TITLE VI PROGRAM PLAN

October 1, 2017 – September 30, 2018

Greg Thomas, Secretary
Jamir Davis, Executive Director
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Office for Civil Rights and Small Business Development
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I. Glossary/Definitions

**Area Development Districts (ADD):** 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 American (Black):** 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 “policy 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 (i.e., relocated persons, impacted citizens, communities, etc.).

**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
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.

**Interpretation:** The process of listening to something in one language and orally interpreting it in another. The mix of LEP services under the Oral Languages Services is as follows:

- Hiring bilingual staff
- Hiring staff interpreters
- Using telephone interpreter lines
- Using community volunteers
- Use of family members, friends, and other customers/passengers as interpreters
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 (i.e. Planning, Environment, Design, Right-of-Way, Construction, Safety, & 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 MPOs, Council of Governments (COG), 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-recipient: Any public or private agency, institution, or organization to whom federal financial assistance is intended (through another recipient) for any program.

Translation: Translation is the replacement of a written text from one language into an equivalent written text in another language.

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 Officer, Coordinator or Liaison: refers to the responsible KYTC official in matters relating to Title VI. The Title VI Officer, Coordinator or Liaison 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 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 and 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 continues to incorporate suggestions by FHWA. The Annual Title VI on-site review conducted in December 2014, included 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 continues commitment to a workplace 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
- U.S. DOT Order 1050.2
- Executive Order #12898 (Environmental Justice)
- Executive Order #13166 (Limited-English-Proficiency)
Policy Statement

OFFICIAL ORDER 110249

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 Reauthorization & Reform Act of 2015, 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 27th day of June, 2016

Greg Thomas, 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

Kentucky
An Equal Opportunity Employer M/F/D
III. Responsible Officials

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.

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 U.S. DOT assisted contracts in accordance with 49 Code of Federal Regulations 26 (49 CFR Part 26) (DBE)

Civil Rights Branch Manager/Title VI/ADA/504 Officer/Affirmative Action Compliance Officer

The Civil Rights Branch Manager/Affirmative Action Compliance Officer (AACO) 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 statues, regulations and directives. General responsibilities of the Civil Rights Branch Manager/AACO 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.
Title VI Program Coordinator or Liaison

The Title VI Program Coordinator/Liaison 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 and 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
The Kentucky Transportation Cabinet established a Civil Rights unit and designates an Title VI Officer, Coordinator or Liaison who has a responsible position in the organization and direct access to the head to the State Highway Agency (STA) per 23 C.F.R. Section 200.9

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1 The Kentucky Transportation Cabinet established a Civil Rights unit and designates an Title VI Officer, Coordinator or Liaison who has a responsible position in the organization and direct access to the head to the State Highway Agency (STA) per 23 C.F.R. Section 200.9
KYTC Title VI Reporting Structure

Office of the Secretary

Title VI Officer, Coordinator or Liaison Office for Civil Rights and Small Business Development

Executive Director Office for Civil Rights and Small Business Development
I. Statement of Assurances

OFFICIAL ORDER 110248

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-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 – Enforcement Title
VI of the Civil Rights Act of 1964 (hereinafter referred to as the “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.
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 the 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 benefit; 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 27th day of June 2016

Greg Thomas, Secretary
Kentucky Transportation Cabinet

APPROVED AS TO FORM AND LEGALITY

Todd Shipp, Esq., Special Assistant
Office of Legal Services
IV. 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 Officer, Coordinator or Liaison 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 or national origin
- Monitoring Title VI accomplishments, notifying the Title VI Officer, Coordinator or Liaison 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 and 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 or 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. DOT.) 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. DOT. 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. DOT.

To aid in compliance with 23 CFR 200.9(b) (10), all core program areas must submit an annual report to the Title VI Officer, Coordinator or Liaison 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 Officer, Coordinator or Liaison 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 Officer, Coordinator or Liaison 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, ADDs and MPOs, to include roster of attendees, dates, and locations of the training and information regarding the sponsoring organization

The Title VI Officer, Coordinator or Liaison 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

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.

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See page 55 “Compliance and Noncompliance reporting” for details regarding KYTC’s procedures for identifying special emphasis program areas and how non-compliance is addressed.
Title VI Data Flowchart
V. Sub-recipient Review Procedures

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 are as follows:

- 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
- Perryville ADD
- Purchase ADD

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 a Chief District Engineer (CDE) who has access to the Title VI Officer, Coordinator or Liaison.

