC's compliance with Title VI and all related statutes, regulations, and directives. The Title VI Program Coordinator has direct access to the KYTC's Secretary (CEO). General responsibilities of the Title VI Program Coordinator include but are not limited to the following:

- Coordinating Title VI program development with Area Development District's (ADDs), Metropolitan Planning Organizations (MPOs), Local Public Agencies (LPAs) and division managers
- Establishing procedures for processing Title VI program reviews and/or sub-recipient reviews
- Coordinating training Title VI training for KYTC staff, sub-recipients, and stakeholders
- Preparing required reports
- Providing guidance and advice on the Title VI Program to KYTC staff, MPOs, LPAs, ADDs using a multi-year approach
- Participating in the design, development, and dissemination of Title VI information to the public via the Notification to Beneficiaries
- Annually updating KYTC's Title VI Program Plan



ORGANIZATIONAL CHART

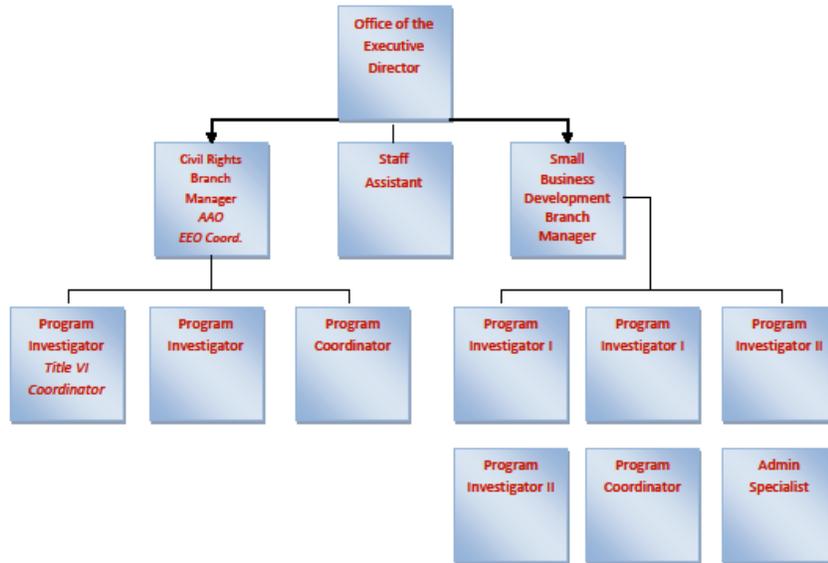
OFFICE OF THE SECRETARY
Michael W. Hancock, Secretary
Russ Romine, Deputy Secretary
Cindy James, Chief of Staff



*Attached to Transportation Cabinet for Administrative Purposes
**Acting
***Detailed

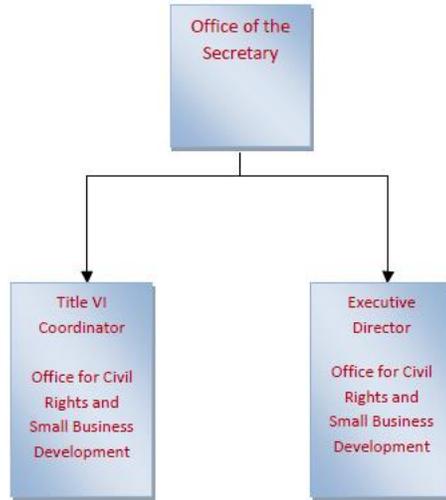
September 2014

**Office for Civil Rights and Small Business Development
Organizational Chart 2014**



Kentucky Transportation Cabinet established a Civil Rights unit and designates a coordinator who has a responsible position in the organization and easy access to the head to the State highway agency per 23 CFR Section 200.9.

KYTC Title VI Reporting Structure



IV.

STATEMENT OF ASSURANCES

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Steven L. Beshear
Governor

TRANSPORTATION CABINET
Frankfort, Kentucky 40622
www.transportation.ky.gov/

Michael W. Hancock, P.E.
Secretary

Official Order 107477

STANDARD TITLE VI ASSURANCE

Kentucky Transportation Cabinet Standard Title VI Assurances

The Kentucky Transportation Cabinet, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U. S. 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, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program 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, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability 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 U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that it will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) 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-aid Highway Program:

1. That the Recipient agrees that each "facility" and each "program" as defined in subsections 21.23(b) and 21.23(e) of the Regulations 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 made in connection with the Federal-aid Highway Program and, in a adapted form in all proposals for negotiated agreements.



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Construction Proposals

The Kentucky Transportation Cabinet, Department of Highways in accordance with the provisions of the Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and the regulations of the Federal Department of Transportation (49 CFR, Part 21), issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability.

Agreements for Other Services

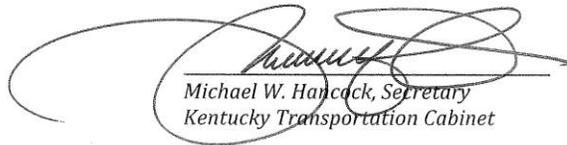
Compliance with Regulations: The Consultant shall comply with the regulations of the Transportation Cabinet, Department of Highways, relative to nondiscrimination in Federally Assisted Programs of the Transportation Cabinet, Department of Highways (49 CFR, Part 21) which are herein incorporated by reference and made a part of this contract.

