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# **FMCSA Title VI**

## **Nondiscrimination Program & Implementation Plan**

### **FFY2024**

**Office of Civil Rights**  
11331 W. Chinden Blvd. • P.O. Box 7129 • Boise, ID 83707-1129

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This document is available online at:

[ITD Title VI/Nondiscrimination Implementation Plan](#)  
[Supporting Documents are available online at:](#)  
[ITD Office of Civil Rights](#)

# I. OVERVIEW

The Idaho Transportation Department (ITD) divides its operations into six geographical districts. The headquarters and aeronautics division are located in Boise, Idaho. The state transportation system is part of the fabric of Idaho life. The people of Idaho use Idaho's transportation system to get to work, school, friends, and recreation.

Idaho's transportation system is the backbone of the state's economy. Safe and efficient roads, bridges, airports, railroads and ports promote the expansion of Idaho's economy. The cost of doing business in Idaho depends on how well goods and people move across town, across the country and around the world. Thus, Idaho's economic performance ties directly to the quality of our transportation system.

ITD receives federal aid from the U.S. Department of Transportation and its Operating Administrations including: Federal Highway Administration (FHWA), Federal Motor Carrier Safety Administration (FMCSA), Federal Aviation Administration (FAA), and the Federal Transit Administration (FTA). Pursuant to the United States Department of Transportation Order 1050.2A, the Idaho Transportation Department (ITD) hereby agrees, that "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which ITD receives Federal financial assistance, including the Federal Highway Administration (FHWA), Federal Motor Carrier Safety Administration (FMCSA), the Federal Aviation Administration (FAA), and the Federal Transit Administration (FTA).

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI of the 1964 Civil Rights Act and other nondiscrimination requirements (The Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973 (disability)), by restoring the broad, institutional-wide coverage of these nondiscrimination statutes and requirements to include all programs and activities of recipients of federal financial assistance. Additionally, the Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 et seq.) prohibited discrimination based on sex. Executive Orders 12898 (Environmental Justice) and 13166 (Limited English Proficiency) provided additional clarification under Title VI (see Appendix A for a list of authorities).

ITD will comply with the requirements of the Title VI Program in all its activities, programs, and services.

The Director of the Idaho Transportation Department has the ultimate responsibility for complying with Title VI of the 1964 Civil Rights Act and related nondiscrimination authorities. The Director delegates the authority to develop, maintain, implement, and monitor this policy to the Office of Civil Rights Title VI Coordinator. To request additional information on ITD's Title VI Program and nondiscrimination requirements email or write:

Taylor Bothke  
Manager/Title VI/Nondiscrimination Coordinator  
[Taylor.Bothke@itd.idaho.gov](mailto:Taylor.Bothke@itd.idaho.gov)

Ronnie Winks  
DBE Coordinator  
[Ronnie.Winks@itd.idaho.gov](mailto:Ronnie.Winks@itd.idaho.gov)

Connie Rozean  
Contract Compliance Officer  
[Connie.Rozean@itd.idaho.gov](mailto:Connie.Rozean@itd.idaho.gov)

Or email [civilrights@itd.idaho.gov](mailto:civilrights@itd.idaho.gov)

Idaho Transportation Department  
PO Box 7129  
Boise, Idaho, 83707

Website: [ITD Office of Civil Rights](#).

## **II. TITLE VI/NONDISCRIMINATION POLICY STATEMENT**

It is the policy of the Idaho Transportation Department (ITD) to comply with Title VI of the Civil Rights Act of 1964 and to adhere to all related nondiscrimination authorities. ITD will ensure that no person in the state of Idaho shall, on the ground of race, color, or national origin, sex, age, disability, low-income, and Limited English Proficiency (LEP), "be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity," for which ITD "receives Federal financial assistance." Accordingly, to ensure compliance with Title VI of the Civil Rights Act, ITD commits to:

1. Conducting and operating each of its programs and facilities in compliance with all requirements imposed by or pursuant to Title VI of the Civil Rights Act and related nondiscrimination authorities.
2. Providing nondiscrimination methods of administration for programs and requiring other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such programs to comply with Title VI of the Civil Rights Act and related nondiscrimination authorities.
3. Promptly taking any measures necessary to effect compliance with Title VI of the Civil Rights Act and related nondiscrimination authorities; and,
4. Review and sign the FHWA and FMCSA Title VI Program Assurances.

Further, ITD will take proactive efforts to prevent discrimination and will address matters including, but not limited to, the following: a program's impact upon access, benefits, participation, treatment, services, contracting opportunities, training opportunities, and conducting an investigation of any complaint.

In accordance with 49 C.F.R. § 21, 49 C.F.R. § 303 and 23 C.F.R § 200, ITD has developed procedures for the prompt processing and disposition of Title VI complaints. Any person believing ITD or any of its subrecipients violated the provisions of Title VI in the administration of its program or activities may file a complaint with ITD's Office of Civil Rights (OCR).

### **Responsibilities**

The Director of the Idaho Transportation Department located at 11331 W. Chinden Blvd, Boise, Idaho 83707 is responsible for this policy. The Director has delegated Title VI Program responsibilities to the Office of Civil Rights Program Manager/Title VI/Nondiscrimination Coordinator, who is responsible for implementing and continuously monitoring the Title VI/Nondiscrimination Program. Additionally, the Director has delegated responsibilities to all affected personnel to work with the Title VI Program Manager/Title VI/Nondiscrimination Coordinator to effectively implement the Title VI Program.

Individuals with questions or requiring additional information related to this policy for the implementation of ITD's Title VI Program should contact the Office of Civil Rights Title VI Program Manager/Title VI/Nondiscrimination Coordinator located at the address above, or call the Office of Civil Rights at 208-334-8884.

  
\_\_\_\_\_  
Scott Stokes , Director

10/10/23  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Taylor Bothke, Title VI/Nondiscrimination Coordinator

10/10/23  
\_\_\_\_\_  
Date

### III. ASSURANCES

In accordance with USDOT, 1050.2A a copy of ITD's Title VI Nondiscrimination Assurances signed by ITD's Director is sent to Federal modalities annually and available on ITD's Civil Rights website here: [Civil Rights | Idaho Transportation Department](#)

ITD's Office of Civil Rights (OCR) oversees the Department's Title VI Program and meets the terms of FHWA implementing guidance. The Department's Title VI responsibilities are described below (Organization Chart is in Appendix B).

#### Organization

##### ***ITD Director***

The Director is the head of ITD. He is responsible to the Governor, the Idaho Legislature, and the Idaho Transportation Board for ensuring implementation of the Department's Title VI Program. The Director provides leadership, guidance, direction, and support for ITD's Title VI Program. The Director is responsible for supervising and administering the overall activities of the Department, its divisions, and employees. As such, the Director signs all necessary nondiscrimination assurances to meet and comply with all civil rights requirements. The Director delegates duties and powers to carry out the efficient operation of the department.

##### ***Office of Civil Rights Program Manager/Title VI/Nondiscrimination Coordinator***

The Director has delegated Title VI Program authorities and responsibilities to the OCR Program Manager/Title VI/Nondiscrimination Coordinator. This person reports directly to the ITD Director for all Title VI matters. As such, this person is to work directly with ITD management to implement the department-wide Title VI Program. Functionally, the OCR Program Manager/Title VI/Nondiscrimination Coordinator is responsible for managing the Office of Civil Rights and reports to the Chief Innovation Experience Officer regarding daily operations. At the bidding of the Director, the OCR Program Manager/Title VI/Nondiscrimination Coordinator supervises, reviews, monitors, and evaluates the effectiveness of the implementation of the ITD Title VI Nondiscrimination Program, and other additional civil rights programs, as follows:

- Limited English Proficiency (LEP);
- Environmental Justice
- The internal and external Americans with Disabilities Act (ADA) Programs; and,
- Act as the liaison between ITD, federal, and state officials regarding any Title VI, Equal Opportunity (EO), contract compliance and ADA issues or complaints.