The Title VI Officer, Coordinator or Liaison will review all ADDs and MPOs triennially using FHWA’s Nondiscrimination /Title VI Review Guidelines. The Title VI Officer, Coordinator or Liaison will collaborate with Program Area Title VI Liaisons to conduct periodic pre-grant and post-grant reviews of select sub-recipients of FHWA 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; reviews use a combination of desk audits and onsite. 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 Work Plan

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

- **FY17** - 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, Bowling Green-Warren County MPO

- **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

- **FY20** – Blue Grass Airport, Bluegrass ADD, Kentucky Transportation Center (UK’s campus), Lake Cumberland ADD, Lexington MPO, Lexington Fayette Urban County Government, Madison County Fiscal Court & Kentuckiana Regional Planning & Development Agency (KIPDA)

In Fiscal Year 2017 starting in January and ending in April, the sub-recipient onsite reviews will be conducted and completed for the sub-recipients listed above (FY17). The next phase of the Sub-recipient Review Process was informing the sub-recipients by letter of their compliance or noncompliance to Title VI and its nondiscrimination regulations. Accompanying the letters were the *Title VI/Nondiscrimination Technical Reference Guide for Sub-recipients*.

The guide is to be a point of reference to aid sub-recipients with the Title VI review process and also pinpoint some key components that the OCRSBD highly recommends sub-recipients integrate in their Title VI program. If sub-recipients chose to use this guide as a foundation for their Title VI program by following the recommendations detailed within in this guide, it does not ensure compliance with all aspects of the Title VI. However, following the recommendations should improve the sub-recipient’s potential to comply with the various components of the Title VI/nondiscrimination requirements.

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3 The Title VI Officer, Coordinator or Liaison reserves the right to alter the schedule if the assessments reveal implications that require additional assistance.
Title VI Officer, Coordinator or Liaison

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

- Clarksville MPO
- Bowling Green MPO
- Evansville-Henderson MPO
- Radcliff-Elizabethtown MPO
- Louisville MPO
- Cincinnati/Northern Kentucky MPO
- Lexington MPO
- Ashland MPO
VI. 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, (i.e., 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 (EJ)

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
Categorical Exclusion (CE)

Per 40 C.F.R 1508.4 categorical exclusion means a category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore neither an environmental assessment nor an environmental impact statement is required.

Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and based on past experience with similar actions do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area, do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns and do not otherwise, either individually or cumulatively have any significant environmental impacts (23 C.F.R. 771.117(a)).

Any action which normally would be classified as a CE but could involve unusual circumstances will require the Administration, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include (23 CFR 771.117(b)):

1. Significant environmental impacts
2. Substantial controversy on environmental grounds
3. Significant impact on properties protected by Section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act
4. Inconsistencies with any federal, state, or local law, requirement or administrative determination relating to the environmental aspects of the action

A specific list of CEs that normally do not require any NEPA documentation or FHWA approval is set forth in 23 CFR 771.117(c). Other projects, pursuant to 23 CFR 771.117(d), may also qualify as CEs if appropriately analyzed, documented, and approved by FHWA at the Division level.
CE Flowchart

Documentation for CE-level Projects

Scenario #1
- Project meets criteria?
- Yes
- These activities occur at the District level
- No

Scenario #2
- Protocol is required?
- Yes
- No

Scenario #3
- Concerns are related to policy issues?
- Yes
- No

Scenario #4
- The proposal meets criteria?
- Yes
- No

Scenario #5
- FARs and NICHS support the project targets?
- Yes
- No

Scenario #6
- Additional review for significant environmental impacts?
- Yes
- No

Final approval by Director.

These activities occur at the Central Office level.
VII. Agency Title VI Training Plan

The KYTC’s Title VI Training Program is currently transitioning from the developmental phase to the implementation phase. The Title VI Training Program is composed of an Internal and External component.

Internally the KYTC will provide written notice to all current employees concerning the KYTC’s commitment to assuring compliance with Title VI and for new employees there will be a Title VI module conducted during New Employee Orientation. The Title VI Officer, Coordinator or Liaison will attend and subsequently disseminate the benefit of the training to pertinent KYTC staff, Title VI Liaisons, and program office heads.