3. That the Recipient shall insert one of these nondiscrimination clauses in every contract subject to the Act and the Regulations.
4. That the Recipient shall also insert into every relevant contract a clause stating that contractors will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, these assurances shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form of, or for the acquisition of real property, these assurances shall extend to rights to space on, over, or under such property.
7. That these assurances obligate 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, real property or interest therein or structures or improvement 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.

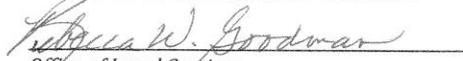
8. The recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the delegated authority, to give a reasonable guarantee that it, other recipients, sub grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Act, the Regulations and these assurances.
9. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and these assurances.

These assurances are given in consideration of, and for the purpose of, obtaining any and all Federal grants, loans, contracts, property, discounts, and/or other Federal financial assistance extended after the date hereof, to the Recipient by the U. S. Department of Transportation under the Federal-aid Highway Program. The person whose signature appears below is authorized to sign these assurances on behalf of the Recipient.

Signed and approved this 15th day of May, 2012.


Michael W. Hancock, Secretary
Kentucky Transportation Cabinet

APPROVED AS TO FORM AND LEGALITY


Rebecca W. Goodman
Office of Legal Services

V. PROGRAM REVIEW PROCEDURES

Each division within KYTC and all of its departments and program areas are responsible for the following under Title VI:

- Collecting and analyzing data on minority and low income populations to determine the potential impact of proposed plans, programs, and projects
- Ensuring all contract documents contain the appropriate Title VI provisions
- Consulting with the Title VI Coordinator and the OCRSBD Executive Director when complaints are received or issues arise during a public hearing/meeting
- Ensuring that all people are treated equitably regardless of race, color, national origin
- Monitoring Title VI accomplishments , notifying the Title VI Coordinator of problem areas and summarizing activities for inclusion in the Title VI Plan Update
- Developing and updating internal policies and procedures to ensure Title VI compliance during all phases of projects, activities
- Ensuring that all business pertaining to the selection, negotiation, and administration of consultant contracts and agreements is accomplished without discrimination based on race, color, national origin
- Ensuring that efforts are made to include minority and women owned businesses in consideration for contracts
- Ensuring that internal and external publications and all other relevant communications disseminated to the public include the Title VI policy reference
- Providing reasonable accommodations, information in the appropriate language or interpreters as needed for individuals with disabilities and LEP persons

A. KYTC CORE PROGRAM AREA REPORTING

The KYTC currently receives funds from the U.S. Department of Transportation (U.S.D.O.T.) Federal Highway Administration (FHWA). As a recipient of federal funds the KYTC, pursuant to Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, 49 CFR Part 21 – U.S.D.O.T. Title VI Regulations, and 23 CFR 200 – FHWA Title VI Regulations, is required to ensure that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial activity assistance from the U.S.D.O.T.

To aid in compliance with 23 CFR 200.9(b) (10), all core program areas must submit an annual report to the Title VI Coordinator to be used as an assessment tool to determine whether the program area is in compliance with Title VI and to ascertain instances where the Title VI Coordinator may need to provide or request training and technical assistance to help the program area achieve its Title VI goals and maintain compliance. In addition, the Title VI Coordinator will review the data

collection methods for each program area periodically to ensure compliance with KYTC's Title VI Program requirements. Title VI Liaison for each area should prepare the report and submit it annually on December 31.

Each report should contain the following information:

- Demographic information collected during the service delivery process
- Information concerning the dissemination of copies of The Civil Rights Act of 1964 non-discrimination statement
- Description of steps taken to ensure meaningful access to programs, activities, and services to LEP persons
- Description of costs using dollar amount incurred during the year while related to the LEP service provision
- Analysis of whether existing assistance meets LEP needs of those served by the program area and if not, a description of those needs
- Information regarding the viability of current LEP assistance sources, if applicable
- Description of Title VI training attended by division personnel, ADD's and MPO's, to include roster of attendees, dates, and locations of the training and information regarding the sponsoring organization

The Title VI Coordinator will discuss with manager(s) effective tools to correct any discrimination that may have been found in the Program area.

B. PROGRAMS OR ACTIVITIES SUBJECT TO TITLE VI

KYTC program areas with Title VI responsibilities include the following KYTC's departments/divisions/office:

- Department of Highways - Research
- Office of Program Planning and Management - Planning and Consultant
- Office of Project Development - Design, Environmental Analysis, and Right of Way
- Office of Project Delivery - Construction and Contract Administration
- Office of Transportation Delivery - Transportation Delivery
- Office of Human Resource Management - Education and Training
- Office for Civil Rights and Small Business Development Administration
- ADD and MPO – Sub-recipient compliance reviews to be coordinated with the Office of Local Programs
- Safety

C. SPECIAL EMPHASIS PROGRAM AREAS

The assessments conducted by KYTC in FY15 revealed the Cabinet needs to provide continuing education and Title VI training to its internal personnel on their responsibilities and provide Title VI training to the sub-recipients and their respective Title VI liaisons.

The Cabinet has adopted a multi-year Program Area review approach.

(See page 43, “Compliance and Non-compliance Reporting” for details on the KYTC’s procedures for identifying special emphasis program areas and how non-compliance is addressed.)