Additionally, day-to-day Title VI Program operations and responsibilities are split between the Contract Compliance Officer (CCO) and the Civil Rights Program Manager. The OCR Program Manager/Title VI/Nondiscrimination Coordinator is responsible for ensuring ITD and its staff fully comply with CFR (49 Part 21 & 23 CFR Part 200) and other related nondiscrimination authorities. The OCR Program Manager has tasked the CCO with ensuring that ITD subrecipients fully comply with the same nondiscrimination authorities.

### ***Contract Compliance Officer (CCO)***

The CCO oversees the external Equal Employment (EO) programs, including the Title VI and VII Equal Opportunity (EO) and Equal Employment Opportunity, Contract Compliance requirements, Training Special Provisions, and Tribal Employment Rights Ordinance (TERO). In carrying out his or her duties, the CCO frequently oversees Title VI activities for all external highway construction projects, prepares and submits EO/contract compliance review reports and documents, and provides all annual program assessments and updates to the FHWA. The CCO, in addition, provides guidance and technical assistance for EEO, Davis-Bacon Wage, TSP, TERO, and Title VI program matters as directed by the Civil Rights Program Manager. The CCO conducts Contractor Compliance Reviews as well as Title VI Program training and compliance reviews for ITD's subrecipients.

### ***DBE Program Coordinator (DBE-PC)***

The DBE Program Coordinator collects data on contracts and agreements for both federally funded and state funded projects. The DBE-PC analyzes and monitors the Title VI Special Provisions and ensures that contractors comply with Title VI Program requirements. The DBE-PC is responsible for training contractors, subrecipients, and ITD employees on the DBE program, Diversity Management Software, and on any data collection requirements. For example, B2GNow is a contractor-required system that records payments to subcontractors. Contractors must use the system as part of the Contract Compliance and DBE programs.

### ***Program Area Coordinator (PAC)***

Each of the designated Title VI Program areas has a Program Area Coordinator (PAC) responsible for ensuring compliance with Title VI, Environmental Justice (E.O. 12898) and Limited English Proficiency (E.O. 13166) requirements. The eight divisional program areas with a designated PAC are Planning Services, Public Involvement, Environmental, Right of Way, Contract Administration, Maintenance, Safety, and Research. The PAC will provide program activity information to the OCR Program Coordinator regularly.

### ***Managers and Supervisors***

Managers and supervisors must familiarize themselves with the requirements of Title VI, Environmental Justice (E.O. 12898), Limited English Proficiency (E.O. 13166), and related nondiscrimination authorities' requirements. They must ensure compliance with ITD's Title VI Program. They should promptly report issues, concerns, and complaints regarding any



Title VI Program matter to the OCR Office. They also must assist the Title VI PACs with their efforts to implement all Title VI Program requirements, internally and externally, and to coordinate with the OCR on any proposed changes to any ITD operating procedures, instructional memoranda, policies, and manuals, etc. especially if it relates to the Title VI Program.

### ***Title VI Program Guidance:***

#### **FHWA and FTA Civil Rights Offices**

The FHWA Idaho Division Office, Civil Rights Program Manager and FTA Regional Civil Rights Officer provide ITD's Office of Civil Rights guidance on Title VI Program matters. Communication between ITD, the FHWA Idaho Division Office and FTA Regional Office is regular and ongoing. Both the FHWA Idaho Division Office and the FTA Regional Office are responsible for ensuring that ITD has an approved Title VI/Nondiscrimination Plan (including signed Title VI/Nondiscrimination Assurances/Agreements) and it provides FHWA with an annual Title VI Accomplishment Report. Additionally, federal agencies provide oversight to the way ITD implements an effective monitoring program of subrecipients. This effort includes making sure Metropolitan Planning Organizations (MPOs) and Local Public Agencies (LPAs) effectively implement the Title VI Program and the additional nondiscrimination requirements with these agencies. ITD provides documentation to FHWA and FTA through each website available via remote access. ITD meets as necessary or required to keep both agencies informed.

## **IV. PROGRAM AREA REVIEWS**

In accordance with 23 CFR 200.9 (b) (14) and (15), ITD OCR reviews and monitors internal projects, programs, policies, and procedures to ensure compliance with nondiscrimination requirements and the Department's Title VI Program obligations. Working in coordination with PACs, the OCR office conducts annual Title VI Program reviews and includes its findings in the Department's annual update to the Title VI Implementation Plan.

During the annual reviews, OCR staff reviews the pertinent data and any information specifically related to the program area's administration.

The OCR develops and implements ITD's Title VI program and establishes adequate procedures for identifying and addressing Title VI Program issues. While the OCR is the lead for the Title VI Program at the state level, it implements and monitors activities jointly with the PACs.

Program area reviews include analyzing data collected within each program area to evaluate and ensure nondiscrimination processes and procedures. To ensure proper oversight, the OCR Program Manager/Title VI/Nondiscrimination Coordinator meets with the PACs representing the eight program areas: Planning Services, Public Involvement, Environmental, Right of Way, Contract Administration, Construction, Maintenance, Highway Safety, and Research. Each program area will provide the OCR Program Manager/Title

VI/Nondiscrimination Coordinator a list of annual goals and accomplishments. Annual reviews will focus on the following key elements within each program area.

**Data Collection:**

ITD PACs will collect and evaluate data on an ongoing basis. Each of the PACs receives Title VI training with special emphasis on the importance of collecting data and developing useful tools to ensure nondiscrimination.

**The OCR steps for selecting reviews are as follows:**

- Step 1: Each Program Area Coordinator (PAC) completes the Program Area Review Questionnaire (Appendix D) to highlight the previous fiscal year's activities and to provide the necessary data collected for the respective programs;
- Step 2: the OCR Program Manager/Title VI/Nondiscrimination Coordinator conducts interviews with each PAC;
- Step 3: Sampling of documents, policies, procedures, and associated contracts to ensure inclusion of required nondiscrimination provisions;
- Step 4: Sampling public involvement material including meeting notices, project flyers, and other similar documents to ensure LEP requirements are being met;
- Step 5: The OCR Program Manager/Title VI/Nondiscrimination Coordinator will complete a review of the program area selected for review and issue a findings report to each PAC with recommendations to achieve compliance; and,
- Step 6: If noncompliance exists, the OCR Program Manager/Title VI/Nondiscrimination Coordinator and the PAC will work together to create a Compliance Action Plan, which will include but not be limited to resources, training, and best practices to achieve compliance.

In previous years, not all steps of program area reviews were completed. At minimum, a step 1 review is completed on all program areas, but this does not give opportunity for in-depth reviews. Moving forward, ITD Title VI Coordinator will complete step 1 of the review by confirming that each program area completed the PAC Questionnaire. Upon completion of step 1, ITD Title VI Coordinator will select 1-2 program areas for an in-depth review that will involve completing steps 2-6. This will provide the opportunity for more comprehensive reviews of each program area every 5 years.

## Planning Services

(A section overview is located at [Statewide Projects](#).)

The Planning Services Section has the primary responsibility for delivering the state highway planning and project management process in accordance with Title VI Program requirements. The annual review by OCR focuses on:

- The [Idaho Transportation Investment Program \(ITIP\)](#). The ITIP provides an overview of the process, strategies, and goals for transportation planning and project selection;
- Compliance with Limited English Proficiency (E.O. 13166) by utilizing demographic information to identify and assist minority, low-income and limited English proficient populations;
- Monitoring and reporting on the Planning Services Section annual accomplishments and goals;
- Updating an extensive handbook covering the federal and state planning requirements for LPAs ([Guidelines for Local Public Agency Projects](#)); and,
- Utilizing a Quality Assurance Program to perform the following oversight activities:
  - Sampling contracts to ensure inclusion of required nondiscrimination provisions;
  - Sampling public involvement materials including meeting notices, project flyers and other similar documents to ensure appropriate nondiscrimination language;
  - Reviewing Title VI/Nondiscrimination Quarterly Reports scanning for possible discriminatory trends in planning;
  - Interviewing District and MPO planning staff to identify emerging issues and needs; and,
  - Reviewing Annual Certifications of the MPO planning process to ensure compliance with the Title VI Program and other related nondiscrimination authorities.