The external component consists of training KYTC’s sub-recipients and beneficiaries (if any). As a part of the Sub-recipient Monitoring Program the Title VI Officer, Coordinator or Liaison will conduct reviews and the sub-recipients will be provided with explanatory materials and technical assistance as necessary to ensure their knowledge of, and compliance with Title VI requirements.

To aid in these efforts the OCRSBD developed the Title VI/Nondiscrimination Reference Guide for Sub-recipients. The guide serves as a point of reference and provides guidance for sub-recipients to better comprehend and comply with Title VI and the related nondiscrimination laws and regulations which are applicable to federal financial assistance that is awarded through KYTC.

Moving forward KYTC plans to continue its training efforts by implementing and providing in person training to employees, sub-recipients and stakeholders during FY 2018, and annually thereafter.
VIII. 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 Officer, Coordinator or Liaison 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 for Civil Rights (HCR) Office via the FHWA Division Office for final disposition. All Final Agency Decisions 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 explain the process utilized by 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 sub-recipients for the investigation of external complaints of discrimination. The procedures do not preclude the responsible staff of any agency from attempting to informally and independently resolve complaints.

Nondiscrimination Policy

A. 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.

Timeframe for Filing Complaints and Contact Information:

Complaints should be filed within 180-calendar days from the date of the alleged discriminatory act. Complaints should be submitted in writing and signed and may be filed via mail, fax, in person, or email (which includes a copy of the signed/dated complaint as an attachment);^4 for any

^4 While the referenced statement indicates a complaint should be in writing and signed, the receiving agency must
person requiring a reasonable accommodation to the contact address listed below:

Attn: Vincent C. Thomas, Sr.-Title VI/ADA/504 Officer
Office for Civil Rights and Small Business Development
200 Mero Street, Frankfort, KY 40622
Phone: 800-928-3079 or 502-564-3601 Fax: 502-564-1491

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.

**Submitting Complaints and Receipt of Complaints**

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

- A signed (by the complainant or the complainant’s representative) written explanation of what has happened
- The complainant's contact information
- Identification of the respondent, i.e. agency/organization alleged to have discriminated
- Sufficient information regarding the facts that led the complainant to believe that discrimination has occurred
- Date(s) of the alleged discriminatory act(s)
- Signature of the complainant or the complainant's representative

After receipt of the complaint, the Title VI Officer, Coordinator or Liaison shall acknowledge the receipt in writing to the complainant. The acknowledgement shall include notification that an investigation will be conducted within 10 business days. A copy of the complaint and the acknowledgment will then be forwarded to the Federal Highway Administration (FHWA).

The Title VI Officer, Coordinator or Liaison 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 OCRSBD Executive Director shall notify the complainant of the final decision within 10 business days of completion of the investigation and a copy of the decision will be forwarded to the FHWA.

KYTC OCRSBD Executive Director 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:

_________________________

accept complaints in alternate forms
The entire procedure as outlined shall be completed within 60 days.

Records pertaining to complaints, inquires and investigations will maintained by the Office of Civil Rights & Small Business Development (OCRSBD).

**B. Agencies Authorized to Receive Complaints**

Complaints may be submitted to Federal Highway Administration (FHWA), Kentucky Transportation Cabinet (KYTC), the United States Department of Transportation (U.S. DOT), and the U.S. Department of Justice (U.S. DOJ).

**C. Processing Complaints**

Complaints filed with the KYTC in which KYTC is named as the Respondent, shall be forwarded to FHWA to the attention of: 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.

*Complaints filed with Sub-recipients*

Complaints filed with a sub-recipient shall be forwarded to the KYTC- OCRSBD to the attention of: Title VI Officer, Coordinator or Liaison 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.
D. Acceptance and/or Dismissal of Complaints

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 is responsible 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 Officer, Coordinator or Liaison will determine responsibility and the need for additional information. KYTC/FHWA Division Administrator/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.