Title VI Data Flowchart



VI. SUB-RECIPIENT REVIEWS

Sub-recipients of Federal aid in Kentucky include Metropolitan Planning Organizations (MPOs), Area Development Districts (ADDs), and councils of government, universities, and airport authorities.

The nine Metropolitan Planning Organizations in Kentucky as listed below.

- Clarksville MPO
- Evansville-Henderson MPO
- Owensboro MPO
- Radcliff-Elizabethtown MPO
- Louisville MPO
- Bowling Green MPO
- Cincinnati/Northern Kentucky MPO
- Lexington MPO
- Ashland MPO

The 15 Area Develop Districts are as follows:

- Barren River ADD
- Big Sandy ADD
- Bluegrass ADD
- Buffalo Trace ADD
- Cumberland Valley ADD
- FIVCO ADD
- Gateway ADD
- Green River ADD
- Kentucky River ADD
- KIPDA ADD
- Lake Cumberland ADD
- Lincoln Trail ADD
- Northern Kentucky ADD
- Pennyrile ADD
- Purchase ADD

The Local Public Agencies (LPAs) are as follows:

- [KYTC LPA.xlsx](#)

The Commonwealth of Kentucky is comprised of 120 counties and approximately 425 cities. The Kentucky Transportation Cabinet is divided in 12 Districts, each of which is equipped with an Administrative Coordinator who has access to the Title VI Coordinator.

The Title VI Coordinator will review all ADD's and MPO's triennially using the FHWA's Nondiscrimination /Title VI Review Guidelines. The Title VI Coordinator will collaborate with Program Area Title VI Liaisons to conduct periodic pre-grant and post-grant reviews of select

sub-recipients of Federal Highway Administration funds or other federal funds for other roadway projects (i.e. bridges) to ensure adherence to Title VI requirements. Sub-recipients are selected using a risk-based method and reviews use a combination of desk audits and on-sites. Appropriate staff members will routinely confirm that guidelines provided to consultants, contractors, and sub-recipients include Title VI language, provisions, and related requirements, where applicable.

KYTC TITLE VI ONSITE REVIEW WORKPLAN*

Training – Kentucky Transportation Cabinet employees, sub-recipients, stakeholders, and beneficiaries (if any)

FY16- Lexington Airport, Bluegrass ADD, Kentucky Transportation Center (UK’s campus), Lake Cumberland ADD, Lexington MPO, Lexington Fayette Urban County Government, Madison County Fiscal Court & KIPDA December 2015

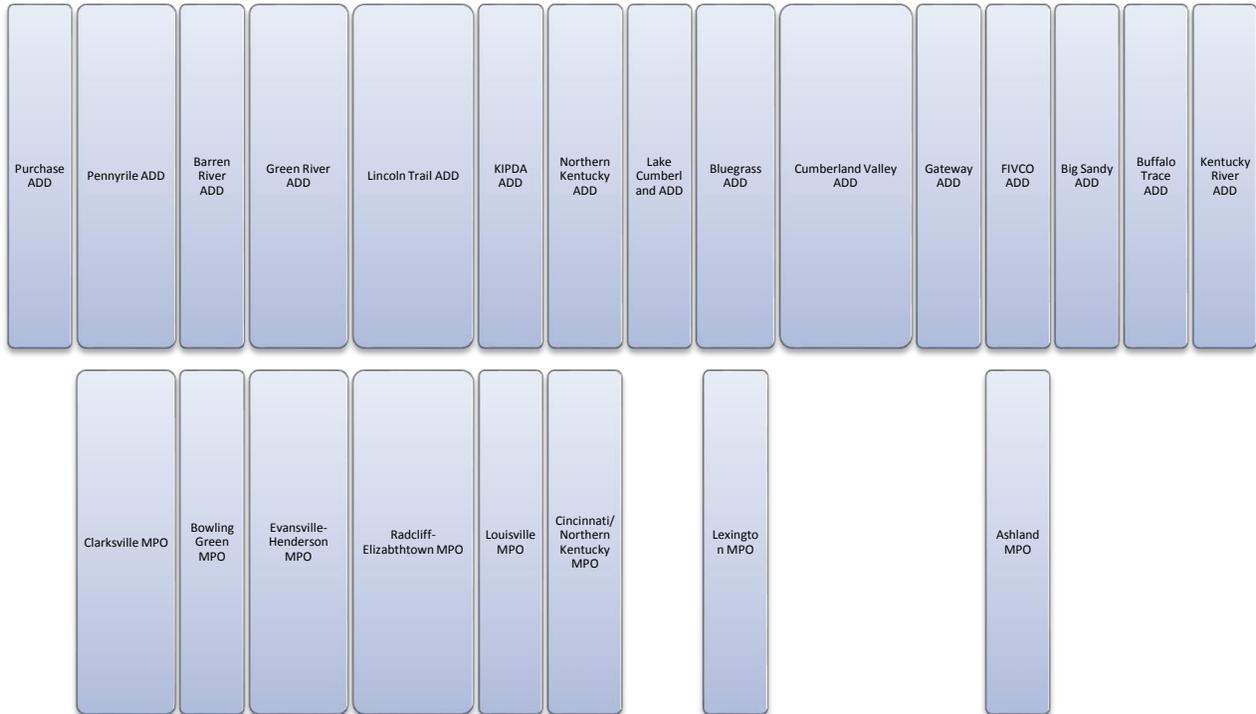
FY 17- Purchase ADD, Green River ADD, Evansville-Henderson MPO, Owensboro MPO, Radcliff-Elizabethtown MPO, Lincoln Trail ADD, Clarksville MPO, City of Guthrie, City of Kuttawa, City of Crofton