## Public Involvement/Community Participation

(A section overview is located at [Guide to Public Involvement](#))

It is critical that all stakeholders have the opportunity to participate in every public involvement activity. ITD will accommodate individuals with special needs within two (2) weeks of receiving an accommodation request.

In addition to scheduling events in venues that are Americans with Disabilities Act (ADA) compliant, accommodation also means addressing the needs of stakeholders whose first language is not English.

Such consideration is not simply a matter of courtesy and effective involvement; law also requires it. ITD Program Areas are collaborating to bring clarity and improvements to processes and plans that are intended to ensure equitable access to all beneficiaries of ITD projects. The Office of Communication has looped in the OCR in working to bring updates to their public involvement guide and vis versa for OCR bringing updates to their LEP plan. More information on this can be found in the FHWA 2024 Title VI Accomplishment report.

Title VI language is included in all published materials ordinarily distributed to the public.

### Related Statutes

In addition to Title VI, other related statutes provide protection against discrimination on the basis of gender, age or disability by programs receiving federal financial assistance.

In 2000, Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency) was signed into law, requiring federal agencies to assess and address the needs of otherwise eligible LEP persons seeking access to the programs and activities of recipients of federal financial assistance.

### ITD's Responsibilities

The following table provides a brief summary of Title VI considerations and ITD's responsibilities.

Statute	Intent	ITD's Responsibilities
<b>1964:</b> Title VI (Section 42 USC 2000)	Prevents discrimination based on race, color, religion or national origin.	Add Title VI Compliance Statement (see Title VI Statement, <b>Appendix 2</b> ) to all publicly distributed documents.
<b>1973:</b> Rehabilitation Act (Section 504 29 USC 790)	Protects qualified individuals from discrimination based on their disability.	Venues must be handicapped-accessible throughout. Check primary entrances for widths and ramps, circulation space for sufficient wheelchair access, microphones for adjustability, drinking fountains and restrooms for accessibility, public transit for accessibility, and parking area for access by persons with disabilities. Notices, fact sheets, comment forms, etc. will be made available in alternative formats upon request for those with seeing or hearing impairments. The public is not charged for alternative formats such as large print, audio cassettes or CDs, Braille, amplification systems or sign language interpreters. ( <a href="http://itd.idaho.gov/civil/Title6.htm">http://itd.idaho.gov/civil/Title6.htm</a> )
<b>1973:</b> Federal Aid Highway Act (Section 23 USC 324)	Prevents discrimination based on gender.	Hold events at gender-neutral locations and use gender-neutral language and references in spoken and written communication with stakeholders.
<b>1975:</b> Age Discrimination (42 USC 6101)	Prevents discrimination based on age.	Accommodations for elderly persons with limited mobility or undeveloped computer skills.
<b>1976:</b> FHWA Title VI Regulations (Section 23 CFR Part 200)	Identifies specific actions and attributes to ensure compliance.	Proactively ensure inclusion of and outreach to all stakeholders who might be impacted by a project.
<b>1976:</b> Environmental Justice (Executive Order 12898)	Mandates fair and equitable treatment of low-income and minority populations.	Identify and address disproportionately high and adverse human health and environmental effects. Encourage participation of impacted stakeholders in all phases of decision-making.

The Office of Communication maintains ITD's website and manages public involvement for transportation projects statewide. The annual review by OCR focuses on:

- The public input process to make sure that it complied with all Title VI Program requirements and that any outreach efforts encourage and help to eliminate barriers to participation especially among minority and low-income populations;

- Utilization of demographic information to identify minority and low-income populations, to determine outreach strategies for these populations, and to address concerns regarding improving access to transportation;
- Reviewing the process and approach for managing requests for ADA or LEP accommodation at public meetings;
- Monitoring and reporting the Office of Communication Sections annual accomplishments and goals; and,
- Utilizing a public involvement process to provide early, continuous, and extensive outreach to all populations. This process helps ensure that project selection does not subject minority, low income, disabled, and the elderly to disproportionately high and adverse effects of discrimination.

## Environmental

(A section overview is located at [Environmental Process Manual-Documentation and Procedures \[Environmental -> Resources -> Environmental Process Manual\]](#))

It is the mission of the Environmental Section to protect and enhance a sustainable human and natural environment while developing safe, cost effective, and efficient transportation systems for all persons. It is the responsibility of the Environmental Section to scrutinize projects to ensure compliance with Title VI requirements, to evaluate the effects of projects on underserved populations, and to evaluate projects for disproportionately high or adverse effects on any E.J. populations. FHWA Order 6640.23A and 23 CFR 200.9(b) (4). The Environmental Section regularly identifies and addresses socio-economic issues as well as endorses activities to restore, enhance, and sustain natural ecological systems, while continuing to meet transportation safety and service's needs. The term "environment" includes the natural environment, the built environment, the cultural and social fabric of the community, and the quality of life of the people. The annual review by OCR focuses on:

- Overall strategies and goals of the Environmental Section to ensure Title VI compliance;
- Department programs and ensuring that public involvement is the cornerstone of Title VI and Environmental Justice Compliance. ITD has a Public Involvement Program designed to provide early, continuous, and extensive outreach to all populations, in order to ensure that project selection does not subject minority, low income, disabled, and elderly populations to disproportionately high and adverse effects;
- Procedures for the identifying environmental impacts on minority and low-income populations using the Department's Environmental Evaluation checklist ( [ITD Form 0654](#)) and data collection methods;

- Analysis and implementation of mitigating measures when there is the potential for disproportionate or discriminatory impacts on minority or low-income populations;
- Monitoring and reporting on the Environmental Section annual accomplishments and goals. The Department uses a detailed and comprehensive Project Development & Environmental (PD&E) Manual, linked above, that describes how the Department complies with environmental requirements in project development. The Manual includes extensive chapters on both public involvement and Title VI Program compliance and,
- The Department uses a Quality Assurance Program to perform the following oversight activities annually such as:
  - Sampling consultant contracts to ensure inclusion of required nondiscrimination provisions as well as diversity in selection of consulting firms;
  - Sampling project development and estimates documents to ensure appropriate nondiscrimination language, and that project personnel translated vital documents into languages other than English, as necessary;
  - Reviewing Title VI/Nondiscrimination Reports rooting out trends of discrimination;
  - Interviewing District staff to identify emerging issues and needs;
  - Sampling information developed by District staff to ensure the validity of the socioeconomic data used to make decisions;
  - Environmental staff will review environmental documents on each project and include ITD OCR in crucial conversations where applicable. Using ARC-GIS mapping software and quality data sources, ITD staff determines if there disproportionately high or adverse impacts on underserved populations for the projects in question;
  - If the project is in the design phase and staff identifies impacts, OCR will provide guidance to construction staff, ITD Office of Communications, and all other appropriate parties in an effort to avoid, minimize, or provide mitigation efforts; and,
  - If staff identifies impacts during the construction phase, OCR will work with all appropriate groups to address concerns in a timely manner.