**E. Withdrawal of a Complaint**

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

**F. Appeal Process**

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

**G. 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

1. Complaint is received by Title VI Officer, Coordinator or Liaison
2. Letters acknowledging receipt of complaint are sent to Complainant
3. Copies of the letters sent to Complainant and a copy of the complaint are sent to FHWA
4. IF the complaint is filed against the KYTC
   - Title VI Officer, Coordinator or Liaison conducts the investigations and prepares an investigative report for review by the Secretary of KYTC
   - NO
   - Yes
5. FHWA is notified of the complaint and/or disposition
6. KYTC Secretary notifies Complainant of final decision within 10 days of investigation being completed
IX. 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](http://transportation.ky.gov/Pages/default.aspx) and intranet: [https://intranet.kytc.ky.gov/Pages/Home.aspx](https://intranet.kytc.ky.gov/Pages/Home.aspx)
- Standard procedures manual
- Significant publications, i.e., 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 Officer, Coordinator or Liaison for the KYTC:

Vincent C. Thomas, Sr.-Title VI/ADA/504 Officer
Kentucky Transportation Cabinet
Office for Civil Rights and Small Business Development
200 Mero Street, Frankfort, KY 40622
Phone: 800-928-3079 or 502-564-3601
Fax: 502-564-1491
X. 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 English 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
- 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.
<table>
<thead>
<tr>
<th>Activity</th>
<th>KYTC Divisions/Programs</th>
<th>Title VI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessing and addressing the needs of eligible persons</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Ensuring reasonable steps are taken to receive meaningful access to programs, activities, or services</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Developing and implementing monitoring control mechanisms to ensure delivery of service and ongoing compliance</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Compliance, monitoring, and oversight</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Providing technical assistance and guidance</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Reporting of goals and accomplishments</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

**Complying with Limited English Proficiency (LEP) – Four Factor Analysis**

A person who does not speak English as their primary language and has the limited ability to read, speak, write or understand English are limited English Proficient (LEP). LEP persons may be entitled to language assistance depending on the type of service, program or activity. Individuals that identify themselves as speaking English less than “very well” are considered to be Limited English Proficient based upon their self-identified limited ability to read, write, speak or understand English, therefore it can be inferred that it is difficult for LEP individuals to have meaningful access to programs and services that are offered by KYTC.

In order to determine if written or oral communication must be translated and what languages they must be translated to a four-factor analysis is used. The four-factor analysis considers the following:

1. The number or proportion of LEP persons served or encountered in the eligible service population
2. The frequency with which LEP individuals come in contact with the program, activity, or service
3. The nature and importance of the program, activity, or service provided by the program
4. The resources available to the recipient and costs
Factor 1 – The Number or Portion of LEP Persons served or encounter in the eligible service population

Based on data from the U.S. 2010\(^5\) census Kentucky’s total population is an estimated to be 4,339,367; the breakdown of the total population is as follows:

- White – 87.6%
- Black or African American - 7.9%
- Hispanic or Latino – 3.1%
- Asian – 1.1%
- American Indian or Alaska Native – 0.2%
- Native Hawaiian and Other Pacific Islander – 0.1%

According to the data from the U.S. Census Hispanics or Latinos make up approximately three percent of Kentucky’s total population, therefore since it is the state’s largest LEP demographic KYTC will focus its analysis on this group. Language assistance is available to other LEP speaking individuals the need presents itself.

Kentucky has 120 counties the following charts show the LEP breakdown of the population that

\(^5\) Source: U.S. Census Bureau, Table QT-P3 - Race and Hispanic or Latino Origin 2010 (data Set 2010 Census Summary File 1)
speaks Spanish/Spanish Creole\textsuperscript{6}.  

\textsuperscript{6} Source: U.S. Census Bureau, 2010-2014 ACS 5 Year Estimates (Table B16001) 
LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER Universe: Population 5 years and over
District 2
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

- Caldwell County, Kentucky
- Christian County, Kentucky
- Daviess County, Kentucky
- Hancock County, Kentucky
- Henderson County, Kentucky
- Hopkins County, Kentucky
- McLean County, Kentucky
- Muhlenberg County, Kentucky
- Ohio County, Kentucky
- Union County, Kentucky
- Webster County, Kentucky

District 3
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

- Allen County, Kentucky
- Barren County, Kentucky
- Butler County, Kentucky
- Edmonson County, Kentucky
- Logan County, Kentucky
- Metcalfe County, Kentucky
- Monroe County, Kentucky
- Simpson County, Kentucky
- Todd County, Kentucky
- Warren County, Kentucky
District 4
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