FY18- OKI MPO, Northern KY Airport, Northern KY ADD, Buffalo Trace ADD, Gateway ADD, Lake Cumberland ADD, Cumberland Valley ADD, City of Ewing, City of Dry Ridge, City of Columbia

FY19 – FIVCO ADD, Big Sandy ADD, Kentucky River ADD, Gateway ADD, Ashland MPO, City of Jenkins, Greenup-Boyd County Riverport Authority, City of Williamsburg

*The Title VI Coordinator reserves the right to alter the schedule if assessments reveal implications that require additional assistance.

Title VI Coordinator



VII. DATA COLLECTION/REPORTING/ANALYSIS

Statistical data on race, color, national origin, sex, age, disability, and LEP of participants in and beneficiaries of the KYTC's programs, (e.g., affected populations, and participants) will be gathered, analyzed, and maintained by the Cabinet to determine the transportation investment benefits and burdens to the population, including minority and low-income populations. Each of the Cabinet's Program Areas will maintain data relative to their programs and activities. Data gathering procedures will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of Title VI program administration. Analysis of the data collected by the program emphasis areas may include:

- The race, color, national origin, sex, age, disability, income, and LEP of the population eligible to be served
- Socioeconomic Assessment to evaluate project's potential impacts to the human environment
- Persons to include in the decision making process
- Percent of benefits allocated to persons below the poverty line vs. persons above the poverty line
- Distribution of benefits (dollars, facilities, systems, projects) to groups and communities
- Projected population increases versus planned facilities and types of facilities
- Language needs assessment
- Transportation needs of all persons within boundaries of plans or projects
- Strategies to address impacts
- The manner in which services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination
- The location of existing or proposed facilities connected with the program and related information for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination
- The present or proposed membership, by race, color, national origin, sex, disability and age, in any planning or advisory body which is an integral part of the program
- Strategies to disseminate information