## Right-Of-Way (ROW)

(A section overview is located at [Right of Way Manual](#))

The Right-of-Way Section certifies acquisition of all property required for highway construction, material sources, and maintenance shed sites. Right-of-Way is also responsible for the oversight of all Local Public Agencies acquiring property that utilize federal funding for highway purposes. The acquisition of right-of-way follows the planning and design phases of the highway development process and is one of the final phases prior to the actual award of the construction contract. The annual review by OCR focuses on:

- Overall strategies and goals of the Right-of-Way Section to ensure Title VI compliance;
- Ensure the inclusion of Title VI Program provisions in all realtor, fee appraiser, and negotiator contracts;
- Ensure equitable treatment of all businesses and persons displaced by highway projects, regardless of race, color, national origin, sex, age, disability, and Limited English Proficiency;
- Safeguard that ROW takes affirmative steps to overcome language barriers in all phases of the process;
- Regularly review internal ROW procedures and make updates to maintain Title VI Program compliance during all phases of the process;
- Monitoring and reporting the Right of Way Section annual accomplishments and goal attainment. The Department uses a Quality Assurance Program to perform the following oversight activities to ensure nondiscrimination and that ROW:
  - Uses interpreters and translators when necessary to ensure that those with LEP needs receive meaningful access to the Department's programs and services;
  - Addresses the need for special accommodation for those with disabilities;
  - Ensures that all projects have a ROW plan and that ROW staff adhere with the Uniform Relocation Assistance and Real Property Acquisition Act (1970). The Act ensures fair compensation and assistance for those whose property fall under "eminent domain" law; and,
  - Ensures Compliance with the Title VI Civil Rights Act of 1964 and related nondiscrimination authorities.



## Quality Assurance Review Process: Right of Way

The Title VI/Nondiscrimination Coordinator issues the contractor a Request for Information (RFI), performs a desk audits, and then follows up with an onsite visit. The Coordinator then issues a report with findings and recommendations for the contractor, with FHWA concurrence. The contractor develops a Corrective Action Plan (CAP) and implements it per the agreed upon schedule.

As part of the Quality Assurance Review Process (QAR) process, the Title VI Coordinator will assist ITD ROW staff to examine qualitative and quantitative data looking for discrimination, including but not limited to reviewing the appraisals, acquisitions, and relocations processes. In addition, the Title VI Coordinator and ROW staff will:

- Sample appraisal contracts for the proper nondiscrimination provisions;
- Look for equity and diversity concerning the consultant selection process;
- Test ROW public information materials, including all notices, relocation assistance papers, and other similar materials for the appropriate nondiscrimination provisions within all documents and, further, that ROW staff offer all public information in alternative languages as needed by the Department's LEP Plan;
- Interview District ROW staff to identify emerging issues, needs, and trends;
- Sample project ROW documents to ensure appraisals, acquisitions, and relocation assistance do not show trends or patterns of discrimination. ITD does not permit discrimination whether intentional or unintentional against any minorities, women, or those with low income or Limited English Proficiency; and,
- Conduct interviews with members of the public impacted by acquisition and relocation.

## Contract Administration

(A section overview is located at [Contract Administration Manual](#))

The Contracting Services Section provides statewide services in the areas of bidding and awarding construction contracts, performing procurement for Design Build, Construction Manager/General Contractor contracts, Qualification Based Selection agreements, and oversight of the Local Highway Technical Assistance Council (LHTAC). The annual review by OCR focuses on:

- Examining the overall strategies and goals of the Contracting Services Section to ensure compliance with Title VI Program requirements;

- Administering and enforcing the terms of construction contracts, and ensuring that contracts are delivered in a nondiscriminatory manner;
- Monitoring the District residencies to ensure that subcontracts contain the appropriate Title VI Program contract provisions (EEO Special Provisions);
- Applying policies and procedures for monitoring construction activity in a uniform and nondiscriminatory manner;
- Monitoring and reporting the Contracting Services Section annual accomplishments and goals;
- Reviewing how prime contractors advertise and award sub-contracting opportunities;
- Ascertaining if prime contractors provide subcontracting opportunities to ensure that disadvantaged and small business firms receive opportunities to participate in ITD work;
- Ensuring that Contracting Services staff distributes information to stakeholders and the public, and adheres to all ITD public involvement procedures detailed in the ITD Public Participation and LEP Plan;
- Carefully reviewing ITD project activities to avoid disproportionately high or adverse impacts to underserved populations during all construction phases, including the bidding and awarding of construction contracts, performing procurement for Design Build, Construction Manager/General Contractor contracts, Qualification Based Selection agreements, and oversight of the Local Highway Technical Assistance Council (LHTAC).
  - Working with LHTAC to provide annual Title VI training and ensure that local projects avoid disproportionately high or adverse impacts to underserved populations during all construction phases;
  - When ITD and LHTAC identify impacts on underserved populations, ITD-OCR will work to avoid, minimize, or provide mitigation efforts, and coordinate Title VI activities with Local Public Agencies.

## **Construction/Materials**

(A section overview is located at:

<https://apps.itd.idaho.gov/Apps/manuals/SpecBook/SpecBook23.pdf> )

The Construction/Materials Section is responsible for construction administration and project inspection. This section also maintains the manuals for construction, materials, and construction specification. The annual review by OCR focuses on:

- Carefully reviewing project activities to avoid disproportionately high or adverse impacts to underserved communities during all construction phases.
- Overall strategies and goals of the Construction/Materials Section to ensure Title VI compliance.
- Overseeing the monitoring of construction project work to ensure compliance with contract plans, specifications and civil rights special provisions.
- Monitoring and reporting the Construction/Materials Section annual accomplishments and goals.
- Ensuring that Each District has a Title VI/Nondiscrimination representative responsible for construction. This person reviews documents and other project activities for nondiscrimination and reports quarterly to the Office of Civil Rights/Title VI/Nondiscrimination Coordinator; and,
- Conducting onsite visits, issuing findings, and overseeing compliance with a corrective action plan, if any. As part of the QAR, the Title VI Coordinator examines data for nondiscrimination, including but not limited to:
  - Sampling of construction contracts, subcontracts, purchase orders and lease agreements to ensure inclusion of required nondiscrimination provisions.
  - Sampling of construction public involvement materials including meeting notices, project flyers and other similar documents to ensure appropriate nondiscrimination language.
  - Reviewing Title VI/Nondiscrimination Quarterly Reports searching data for possible trends of discrimination.
  - Interviewing District construction staff to identify emerging issues and needs; and,
  - Sampling Contract Compliance Reviews to ensure adequacy and consistency of the process.

## **Maintenance (Operations)**

(See Section Manual at: [Operations Manual](#))

Maintenance assumes a primary role in safeguarding the safety and efficiency of the roadway network by responding to the short-term maintenance needs on the roadway system, such as potholes, damaged guardrails, wash-outs, knocked down signs and signals, traffic accident cleanup, material and cargo spills, flood damage, landslide damage, rock falls, blizzards, wind storms, etc. Maintenance activities are conducted from the

facilities at the six District headquarters locations (including shops), maintenance foreman area stations, and satellite stations. The annual review by OCR focuses on:

- The project selection process to ensure the Maintenance Program is being implemented in a nondiscriminatory manner (e.g. Identifying bias in the selection of projects for pothole repair, rock falls removal, flood and landslide repair, and other maintenance projects
- Reviewing the implementation of the Maintenance Program to ensure activities are performed in a nondiscriminatory manner; and,
- Monitoring and reporting Maintenance/Operations annual accomplishments and goals.

## Highway Safety

(A section overview for the FFY21-2025 is located at: [SITD9HRWMF021080516190 \(idaho.gov\)](https://www.idaho.gov/SITD9HRWMF021080516190))

The Office of Highway Safety (OHS) programs focus on the welfare of the traveling public. Its main purpose is to save lives through innovative, highly visible, and effective highway safety programs for all modes of transportation. The critical role of OHS is to ensure safe travel on Idaho's roadways, including developing and implementing highway safety programs aimed at saving lives and preventing injuries, and by providing appropriate safety funds that empower communities to address critical local traffic safety issues. The annual review by OCR focuses on:

- Reviewing strategies and goals of the Highway Safety Section to ensure Title VI compliance.
- Ensuring that subrecipients receiving federal funds include Title VI Program Assurances prior to receiving funds.
- Participating in the public process to ensure it complies with Title VI Program requirements, including allowing for greater outreach efforts, promoting openness and fairness, encouraging participation within the minority and low-income community, and eliminating any barriers to participation; and,
- Monitoring and reporting the Office of Highway Safety annual accomplishments and goals.