- Breckinridge County, Kentucky
- Grayson County, Kentucky
- Green County, Kentucky
- Hardin County, Kentucky
- Hart County, Kentucky
- Larue County, Kentucky
- Marion County, Kentucky
- Meade County, Kentucky
- Nelson County, Kentucky
- Taylor County, Kentucky
- Washington County, Kentucky

District 5
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

- Bullitt County, Kentucky
- Franklin County, Kentucky
- Henry County, Kentucky
- Jefferson County, Kentucky
- Oldham County, Kentucky
- Shelby County, Kentucky
- Spencer County, Kentucky
- Trimble County, Kentucky
District 6
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

- Boone County, Kentucky
- Bracken County, Kentucky
- Campbell County, Kentucky
- Carroll County, Kentucky
- Gallatin County, Kentucky
- Grant County, Kentucky
- Harrison County, Kentucky
- Kenton County, Kentucky
- Owen County, Kentucky
- Pendleton County, Kentucky
- Robertson County, Kentucky

District 7
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

- Anderson County, Kentucky
- Bourbon County, Kentucky
- Boyle County, Kentucky
- Clark County, Kentucky
- Fayette County, Kentucky
- Garrard County, Kentucky
- Jessamine County, Kentucky
- Madison County, Kentucky
- Mercer County, Kentucky
- Montgomery County, Kentucky
- Scott County, Kentucky
- Woodford County, Kentucky
District 7
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

- Adair County, Kentucky: 2
- Casey County, Kentucky: 26
- Clinton County, Kentucky: 18
- Cumberland County, Kentucky: 91
- Pulaski County, Kentucky: 5
- Wayne County, Kentucky: 2

District 9
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

- Bath County, Kentucky: 15
- Boyd County, Kentucky: 26
- Carter County, Kentucky: 116
- Elliott County, Kentucky: 158
- Fleming County, Kentucky: 14
- Greenup County, Kentucky: 72
- Nicholas County, Kentucky: 68
- Rowan County, Kentucky: 110
- Mason County, Kentucky: 82
District 10
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

Breathitt County, Kentucky: 36
Estill County, Kentucky: 20
Lee County, Kentucky: 56
Magoffin County, Kentucky: 9
Menifee County, Kentucky: 10
Morgan County, Kentucky: 2
Owsley County, Kentucky: 54
Perry County, Kentucky: 30
Powell County, Kentucky: 23
Wolfe County, Kentucky: 2

District 11
Estimate; Total: - Spanish or Spanish Creole: - Speak English less than "very well"

Bell County, Kentucky: 319
Clay County, Kentucky: 135
Harlan County, Kentucky: 36
Jackson County, Kentucky: 75
Knox County, Kentucky: 78
Laurel County, Kentucky: 0
Leslie County, Kentucky: 0
Whitley County, Kentucky: 7
Common LEP Languages Spoken in Kentucky

- **Spanish or Spanish Creole**: Speak English less than "very well"
- **French (incl. Patois, Cajun)**: Speak English less than "very well"
- **French Creole**: Speak English less than "very well"
- **German**: Speak English less than "very well"
- **Chinese**: Speak English less than "very well"
- **Arabic**: Speak English less than "very well"

Floyd County, Kentucky
Johnson County, Kentucky
Knott County, Kentucky
Lawrence County, Kentucky
Letcher County, Kentucky
Martin County, Kentucky
Pike County, Kentucky

District 12
Estimate; Total: Spanish or Spanish Creole: Speak English less than "very well"
Factor 2 – Frequency with which LEP Individuals come in contact with KYTC Programs, Activities or Services.

According to data collected from assessments conduct in the area of LEP utilization, KYTC’s Department of Vehicle has had contact with LEP individuals. A survey was sent (see Appendix H) to managers within the departments requesting their department’s assistance with assessing KYTC’s frequency with LEP individuals.

The survey was sent to KYTC’s Department of Vehicle Regulation, the employees were asked to “please indicate with an “x” in the table below the frequency of which you communicate with members of the public that LEP person(s). The languages below are the commonly spoken languages in Kentucky. If you have interactions with individuals who speak other languages please indicate what language (if you can identify the language) “Other” box, if you are unable to identify the language spoken please indicate by using the “all other languages” box” Below are the employee’s responses to the survey.