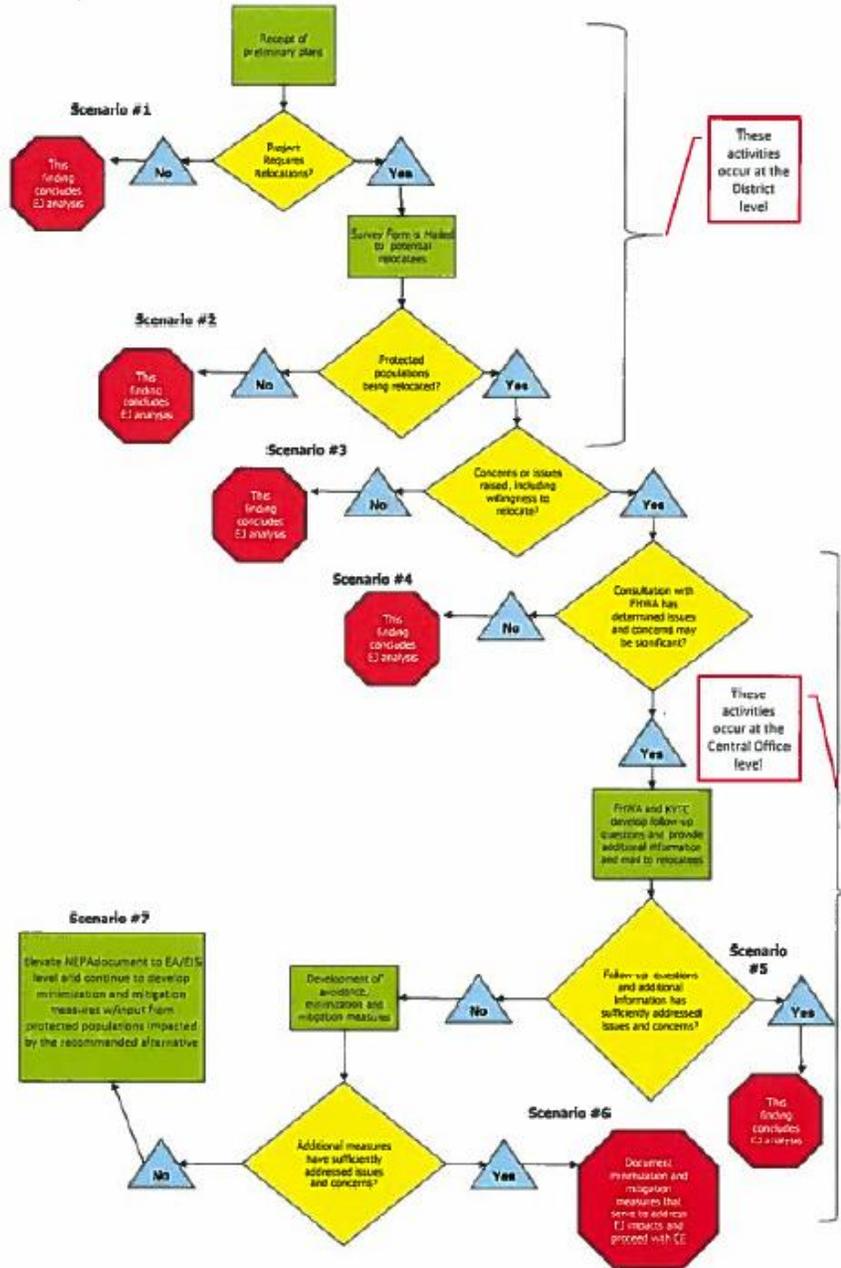
Environmental Justice

Executive Order (E.O. 12898) was issued to focus federal attention on the environmental and human health conditions in minority and low-income communities to promote non-discrimination in federal programs substantially affecting human health and the environment and to provide minority and low-income communities access to public information on and an opportunity for public participation in matters relating to human health or the environment.

The KYTC will utilize the US Census Bureau data, the American Community survey data, and the following checklist to identify targeted populations:

- Make a list of potential demographic groups to consider for the region or start with the required EJ populations defined by the Executive Order and supportive guidance
- Consider groups that are underrepresented in typical public involvement and transportation decision making processes, have limited access to the full benefits of the transportation system, or have encountered disproportionate impacts from past transportation decisions
- Decide on the level of detail required for identifying groups spatially and identifying data sources to use to conduct a spatial demographic profile
- Engage leaders and representatives of demographic groups to help identify target populations, spatially and non-spatially

Documentation for CE-level Projects



VIII. AGENCY TITTLE VI TRAINING PLAN

In-service training programs for employees will continually inform appropriate staff members of their responsibility to render high quality services to all clients regardless of race, color, or national origin.

The KYTC will provide written notice to all current employees concerning the KYTC's commitment to assuring compliance with Title VI and include a Title VI module in its New Employee Orientation program.

The Title VI Coordinator will attend and subsequently disseminate the benefit of the training to pertinent KYTC staff, Title VI Liaisons, and program office heads. Sub-recipients and beneficiaries (if any) shall be provided with explanatory materials and technical assistance as necessary to ensure their knowledge of, and compliance with, Title VI requirements.

The Cabinet underwent the FHWA's Title VI review in December 2014 and will develop Title VI training during FY 2016 while implementing and providing in-person training to employees, sub-recipients, and stakeholders during FY 2017, and annually thereafter.

IX. Complaint Procedures

Synopsis

This Title VI Implementation Plan requires immediate notification to top management of any complaint or allegation of discrimination, and assigns the responsible program office with the primary responsibility for evaluation and resolution of a complaint. The Title VI Coordinator and general counsel staff provide assistance to the KYTC Office of the Secretary.

The investigative file, investigative report, and recommended decision (s) are forwarded to the Federal Highway Administration (FHWA), Headquarters Civil Rights (HCR) Office via the FHWA Division Office for final disposition. All Final Agency Decisions (FAD) and dismissals will be issued by HCR. Investigators and other KYTC personnel will seek to informally resolve the complaint at every opportunity during the investigation.

This plan is for acknowledgment and investigation of an inquiry, comment, or complaint of discrimination received by the KYTC or, per FHWA's request.

Purpose

To specify the process to be employed by the KYTC and its recipients to investigate complaints, while ensuring due process for complainants. The process does not preclude the responsible office or other authorized KYTC personnel from attempting to resolve complaints informally.

Applicability

The complaint procedures outlined herein apply to the KYTC and its recipients in the administration of the Federal-Aid Highway Program.

Nondiscrimination Policy

See Appendix D

Filing of Complaints

Persons Eligible to File

Any person who believes that he/she or any specific class of persons has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities, based upon race, color, sex, age, national origin, sexual orientation, income, LEP status, or disability may file a written complaint. The complaint may be filed by the affected individual or a representative and must be reduced to writing.

Time of Filing and Contact

Complaints should be filed within 180-calendar days from the date of the alleged discriminatory act. Complaints may be filed in person, via mail, fax, e-mail (which includes a copy of the signed/dated complaint as an attachment), or by other alternatives for any person requiring a reasonable accommodation to the contact person listed below.

Vincent C. Thomas, Sr., Title VI Coordinator
Kentucky Transportation Cabinet
Office for Civil Rights and Small Business Development
(OCRSBD)
200 Mero Street, Sixth Floor, West Wing
Frankfort, KY 40622
Phone: 800-928-3079 or 502-564-3601
Fax: 502-564-1491
Email: Vincent.Thomas2@ky.gov

Complaints should be submitted in the following format with the listed information:

- In writing with an accompanying explanation of what happened
- The complainant's contact information
- Identification of the respondent
- Sufficient information regarding the allegation(s)
- Date(s) of the alleged act(s)
- Signature of the complainant or the complainant's representative

After receipt of the complaint, the Title VI Coordinator shall acknowledge the receipt in writing to the complainant. The acknowledgement shall include notification that an investigation will be conducted within ten business days. A copy of the complaint and the acknowledgment will then be forwarded to the Federal Highway Administration (FHWA).

The Title VI Coordinator shall conduct a full investigation, when warranted, and furnish a preliminary written report, including recommendations for resolution to KYTC Secretary for a final determination. Personnel trained in compliance investigations will conduct investigations.