## Research

(A section overview is located at [ADA, TAP & Research Program | Idaho Transportation Department](#))

The Research Section coordinates the development of the annual work program for federal State Planning and Research (SPR) funds. This section administers the research, development and technology transfer projects funded with SPR funds. The annual review by OCR focuses on:

- Overall strategies and goals of the Research Section to ensure Title VI compliance.
- Ensuring that the appropriate Title VI Program provisions are contained in all research agreements.
- Monitoring diversification in the selection of universities and consultants, and their employees.
- Ensuring equal opportunities for female and minority-owned consultant firms to compete for and participate in research contracts.
- Monitoring the utilization of female and minority students on research projects by the contract universities; and,
- Monitoring and reporting the Research Section's annual accomplishments and goals.

## Local Programs

The Local Highway Technical Assistance Council (LHTAC) connects local highway jurisdictions in Idaho with available resources for maintenance and construction of Idaho's local highway system. From initial scoping to final construction, ITD-OCR reviews LHTAC activities during all phases, ensuring compliance with Title VI of the Civil Rights Act. ITD-OCR annually reviews local program grant recipients to ensure nondiscrimination. LHTAC works with ITD-OCR to identify Local Public Agencies (LPAs) for review. LHTAC also undergoes annual Title VI Training. State and local governments may design and construct projects using FHWA and State funds. The Department's nondiscrimination activities for LPAs include:

- Utilizing the Department's QAR process to review LAP activities annually to ensure nondiscrimination; and,
- The Office of Civil Rights Title VI Coordinator conducts Title VI/Nondiscrimination QARs by issuing an RFI to a LPA Agency, and then performing a desk audit followed by an onsite visit. OCR then issues a report with findings and recommendations that leads to a corrective action plan with action item deliverables. As part of the QAR, the Coordinator observes for nondiscrimination events, including but not limited to:

- Sampling local agency construction contracts, subcontracts, purchase orders, and lease agreements to ensure inclusion of the required nondiscrimination provisions.
- Sampling of local agency construction public involvement materials including meeting notices, project flyers, and other similar documents to ensure the documents include the appropriate nondiscrimination language; and,
- Interviewing ITD District and LPA staff to identify emerging issues and needs, (including potential EJ issues).

ITD has other program areas that are either not represented in the Districts or otherwise have limited contact with the public or the manner in which ITD delivers programs, services, or activities. Nevertheless, ITD reviews each as part of its review process triennially ensuring that staff receives nondiscrimination training and understands their responsibilities under Title VI and related nondiscrimination authorities.

## **V. SUBRECIPIENT REVIEW PROCEDURES**

### **FHWA Funding**

Each year ITD allocates a portion of its FHWA funding to five Metropolitan Planning Organizations (MPOs) and roughly 199 Local Public Agencies (LPAs) in direct funds or via grants/awards to use for transportation planning and construction projects at the metropolitan or local levels.

Each of the five MPOs and all LPAs with 50 or more employees must develop a Title VI Plan that describes implementation, reporting, and complaint procedures. LPAs with fewer than 50 employees will have the option to use ITD's Title VI Program process as a template and administer the Title VI program in a similar manner as resources allow.

Every three years, ITD conducts the Title VI Subrecipient Compliance Assessment Survey to evaluate and verify information submitted by subrecipients to accomplish the following objectives:

- Ensure compliance with Title VI
- Identify subrecipients requiring immediate Title VI Program technical assistance
- Monitor Title VI Program implementation effectiveness, which is evaluated every three years

ITD uses the below ten questions to complete a Phase 1 review and assign a category to the subrecipient.

1. What is the name of your agency?
2. Does your agency receive Federal-aid highway funds for any transportation programs or activities conducted by your agency?
3. Which of the following does your agency have?
  - Signed Title VI Policy Statement
  - Signed Title VI Assurances
  - Neither
  - Both
4. Does your agency have a current Title VI/Nondiscrimination Plan with an organizational chart that is available to the general public?
  - If applicable, provide a link to the plan.
5. Does your agency have an external discrimination complaint handling and processing procedure?
  - If applicable, provide a link to the protocols.
6. Does your agency include Title VI contract provisions in solicitations, contracts, and awards?
7. How does your agency ensure that Limited English Proficiency (LEP) individuals have access to the agency's programs and services?
  - Completed Language Assistance Plan
  - Contract services for interpretation and translation
  - Focused LEP outreach during planning and construction
  - Identified bilingual employees
  - Other: Please explain
8. What outreach efforts does your agency utilize to solicit input from minority populations within your jurisdictional boundaries in order to ensure nondiscrimination in its public participation process?
  - Maintaining a Public Participation Plan
  - Targeted community engagement
  - Committees or advisory groups
  - Other: Please explain
9. Recipients of federal funds are required to collect and analyze demographic data to ensure nondiscrimination and equity of beneficiaries in programs, services, and activities. Please identify the data collection sources for analyzing demographic data in the areas within your jurisdictional boundaries.
  - US Census Data
  - American Community Survey
  - Department of Education
  - Community Development Offices
  - Other Sources: Please identify
10. How does your agency advise the public of Title VI/Nondiscrimination policies and procedures?
  - Agency Website
  - Social Media
  - Displayed in Public Building
  - Public Meetings & Outreach
  - Accessible Publications
  - Other: Please identify

Upon completion of the survey, ITD CCO reviews the results and assigns one of three categories:

- Red (unsatisfactory) indicates survey is incomplete, no survey submission
- Yellow (unsatisfactory) indicates survey questions are answered negatively
- Green (satisfactory) indicates in compliance

If the subrecipient received a satisfactory status, they have indicated compliance. ITD will review 25% of satisfactory subrecipients to monitor the effectiveness of the agency's Title VI Program during the Phase I review. The recipient must submit documentation to ITD for review. The program documents should show effective implementation of the approved Title VI Program and provide evidence that the subrecipient monitors its program as outlined in its Title VI Program Plan. Deliverables submitted might include:

- i. Vital documents translated for LEP population.
- ii. Environmental Justice maps used in decision-making
- iii. Examples of training and outreach events for underutilized populations; and
- iv. Other efforts made demonstrating that the LPAs has ensured nondiscrimination in all its programs and activities.

If the subrecipient receives an unsatisfactory status, they move into a Phase 2 review and a representative of the subrecipient must attend technical assistance training. Additional one-on-one technical assistance is provided at the request of the subrecipient.

Once the subrecipient has completed the assigned training and provided documentation of any deficiencies corrected, they will again be sent the Title VI compliance survey to complete. When questions are completed and verified, the subrecipient will be assigned satisfactory status.

- With this timeline, agencies without approved Title VI Programs/Plans have up to three (3) years to develop a comprehensive Title VI Program, which includes an LEP Plan, Environmental Justice Plan, and an ADA Transition Plan. The ITD OCR Program Manager/Title VI Coordinator and CCO assist the agencies with developing a Title VI Program and also help monitor the implementation.

In addition, ITD's website offers comprehensive checklists, document samples, and other pertinent information regarding the implementation of a Title VI Program to ensure that LPAs and other federal-aid recipients are actively working to prevent discrimination. Examples and checklists are online at [ITD OCR Website](#).