Frequency of Contact with LEP Persons

<table>
<thead>
<tr>
<th>Language</th>
<th>Most Days(^7)</th>
<th>At Least Once a Week</th>
<th>At Least Once a Month</th>
<th>At Least Once a Year</th>
<th>Never</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spanish</td>
<td>2</td>
<td>2</td>
<td>6</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>German</td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>Chinese</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>French</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Arabic</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>Other ___________</td>
<td></td>
<td></td>
<td>3</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Other ___________</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>All Other Languages</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>

A couple of the participants that indicated “other” wrote in that they interact with LEP individuals

\(^7\) Numbers in chart represent number of participant responses (i.e. two participants responded indicating that they interact with Spanish speakers on “most days.”
that spoke Ukrainian, Bosnian, Serbian and Croatian (at least once a month).

The participants help various positions within KYTC such as Administrative positions whose responsibilities ranged from, investigation of fraud to processing vehicle tax payments; the varying positions also provided for various responses regarding how the participants interacted with LEP individuals. KYTC employees who participated in the survey indicated that their interactions with LEP persons were via email, telephone, or in person.

Factor 3 – The Nature and Importance of the Programs, Activities, or Services Provided by KYTC to the LEP Population

Transportation has an important role in the lives of the LEP population and the citizens of the Commonwealth of Kentucky. LEP individuals and minority communities are typically the populations that experience the greatest impacted when transportation decisions are made. KYTC is dedicated to providing safe and dependable services to the LEP populations it serves as well as the people of the Commonwealth of Kentucky.

KYTC’s critical services are those that provide customer service to the public, such as public transportation, right of way procurements, public involvement and safety in regards to construction and allowing access to file a complaint.

KYTC will continue to monitor this area by communicating with community organizations that serve LEP individuals as well as with LEP persons.

Factor 4 – Resources Available to the KYTC and Overall Cost

With respect to KYTC’s resources, KYTC is currently in the planning phase of implementing the use of department employee volunteers. KYTC is looking into having their department employee volunteers certified. The Commonwealth of Kentucky has a contract with a translation and interpreter service company, the KYTC is currently researching the company to determine if the services provided effectively and efficiently meet the needs of KYTC’s LEP populations based upon the various departments who come in contact with LEP individuals, such as the Department of Vehicle Regulation. Some of the survey participants from the Department of Vehicle Regulation provided suggestions regarding having written and oral translation services to enhance LEP person’s customer experience with KYTC.

The use of professional translation and interpreter services will be utilized should a situation occur in which department employees are unable or should not offer translation services, such as, an unfamiliar language or dialect, a legal matter or need for expert testimony. Payment for these professional services is expended when services are rendered.

KYTC plans to put in place to provide language assistance. KYTC expects to begin providing full service translation and interpretation service in by the end of fiscal year 2017 and will conduct annual reviews.
XI. 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 statues 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.

<table>
<thead>
<tr>
<th>DIVISION/OFFICE</th>
<th>PROCEDURES, MANUAL, DIRECTIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>Construction Guidance Manual (Revised 4/2016)</td>
</tr>
<tr>
<td>Construction Procurement</td>
<td>Construction Procurement Guidance Manual (Revised 2/2017)</td>
</tr>
<tr>
<td>Environmental Analysis</td>
<td>Information, Procedures, and Guidance Manual</td>
</tr>
<tr>
<td>Highway Design</td>
<td>Access Management Manual (Revised 3/17)</td>
</tr>
<tr>
<td>Highway Design</td>
<td>Guidelines for Pedestrian &amp; Bicycle Accommodations (Revised 3/17)</td>
</tr>
<tr>
<td>Maintenance</td>
<td>Field Operations Guide (Revised 4/2017)</td>
</tr>
<tr>
<td>OCRSBD</td>
<td>DBE Program Policy Statement (Revised 6/2016)</td>
</tr>
<tr>
<td>Office of Local Programs</td>
<td>Transportation Enhancement, Transportation Alternatives Program, Transportation Community and System Preservation</td>
</tr>
<tr>
<td>Office of Transportation Delivery</td>
<td>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</td>
</tr>
<tr>
<td>Materials</td>
<td>Aggregate Source Book (Revised 7/2016)</td>
</tr>
<tr>
<td>Professional Services</td>
<td>Professional Services Guidance Manual (Revised 3/2017)</td>
</tr>
<tr>
<td>Right -of -Way</td>
<td>Relocation Assistance Program</td>
</tr>
</tbody>
</table>
XII. Compliance/Noncompliance Reporting

Throughout the year, the Title VI Officer, Coordinator or Liaison, Liaison or Officer periodically meets with the directors and the division heads of KYTC to review the policies and procedures relative to Title VI. This includes, but is 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 collect program data, 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 onsite reviews and assessments on a triennial basis. Instances of which the onsite 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 Officer, Coordinator or Liaison. Records of the self-survey and efforts put forth to bring the agency into compliance will be maintained. These will include correspondence, resolution and corrective actions.