KYTC Secretary shall notify the complainant of the final decision within ten business days of completion of the investigation and a copy of the decision will be forwarded to the FHWA.

KYTC Secretary shall further notify the complainant of his or her right to appeal the decision to the FHWA if the decision is not acceptable. Appeals should be made in writing and forwarded to the address below:

Kentucky Division Federal Highway Administration

Civil Rights Division

P. O. Box 536

Frankfort, KY 40601

The entire procedure as outlined shall be completed within 60 days.

Records pertaining to complaints, inquiries and investigations will be maintained by the Office of Civil Rights & Small Business Development (OCRSBD). (See Recordkeeping and Reporting section XII)

Form of Complaints

Complaints shall be in writing and signed by the person(s) or representative and include the complainant's name, address and telephone number. Allegations of discrimination received by fax or e-mail will be acknowledged and processed.

Allegations received by phone will be reduced to writing and provided to the complainant for confirmation or revision before processing.

Agencies Authorized to Receive Complaints

Complaints may be submitted to FHWA, KYTC, the United States Department of Transportation (USDOT), and the U.S. Department of Justice (USDOJ).

Processing Complaints

Complaints filed with KYTC in which KYTC is named as the Respondent, shall be forwarded to FHWA, ATTN: HCR for processing.

Complaints received by HCR filed against Federal-aid sub-recipients and contractors will be sent to KYTC for investigation.

Complaints filed with KYTC against its sub-recipients shall be processed by KYTC in accordance with FHWA approved procedures as required pursuant to 23 CFR 200.

Complaints filed with a sub-recipient shall be forwarded to KYTC within three days of receipt.

Sub-recipients

Complaints filed with a sub-recipient shall be forwarded to KYTC, OCRSBD, Attn: Title VI Coordinator, for processing.

In special cases warranting intervention to ensure justice, the FHWA may assume jurisdiction and either complete or obtain services to review or investigate a matter. Materials already obtained by State investigators may be relied upon or supplemented or the matter may be reinvestigated.

In accordance with the regulations at 23 CFR 200.9(b)(3), a copy of the complaint, together with a copy of KYTC report of the investigation, shall be forwarded to the FHWA Division Office within 60 days of the date the complaint was received by KYTC. An extension of an additional 60 days may be granted by the FHWA for justifiable reasons. KYTC will forward the complaint, through the FHWA Division Office, to HCR for review and issuance.

Receipt and Acceptance

When any element of KYTC receives an inquiry, comment, or complaint, which alleges or implies discrimination as addressed by Title VI of the Civil Rights Act of 1964, a copy is forwarded immediately to the OCRSBD Executive Director and the FHWA Division Administrator. The original document will be forwarded to OCRSBD, which have responsibility for logging in the document and maintaining the required statistical data.

The OCRSBD Executive Director and FHWA Division Administrator or his designee in the Civil Rights office will discuss the matter to determine if it constitutes a Title VI complaint. If it is determined that the issues do not meet a Title VI complaint, the OCRSBD Executive Director will submit the appropriate response to HCR, thru the FHWA Division Office.

If it is determined that the issues constitute a Title VI complaint, the OCRSBD Executive Director or the Title VI Coordinator will determine responsibility and the need for additional information. KYTC/FHWA Division Administrator/his designee may request additional information and/or clarification. KYTC shall maintain a log of complaints filed with and investigated by KYTC.

The OCRSBD Executive Director will respond in writing, acknowledging receipt of complaint within 10 days from date of receipt. After reviewing the complaint, The OCRSBD Executive Director may recommend dismissal of a complaint for any of the following reasons:

1. The complaint filed in an untimely manner.
2. The complaint does not allege a basis covered by the statutes for which KYTC is responsible.

3. The complaint does not allege any harm with regard to covered programs or statutes.
4. The complainant requests the withdrawal of the complaint.
5. The complainant fails to respond to repeated requests for additional information needed to process the complaint.
6. The complainant cannot be located after reasonable attempts.
7. The complainant fails to accept a reasonable resolution. Reasonableness to be determined by the Headquarters Civil Rights (HCR) Office via the FHWA Division Office.
8. The complainant has filed a legal action in Federal District Court with the same basis and issue(s) involved in the complaint.
9. The same complaint's allegations have been filed with another Federal, State, or local agency.

Acceptance of a complaint will be determined by the following:

1. Timely filing of the complaint.
2. If the allegations involve a covered basis such as race, color, sex, age, national origin, disability, or retaliation.
3. If the allegations involve a program or activity of a Federal-aid recipient, sub - recipient, or contractor. All complaints received by KYTC will be logged for tracking purposes.

WITHDRAWAL

The complainant may withdraw his or her complaint at any time after filing and prior to the issuance of a determination or resolution by the KYTC. The complainant must submit a written withdrawal to the following:

Executive Director

Office for Civil Rights and Small Business Development (OCRSBD)

200 Mero Street, Sixth Floor

Frankfort, KY 40622

APPEAL

If a complaint cannot be resolved by the KYTC to the satisfaction of the complainant, the complainant may appeal, in writing, to the following:

Federal Highway Administration Kentucky Division

Office of Civil Rights

P. O. Box 536

Frankfort, KY 40601

Discrimination complaints may be filed with the FHWA before, during, or after the complaint has been filed with the KYTC.