LPAs are subrecipients of federal financial assistance and must implement policies and procedures prohibiting discrimination. ITD's CCO is responsible for monitoring Title VI plan and program implementation of LPAs but works with ITD's OCR Program Manager to aid in utilizing resources effectively. Agencies receiving federal funding must make the appropriate recommended corrections if ITD finds noncompliance. The CCO uses a combination of ITD's Pre-award Assurance Checklist, along with the mentioned review process to examine for compliance with civil rights regulations. The CCO and OCR Program Manager will regularly work with subrecipients to help them implement a Title VI program and will train local officials and Title VI Coordinators to help them understand the requirements of a Title VI Program and how to make effective implementation efforts.

Before receiving federal financial assistance, ITD requires subrecipients to complete ITD's Pre-Award Checklist in order to understand if the subrecipient has the necessary information for compliance (e.g., data on employee demographics, public outreach, Title VI policies and policy statements, etc.). The Pre-Award Checklist is available online at [ITD OCR Website](#).

The MPOs provide transportation planning within their urbanized areas and must sign an ITD Memorandum of Understanding (MOU). MOUs contain State and Federal funding requirements related to transportation planning. As a result, each MPO must develop:

- 3-year Transportation Improvement Program (TIP)
- Long-range transportation plan.
- Must develop and implement an annual Unified Planning Work Program (UPWP).

ITD's Planning Section Program Area Coordinator (PAC) assists MPOs with transportation planning activities in order to ensure Title VI compliance through all mutual planning activities. In coordination with the Civil Rights Office, the Planning PAC also provides technical assistance to MPOs on any Title VI Program issues. The PAC oversees the MPOs as follows:

- a. By reviewing the Unified Planning Work Program (UPWP) approval, administration, and oversight
- b. By evaluating the Transportation Improvement Program (TIP)
- c. By providing general assistance and or any guidance
- d. By ensuring Title VI Program compliance
- e. By assisting with MPO Federal/State reviews

The following are the five MPOs for the state of Idaho:

- Community Planning Association of Southwest Idaho (COMPASS)
- Bannock Planning Organization (BPO)
- Bonneville Metropolitan Planning Organization (BMPO)
- Kootenai Metropolitan Planning Organization (KMPO)
- Lewis-Clark Valley Metropolitan Planning Organization (LCVMPO)

The Planning Services PAC, the OCR Program Manager/Title VI/ Nondiscrimination Coordinator, and the CCO will monitor the MPO's overall strategies and goals for the transportation planning process to ensure Title VI Program compliance. ITD utilizes the Title VI review criteria as outlined above to decide the level of review required. A review will evaluate the outreach efforts employed by the MPO during the 3-year planning period. One of the review functions will be to compare the demographics of attendees at planning meetings, and then perform an analysis of available documents to determine if the planning process includes underserved and underutilized populations, including low-income persons, and those with limited English proficiency. Additionally, ITD staff will examine marketing and advertising samples, marketing and email communications, and check the disposition of complaints filed against the MPO during the same period. ITD will complete the analysis and provide a report on any identified deficiencies. If necessary ITD will provide a corrective action plan for the planning process that will aim to improve participation of underutilized and underserved populations.

ITD's CCO and OCR Program Manager will oversee, monitor, and train MPOs as follows:

- Review Limited English Proficiency (LEP, E.O. 13166) compliance to ensure utilization of demographic information. Ensure MPOs use available data to identify potential LEP populations, and that the MPOs assess distributions of the benefits and burdens of the transportation plans and activities on these groups;
- Monitor public involvement processes to improve effectiveness and reduce participation barriers for minority, low-income populations, and the disabled; and,
- Evaluate MPO annual accomplishments and goals.

Pursuant to 23 CFR 450.334, all MPOs undergo a triennial FHWA/FTA joint review, which includes a Title VI Program compliance assessment. Should the USDOT Operating Administration identify a program deficiency, within ninety (90) days the Department will voluntarily develop an agreed upon Corrective Action Plan (CAP) with the modal agency to address the deficiencies.

## FTA Funding

ITD also receives FTA funds for several programs as outlined in the FTA Public Transportation State Management Plan. This Plan and other details on FTA funded programs are located at: [ITD FTA Public Transportation State Management Plan](#). The Idaho Public Transportation Plan Outreach Summary is located at: [https://apps.itd.idaho.gov/apps/pt/SWPTP/Appendix\\_A\\_Community\\_Input.pdf](https://apps.itd.idaho.gov/apps/pt/SWPTP/Appendix_A_Community_Input.pdf).

A map of all ITD transit providers and 2016-2018 funding awarded per each ITD district is at: [http://gis.hwlochner.com/itd\\_transit\\_providers/](http://gis.hwlochner.com/itd_transit_providers/).

ITD is not a provider of fixed route public transportation. In order to ascertain and establish compliance with the DOT Title VI regulations, ITD conducts Title VI reviews of public and private awardees and recipients of FTA funds. In order for ITD to approve any grant/award application involving the receipt of federal-aid funds, awardees must complete the Title VI Assurances. The ITD-Public Transportation (PT) section includes information on required civil rights compliance in the annual Program Funding Guide and all agreements. The Guide lists the required assurances. The Guide also requires the applicant to sign a statement acknowledging the assurances are modifiable by ITD and that the applicant complies, or, within reason, expects to comply with any modifications. Grant applicants are made aware they will be required to sign an Assurance of Compliance with Civil Rights Requirements at the time the written agreement is executed to receive funds.

ITD-PT staff conducts program audits and reviews to ensure compliance by subrecipients. In addition, ITD Internal Review (ITD-IR) and the ITD-PT choose subrecipients each year for audits based on the amount of federal funds received, type of organization (non-profit, LPA, or for-profit), and degree of local government participation and oversight. ITD-IR staff performs a Financial Management Review (FMR) on each subrecipient every two (2) years. ITD-IR staff conducts financial reviews in conjunction with a program review by ITD-PT staff. The ITD-PT section has a primary responsibility for assuring that recipients provide multi-modal planning in accordance with Title VI requirements. This process entails deliberation of all possible social, economic, and environmental effects of a proposed plan or program on identified groups to avoid the unintended creation of inappropriate and biased programs. ITD-PT section also monitors the transportation planning activities of the various MPOs to ensure consistency with Title VI compliance requirements.

ITD's Grant and Contract Officers have primary responsibility for oversight activities of subrecipients utilizing the compliance monitoring tool as a template to ensure compliance with all State Management Review areas, as well as funds to subrecipients in small urbanized areas. The Department developed questions included in this tool based on FTA guidance circulars for each funding program, as well as those for general grants management, civil rights, and for procurement.

The ITD website, [ITD Public Transportation Division](#) provides information for grantees on statewide planning and application procedures. In addition, comprehensive checklists, document samples, and other pertinent information regarding the implementation of a Title

VI Program are available on the Office of Civil Rights website to ensure that LPAs and other federal-aid recipients are actively working to prevent discrimination within their organizations.

ITD-PT requires all recipients to comply with the FTA regulations stated in FTA 5010.1D regarding standard assurances, historic preservation, all applicable environmental mitigation processes (NEPA, CE's, EA's, etc.), and project management plans.

ITD has Standard Specifications for construction that incorporates the articles and items that are the standard federal guidelines for construction, including Davis Bacon. In response to FTA Circular 5010.1D, Page IV-31, m. Maintenance, ITD-PT requires that each facility with FTA investment implement and follow a maintenance plan including maintenance of ADA accessibility features.

ITD-PT follows all state of Idaho property management requirements as well as the FTA C 5010.1D guidelines on management of real property, equipment and supplies. ITD-PT maintains an inventory of all assets and equipment.