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

8 Appendices A-E contain the U.S. DOT Order No. 1050.2A
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. Nondiscrimination: 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 nondiscrimination 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 nondiscrimination 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]9 (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

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9 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
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].

10 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.11

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.12

11 See footnote 9
12 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 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 nondiscrimination 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.\(^{13}\)

C. With respect to deeds in the event of breach of any of the above nondiscrimination covenants, (Title of Recipient) will there upon revert to, vest in and become the absolute property of (Title of Recipient) and its assigns.

\(^{13}\) 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 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);


- 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).
## Complaint Log

<table>
<thead>
<tr>
<th>Case #</th>
<th>Complainant Last Name</th>
<th>Complainant First Name</th>
<th>Respondent Last Name</th>
<th>Respondent First Name</th>
<th>Date Received</th>
<th>Type of Complaint</th>
<th>Type of Inquiry</th>
<th>Race</th>
<th>Color</th>
<th>Nat. Origin</th>
<th>Religion</th>
<th>Sex</th>
<th>Age</th>
<th>Retaliation</th>
<th>Disability</th>
<th>Sexual Harassment</th>
<th>Other</th>
<th>Date Closed</th>
<th>Disposition</th>
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14 Please note table is not to scale
APPENDIX G

External Complaint Form

KENTUCKY TRANSPORTATION CABINET
Office for Civil Rights and Small Business Development

External Discrimination Complaint

Instructions: Complete and sign this form, and then mail or fax it to the Kentucky Transportation Cabinet.

Address: Kentucky Transportation Cabinet
Office for Civil Rights & Small Business Development
200 Mero Street, 6th Floor West
Frankfort, KY 40622
Fax: Kentucky Transportation Cabinet
Office for Civil Rights & Small Business Development
Attn: Discrimination Complaint Coordinator
(502) 564-2114

SECTION 1: COMPLAINANT INFORMATION

FIRST NAME           MI           LAST NAME           PHONE           ALTERNATE PHONE           EMAIL ADDRESS

MAILING ADDRESS (street)           CITY           STATE           ZIP

SECTION 2: COMPLAINT DETAILS

Please indicate the basis of your complaint:

☐ Race ☐ Gender ☐ National Origin
☐ Color ☐ Disability ☐ Limited English
☐ Age ☐ Low Income ☐ Proficiency (LEP)

Provide the date and place(s) of the alleged discriminatory action(s). Please include the earliest date of discrimination and the most recent date of discrimination.

How were you discriminated against? Describe the nature of the action, decision, or conditions of the alleged discrimination. Explain as clearly as possible what happened and why you believe your protected status (basis) was a factor in the discrimination. Include how other persons were treated differently than you. (Attach additional pages if necessary.)

The law prohibits intimidation or retaliation against anyone because he/she has either taken action, or participated in action, to secure rights protected by these laws. If you feel that you have been retaliated against, separate from the discrimination alleged above, please explain the circumstances. Tell what action you took which you believe was the cause for the alleged retaliation. (Attach additional pages if necessary.)

Names of individuals, agency, or department responsible for the discriminatory action(s):

1. Name: ___________________________ Address: ___________________________ Phone: ___________________________
2. ___________________________ ___________________________ ___________________________
3. ___________________________ ___________________________ ___________________________
4. ___________________________ ___________________________ ___________________________
External Discrimination Complaint

Names of persons (witnesses, fellow employees, supervisors, or others) whom we may contact for additional information to support or clarify your complaint: (Attach additional pages if necessary.)

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
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</tbody>
</table>

Please provide any additional information and/or photographs, if applicable, that you believe will assist with an investigation. (Attach additional pages if necessary.)