This procedure does not deprive the complainant his or her right to file a complaint with:

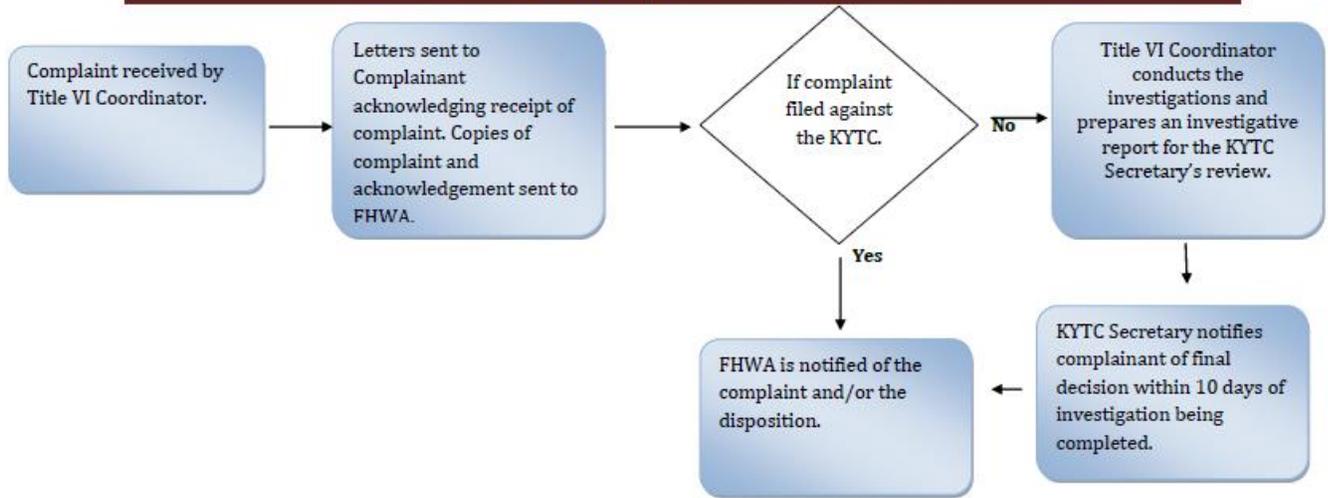
- The U.S. Department of Transportation: www.dot.gov
- The U.S. Department of Justice: www.usdoj.gov
- Federal Highway Administration: www.fhwa.dot.gov

FINAL AGENCY REPORTS

The Headquarters Civil Rights (HCR) Office via the FHWA Division Office will issue all Final Agency Decisions (FADs) and dismissals. KYTC will forward, through the FHWA Division Office, the investigative report, investigative file, and a recommended decision to the Chief, Investigations, and Adjudications.

The Department of Justice's Civil Rights Division takes the position that a Title VI finding of violation or no violation is a federal decision that cannot be delegated. Although a state recipient can conduct a Title VI investigation of its sub-recipients or contractors and make a recommendation to the Federal decision-making authority, KYTC must submit its proposed dispositions to FHWA for a Final Agency Decision. The HCR may request that further investigation be undertaken if the record of evidence is incomplete.

KYTC Title VI Complaint Process Flow Chart



X. PUBLIC INVOLVEMENT

The KYTC will disseminate Title VI Program information to employees, contractors, sub-recipients and beneficiaries, as well as to the public. A variety of public notification and participation procedures will be used to encourage the early and continuous involvement of citizens, communities, and others interested in the planning process and decisions of the KYTC.

The KYTC will discuss and/or distribute Title VI information using mass media including, but not limited to the following:

- Policy statements
- Inclusion of Title VI language in contracts
- New employee orientation
- Federal EEO posters
- KYTC website: <http://transportation.ky.gov/Pages/default.aspx> and intranet: <https://intranet.kytc.ky.gov/Pages/Home.aspx>
- Standard procedures manual
- Significant publications, e.g., newspapers, brochures, and written literature
- Mailings
- Meetings open to the public
- Events

Further, notices informing the public and all employees that the KYTC complies with Title VI of the Civil Rights Act of 1964 will be displayed in a prominent place.

Title VI Coordinator for the KYTC:

Vincent C. Thomas, Sr.
Kentucky Transportation Cabinet
Office for Civil Rights and Small Business Development
(OCRSBD)
200 Mero Street, Sixth Floor, West Wing
Frankfort, KY 40622
Phone: 800-928-3079 or 502-564-3601
Fax: 502-564-1491
Email: Vincent.Thomas2@ky.gov

XI. LIMITED ENGLISH PROFICIENCY (LEP)

The KYTC is committed to compliance with Title VI of the Civil Rights Act of 1964 and all related regulations and directives. The KYTC assures that no person shall on the grounds of race, color, national origin, age, gender, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any KYTC services, program or activity.

The KYTC also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies, and activities on minority and low-income populations. Therefore, in accordance with Presidential Executive Order 13166 – *Improving Access to Services for Persons with Limited Proficiency*, the KYTC will take reasonable steps to provide meaningful access to services for persons with LEP.