ITD-PT staff will do a site visit and inspection every two (2) years on facilities purchased or built with FTA funds until FTA deems it otherwise unnecessary. ITD-PT uses a variety of mechanisms to monitor facility construction and rehabilitation projects. Monitoring mechanisms may include, but are not limited to, one or more of the following:

- Ensuring nondiscrimination by transit agencies in the selection of transit sites and facilities.
- Contracting with a consultant to provide project management oversight.
- Reviewing request for proposals and construction contracts.
- Reviewing plans and drawings.
- Conducting periodic site inspections.
- Requiring progress reports.
- Conducting regular project review meetings.
- Withholding payment of a portion of the grant until final inspection and acceptance of the facility by the state.

## **VI. DATA COLLECTION**

In accordance with federal regulations, ITD collects data on the race, color, national origin, sex, age, and disability of participants in and beneficiaries of its programs. ITD Office of Civil Rights works with the PACs on collecting and analyzing the data to identify trends or potential barriers to access. OCR reports this "Program Area" data annually in the Title VI Goals and Accomplishment Report to FHWA.

The Transportation Systems Section provides data collection, analysis, and systems support for a broad range of automated systems throughout the Division of Engineering Services.

The ITD ProjectWise database houses and stores most of the needed data.

## **VII. TITLE VI NONDISCRIMINATION TRAINING**

ITD management requires all ITD staff to receive nondiscrimination, and respectful workplace training upon hire and annually thereafter. The OCR Office staff in coordination with the Division of Human Resources(DHR) designs and provides a variety of Title VI nondiscrimination training to both internal staff and external partners. ITD determines the frequency and delivery of training as follows:

- Employee, consultant, or contractor date of hire.
- A request by internal unit or subrecipient.
- Corrective Action mitigation.
- ITD Program Area or subrecipients selected for annual review and training.
- Annual refresher courses

Each year's ITD reports all Title VI Nondiscrimination training accomplishments to the FHWA as part of the annual assurances reporting.

### **Internal Training**

The Division of Human Resources conducts nondiscrimination training during new hire onboarding. The OCR staff provides Title VI Program training to ITD staff with responsibility for contract oversight. These trainings provide a review of federal requirements for oversight, data collection, and reporting responsibilities. The goal is to provide training to all PACs and ancillary staff who provide Title VI Program oversight in their respective areas of control. The OCR staff receives training through webinars, one-on-one sessions with the Federal Administrative Offices, and other opportunities like conferences, seminars, etc.

### **External Training**

The Planning Program Area Coordinator (PAC) and the OCR provide Title VI Program training to subrecipients before and after award of contract. The OCR staff develops and delivers Title VI Program training to external partners and subrecipients addressing common questions and best practices surrounding Title VI Program activities, such as how to collect data, conduct complaint investigations, and satisfy reporting requirements. The OCR also provides training to subrecipients on how to develop and implement a Title VI Program plan. The participants receive training in the following priority:

- Complaints received.
- Requests by subrecipients.
- Title VI Program review scheduled with the LPA or MPO.

## **VIII. TITLE VI DISCRIMINATION COMPLAINTS**

An individual subjected to discrimination or who has identified possible noncompliance with associated regulations may have the right to file a complaint. The intent of the discrimination complaint procedures established below is to provide an avenue to raise complaints under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act (ADA) of 1990. ITD prohibits intimidation and retaliatory acts against complainants in accordance with 49 CFR 21.11.

Complainants may file through:

- The ITD Office of Civil Rights
- Federal Highway Administration (FHWA)
- Federal Transit Administration (FTA)
- U.S. Department of Transportation (USDOT)
- U.S. Department of Justice (USDOJ)
- Federal Motor Carrier Safety Administration (FMCSA)

ITD will forward all complaints against the department directly to FHWA Headquarters Civil Rights for processing and investigation.

For questions or information on how to file a complaint, please see below for ITD Office of Civil Rights contact information:

Taylor Bothke

Office of Civil Rights Program Manager/Title VI/Nondiscrimination Coordinator

Email: [Taylor.Bothke@itd.idaho.gov](mailto:Taylor.Bothke@itd.idaho.gov)

Phone: (208) 334-8884

## IX. TITLE VI COMPLAINT PROCESS

The OCR uses the following, detailed internal procedures for prompt processing and resolution of all Title VI complaints received directly by any of its departments having responsibilities under the Title VI and the related nondiscrimination statutes. These procedures include:

1. Any person, group of persons, or entity believing to be a subject of discrimination under Title VI of the Civil Rights Act may file a written complaint with the OCR Title VI Coordinator. A complainant can have a representative file a complaint on his or her behalf.
2. In order to have the complaint considered under this procedure, the complainant must file the complaint no later than 180 calendar days after:
  - a. The date of the alleged act of discrimination; or
  - b. When there has been a continuing course of conduct, the date which that conduct ceased.
3. Complainant(s) should file a complaint in writing to the ITD Title VI Coordinator: Complaints shall set forth, as fully as possible, the facts and circumstances surrounding the claimed discrimination. If a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the Title VI Coordinator shall interview the person. If necessary, the staff coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. ITD will handle these complaints in the usual manner.
4. Upon receipt of the signed complaint form, the Title VI program Coordinator will log in the complaint, determine the basis of the complaint, authority/jurisdiction, and assign an investigator.
5. The Title VI Coordinator reviews and determines the appropriate action regarding every Title VI complaint. ITD will not proceed with or continue a complaint investigation if:
  - a. The complaint is, on its face, without merit.
  - b. The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions; or,
  - c. The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.
6. The Title VI Coordinator will investigate the complaint and log the following information within ten (10) calendar days of receipt of the allegation(s):
  - a. Name, address, and phone number of the complainant.
  - b. Email address if available.
  - c. Basis of complaint (i.e., race, color, national origin, sex, age, religion, disability/handicap, income).

- d. Date of the alleged discriminatory act(s).
  - e. Date of complaint received by the recipient.
  - f. A statement of the complaint.
  - g. Other agencies (state, local or federal) where the complaint was filed.
  - h. An explanation of the actions the recipient has taken or proposed to resolve the issue(s) raised in the complaint.
7. Within ten (10) business days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken, or proposed action to take to process the allegation(s). The notification letter shall contain(s):
    - a. The basis of the complaint.
    - b. A brief statement of the allegation(s) over which ITD has jurisdiction.
    - c. A brief statement of the ITD's jurisdiction over the recipient to investigate the complaint; and,
    - d. An indication of when ITD will contact the parties.
  8. If the complaint is against a contractor or subrecipient(s), ITD will have (15) business days from the receipt of the complaint to advise the appropriate state or federal agency (e.g., OFCCP for Federal contract compliance issues) of the receipt of a complaint, and the status of the investigation.
  9. The Title VI Coordinator will work with appropriate parties to conduct an in-depth, personal interview with the complainant(s). Information gathered in this interview includes: identification of each complainant by race, color, national origin, sex, age, and disability/ or income status; name of the complainant; a complete statement concerning the nature of the complaint, including names, places, and incidents involved in the complaint; the date the complainant filed; and any other pertinent information the investigation team feels is relevant to the complaint. ITD records all interviews either on audio tape or by taking notes. ITD makes every effort to obtain early resolution of complaints at the lowest level.
  10. Within (15) business days of receiving comments from the federal or state agency, the Title VI Coordinator will meet with all parties to the complaint to discuss the comments received by the federal or state agency.
  11. Within sixty (60) calendar days from the date of receiving the original complaint the Title VI Coordinator will coordinate and prepare the written investigative report. The investigative report will include a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition. ITD's Title VI Coordinator will finalize a draft report before sending it to the ITD Legal Section.
  12. The Attorney will review the investigative report and meet with the Title VI Coordinator and the Human Resource Manager to determine the appropriate action. Within ninety (90) calendar days of receipt of the complaint, the Title VI Coordinator will issue a "Letter of Findings" to the complainant.
  13. If there is no complaint resolution to the satisfaction of all parties concerned, the



party not satisfied is advised of his or her right to appeal pursuant to Title 49, Code of Federal Regulations, Part 21. The complainant must file the appeal in writing no later than (180) calendar days after the date of the alleged discrimination, unless the Secretary of Transportation extends the filing period:

U.S. Department of Transportation  
Office of Civil Rights  
1200 New Jersey Avenue, SE  
8th Floor E81-314  
Washington, DC 20590

14. A complainant may file a complaint with the Secretary; U.S. Department of Transportation, or its Operating Administration, the Federal Highway Administration (FHWA) before, during, or after the complainant files with ITD.