Photographs submitted with complaint?  □ Yes  □ No

SECTION 3: ACTIONS

Have you filed, or do you intend to file, a complaint regarding the matter raised with any of the following? If yes, please provide the filing dates. (Check all that apply.)

□ U.S. Department of Transportation  □ Office of Federal Contract Compliance Programs
□ Federal Highway Administration  □ U.S. Equal Employment Opportunity Commission
□ Federal Transit Administration  □ U.S. Department of Justice
□ Other __________________________

Have you discussed the complaint with any KYTC representative?  □ Yes  □ No
If yes, provide the name, position, and date of discussion.

<table>
<thead>
<tr>
<th>Name of KYTC Representative</th>
<th>Position of Representative</th>
<th>Date of Discussion</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

Do you have an attorney regarding this matter?  □ Yes  □ No
If yes, please provide attorney’s contact information.

Name of Law Firm | Name of Representing Attorney
-----------------|-----------------------------

Mailing Address | Phone
-----------------|-----------------------------

Briefly explain what remedy or action you are seeking for the alleged discrimination.

We cannot accept an unsigned complaint. Please sign and date the complaint form below.

Complainant’s Signature | Date
------------------------|------

FOR OFFICE USE ONLY

Date Complaint Received: ___________________________  Case #: ___________________________
Processed by: ___________________________  Date Referred: ___________________________
Referred to: □ U.S. DOT  □ FHWA  □ FTA  □ OFCCP  □ Other ________
Appendix H
Employee LEP Frequency Survey

The Kentucky Transportation Cabinet (KYTC), as a recipient of federal financial assistance from the Federal Highway Administration (FHWA) is required to provide the appropriate measures to ensure that Limited English Proficiency (LEP)\textsuperscript{15} persons have meaningful language access to the programs, services and information provided by KYTC and KYTC’s sub-recipients. In order to determine if written or oral communication must be translated and what languages they must be translated to a four-factor analysis is used. The four-factor analysis considers the following:

- The number or proportion of LEP persons served or encountered in the eligible service population
- The frequency with which LEP individuals come in contact with the program, activity, or service
- The nature and Importance of the program, activity, or service provided by the program
- The resources available to the recipient and costs

The Office for Civil Rights & Small Business Development (OCRSBD) is requesting your assistance with completing the four-factor analysis, if you would please take a moment and complete the attached questions and return them to:

Vincent C. Thomas, Sr.-Title VI/ADA/504 Officer
Office for Civil Rights and Small Business Development
200 Mero Street, Frankfort, KY 40622
(502) 564-3601
Vincent.Thomas2@ky.gov

If you could please return completed survey to the OCRSBD by the close of business on (insert date).

If you have any questions please do not hesitate to contact us.

Sincerely,

Vincent C. Thomas, Sr.-Title VI/ADA/504 Officer
Office for Civil Rights and Small Business Development
200 Mero Street, Frankfort, KY 40622
(502) 564-3601

\textsuperscript{15} An LEP person(s) is considered an individual(s) who has limited ability to read, write, speak, or understand English.
1. What is your job title?

_____________________________________________________________________________________

2. What are your job duties/responsibilities?

_____________________________________________________________________________________

_____________________________________________________________________________________

3. Please indicate with an “x” in the table below the frequency of which you communicate with members of the public that LEP person(s). The languages below are the commonly spoken languages in Kentucky\(^\text{16}\). If you have interactions with individuals who speak other languages please indicate what language (if you can identify the language) “Other” box, if you are unable to identify the language spoken please indicate by using the “all other languages” box.

\(^\text{16}\) Data is from the American Community Survey using the data from the Language Spoke at Home By Ability to Speak English for the Population 5 years and Over Table
4.

**Frequency of Contact with LEP**

<table>
<thead>
<tr>
<th>Language</th>
<th>Most Days</th>
<th>At Least Once a Week</th>
<th>At Least Once a Month</th>
<th>At Least Once a Year</th>
<th>Never</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spanish</td>
<td></td>
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<tr>
<td>German</td>
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<td>All Other Languages</td>
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</tbody>
</table>

5. What is your method of communication when you are communicating with LEP person(s)?

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

6. Please provide suggestions on ways in which KYTC can improve communication efforts with LEP persons as it relates to your job duties/responsibilities. (Optional)

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________