The KYTC has an on-going commitment to ensure effective communication by developing and implementing policies and procedures for identifying and assessing the language needs of its LEP applicants/clients; and provide for a range of language assistance options, which include, but are not limited to the following:

- Conduct needs assessment
- Kentucky Relay Service – TDD/Voice Users
- “I Speak” cards - two-sided bilingual cards with printed information about Language Access Rights, as well as a statement that requests an interpreter
- Written language service
- Qualified Bilingual staff
- Access to qualified interpreters
- Community-based organizations/volunteers
- Develop written assessment
- Monitor and evaluation access to language assistance

Executive Order 13166 directs recipients of federal financial assistance to make reasonable steps to provide LEP individuals with meaningful access to their programs, activities, and services. The following chart displays KYTC’s Division and Program areas and Title VI Program activities in relation to LEP services.

Activity	KYTC Divisions/Programs	Title VI
Assessing and addressing the needs of eligible persons	X	
Ensuring reasonable steps are taken to receive meaningful access to programs, activities, or services	X	
Developing and implementing monitoring control mechanisms to ensure delivery of service and ongoing compliance	X	
Compliance, monitoring, and oversight	X	X
Providing technical assistance and guidance		X
Reporting of goals and accomplishments	X	

XII. REVIEW OF STA DIRECTIVES

State Procedures, Manuals, and Directives Applicable to the Federal Highway Administration (FHWA) programs

The KYTC's Title VI Implementation Plan is designed to comply with the statutes and requirements under the law and as directed by FHWA to accomplish the goals of the Title VI Act of 1964.

The table below is a list of internal and external manuals that include procedures and directives used by the Cabinet.

DIVISION/OFFICE	PROCEDURES, MANUAL, DIRECTIVE
Construction	Construction Guidance Manual (Revised 7/15)
Construction Procurement	Construction Procurement Guidance Manual (Revised 6/15)
Environmental Analysis	Information, Procedures, and Guidance Manual
Highway Design	Access Management Manual
Highway Design	Guidelines for Pedestrian & Bicycle Accommodations
Maintenance	Field Operations Guide (Revised 6/15)
Maintenance	Maintenance Guidance Manual (Revised 6/15)
OCRSBD	DBE Program Policy Statement
Office of Human Resource Management	General Administration & Personnel Manual (Revised 8/15)
Office of Local Programs	Transportation Enhancement, Transportation Alternatives Program, Transportation Community and System Preservation
Office of Transportation Delivery	Oversight and implementation of various statewide public transit grants. Transportation grants offer general public transit services and assist in the mobility for the elderly, low income, and persons with disabilities
Materials	Aggregate Source Book

Professional Services	Professional Services Guidance Manual (Revised 6/15)
Right of Way	Right of Way Guidance Manual
Right of Way	Relocation Assistance Program
Traffic Operations	Traffic Operations Guidance Manual (Revised 2/15)

XIII. COMPLIANCE/NON-COMPLIANCE REPORTING

Throughout the year, the Title VI Coordinator periodically meets with various directors and division heads of KYTC to review the policies and procedures relative to Title VI. This includes, but it not limited to, a review of files and statistics of complaints received for investigation, and services offered to recipients and beneficiaries of KYTC's services.

The KYTC offices, departments, divisions who receive federal funds continually capture program compliance, although it is not always documented to denote such. Self-surveys are periodically sent to sub-recipients and sub-grantees. These self-surveys examine all facets of the programs offered by the agency surveyed. The OCRSBD will also conduct on-site reviews and assessments on a triennial basis. In instances in which the on-site and/or survey reveals that the agency or one or more of its programs is not in compliance with Title VI an investigation will be conducted by the Title VI Coordinator. Records of the self-survey and efforts expended to bring the agency into compliance will be maintained. These will include correspondence, resolution, and corrective actions.

In the event of non-compliance with this, plan or applicable regulations and laws are determined via a complaint investigation or through the self-survey process; the KYTC will make every effort to attain full compliance.

The Title VI Coordinator shall notify the appropriate program head in the event a complaint investigation, compliance review, or self-survey indicates non-compliance. The notification shall state the condition of non-compliance, recommended approach to correct the situation, and the time period for the response and corrective action. The Title VI Coordinator may conduct an interview to consult with the program head regarding the correct approach to remedy non-compliance.

XV. APPENDIX

The Appendix contains the USDOT Order No. 1050.2A Appendices A-E.

APPENDIX A

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

- 1. Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, **Federal Highway Administration**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- 4. Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **Federal Highway Administration** to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the **Federal Highway Administration**, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **Federal Highway Administration** may determine to be appropriate, including, but not limited to:

- a. withholding payments to the contractor under the contract until the contractor complies; and/or
- b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the **Federal Highway Administration** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the (***Title of Recipient***) will accept title to the lands and maintain the project constructed thereon in accordance with (***Name of Appropriate Legislative Authority***), the Regulations for the Administration of **Federal Highway Program**, and the policies and procedures prescribed by the **Federal Highway Administration** of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (***Title of Recipient***) all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

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

The (***Title of Recipient***), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the (***Title of Recipient***) will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department

will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

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

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, (***Title of Recipient***) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (***Title of Recipient***) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (***Title of Recipient***) and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (***Title of Recipient***) pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, (***Title of Recipient***) will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, (***Title of Recipient***) will there upon revert to, vest in, and become the absolute property of (***Title of Recipient***) and its assigns.

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to the following:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).