## **X. DISSEMINATION OF TITLE VI INFORMATION**

ITD continually works to improve its communication activities in order to improve efficiency, transparency and public outreach when making transportation decisions and while developing policies that influence project selection and development as well as how the department maintains and operates highways. ITD uses a variety of methods in both print and electronic media to establish two-way communication aimed at incorporating the public's views, concerns, and issues in the decision-making process.

First, ITD has a robust public involvement process used during programming, project planning and development, construction, emergency/disaster situations, or when there are other impacts to the road not associated with construction. ITD's public involvement goal is to reach informed decisions. ITD strives to meet this goal through the following objectives:

- Communicating complete, accurate, understandable and timely information to the stakeholders.
- Actively gathering input from the community by providing stakeholders with meaningful opportunities to participate in processes, regardless of their race, color, national origin, sex, age, disability, economic status or limited English proficiency; and,
- Considering and responding to stakeholder input in making decisions.

Additionally, ITD consults with non-metropolitan officials and their agencies to provide outreach to address local needs and issues and to enhance public involvement. ITD participates in numerous advisory boards, committees, working groups and subcommittees to consult with local officials during transportation planning.

Each division of ITD includes the Title VI/Nondiscrimination statement in their publications and each homepage on the [ITD Website](#). In addition, The Office of Civil Rights' website ([ITD Office of Civil Rights](#)) provides information about and resources for ITD's Civil Rights programs. The Office of Civil Rights also conducts ongoing training on how to review Title VI/Nondiscrimination documents.

The following Title VI policy statement is included in ITD websites, publicly accessed facilities, and published documents:

The Idaho Transportation Department (ITD) is committed to compliance with Title VI of the Civil Rights Act of 1964 and all related Nondiscrimination authorities. In accordance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, Federal-Aid Highway Act of 1973, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act of 1990 (ADA), the Age Discrimination Act of 1975 and Executive Orders 12898 (Environmental Justice) and 13166 (Limited English Proficiency), ITD does not and will not exclude from participation in or deny the benefits of its programs or activities; or subject anyone to discrimination or treat persons unfavorably based on race, color, national origin, sex, age, disability, limited English proficiency or economic status. In addition, ITD will not retaliate against any person who complains of discrimination or who participates in an investigation of discrimination.

Any person believing that an ITD program, service, or activity excluded him/her, or denied participating in the benefits of, or otherwise subjected the person or persons to discrimination or believes the discrimination was because of a disability may file a complaint. ITD must have all complaints in writing and signed. A complaint must be filed with ITD's Equal Employment Opportunity Office in Boise, the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), or the Federal Transit Administration (FTA) within 180 days of the (alleged) act (or latest occurrence).

If you need assistance and cannot provide a written and signed complaint, immediately call ITD's OCR Program Manager/Title VI/Nondiscrimination Coordinator at (208)334-8884. You may also email the Office of Civil Rights at [civilrights@itd.idaho.gov](mailto:civilrights@itd.idaho.gov) and the OCR will assist with the submission of a written and signed complaint.

## **XI. LANGUAGE ACCESS PLAN**

Idaho Transportation Department Office of Civil Rights maintains the “Limited English Proficiency (LEP), Language Access Plan (LAP),” and is available at:

<https://apps.itd.idaho.gov/apps/ocr/documents/LEP.pdf>

As part of the LEP/LAP, ITD-OCR includes the following information:

- Compliance requirements.
- Four factor analysis.
- Lists of impacted LEP populations using best available Census Data.
- Frequency of contact.
- Importance of services or impact from service denial.
- Resources available to assist with service provision.
- Internal and external training opportunities.
- And, monitoring and reporting schedules.

ITD is working to update the current LEP/LAP as more current census data has been released to the general public.

## **XII. REVIEW OF ITD DIRECTIVES**

Annually, the Office of Civil Rights Program Manager/Title VI/Nondiscrimination Coordinator will review all new ITD directives. Those issued by other governing bodies and state agencies impacting program area operations and Title VI/ Nondiscrimination implications; the Office of Civil Rights will share this information with Program Area Coordinators, executive staff, and management as deemed necessary.

## **XIII. COMPLIANCE & ENFORCEMENT PROCEDURES**

Title VI Program Area Review Procedures outlines how the Office of Civil Rights conducts annual reviews of ITD Program Areas and subrecipients. The OCR Program Manager/Title VI/Nondiscrimination Coordinator analyzes the data from the reviews to identify trends or patterns of discrimination or deficiencies in the Title VI/Nondiscrimination Program. When deficiencies exist, OCR will provide technical assistance in the implementation of the Title VI/Nondiscrimination program and assist in developing action plans to improve implementation activities and eliminate discriminatory activities. Once the ITD establishes a corrective action plan, then ITD OCR will conduct subsequent Title VI/Nondiscrimination reviews to monitor the plan and ensure compliance.

## **XIV. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)**

### **Description of Federal-Aid Programs**

ITD's DMV office has applied for FMCSA grants between FFY05 and FFY23. Grant funds have been used for the Commercial Driver License Program to implement and maintain the Automated Driver's License Testing System, the CDL Skills Test tablet O&M leasing costs; as well as the purchase of laptops and surveillance equipment. The newly awarded FFY23 funds will be also be used to complete a system wide NIEM 6.4 and SPEXS Refactor. The purpose of the refactor is to 1) update and modernize the DMV GEM System to eliminate data quality issues identified through AAMVA's Commercial Driver's License Information System (CDLIS) reporting tool; 2) the updates should correct and update the areas of functionality that are currently out of compliance, and 3) to add new functionality that will be required beginning August 2024. The CDLPI grant will aide to expand and improve upon the safety, integrity, efficiency, and effectiveness of the CDL program, now and into the future.

DMV does not have any sub-recipients and all grants are conducted as a pass through.

### **Access to Records**

ITD will provide to FMCSA upon request during normal business hours Title VI Program-related documentation.

A description of FMCSA Federal-aid programs is in the annual ITD Title VI Accomplishments and Goals Report, and available upon request.

### **CMV Inspection Selection & Unbiased Enforcement Policies**

ITD conducts motor vehicle safety inspections at the port of entry locations and bypass operations are completed for those that do not come into the port when they are required to do so.

ITD does not do traffic enforcement for speeding, crash investigation, failure to maintain lanes, etc.

### **Title VI Program Compliance Review**

No Federal Agency has previously conducted a Title VI Program Compliance Review of ITD.

## **XV. APPENDICES**

### **Appendix A: Authorities**

Title VI of the Civil Rights Act of 1964 prohibits discrimination in Federal and Federally assisted projects and programs based upon race, color, and national origin. Since 1964, additional statutes prohibit discrimination based upon sex (Federal-aid Highway Act of 1973), age (The Age Discrimination Act of 1975), and disability (Section 504 of the Rehabilitation Act of 1973 and Americans with Disabilities Act of 1990). Collectively FHWA defines a Title VI Program to prohibit discrimination based upon race, color, national origin, sex, age, or disability. In addition, since the Executive Orders regarding Environmental Justice (Executive Order #12898) and Limited English Proficiency (Executive Order #13166) are nondiscriminatory in their intent, while they are not statutes and someone cannot sue because of them, FHWA includes the E.O.s under the Title VI Program.

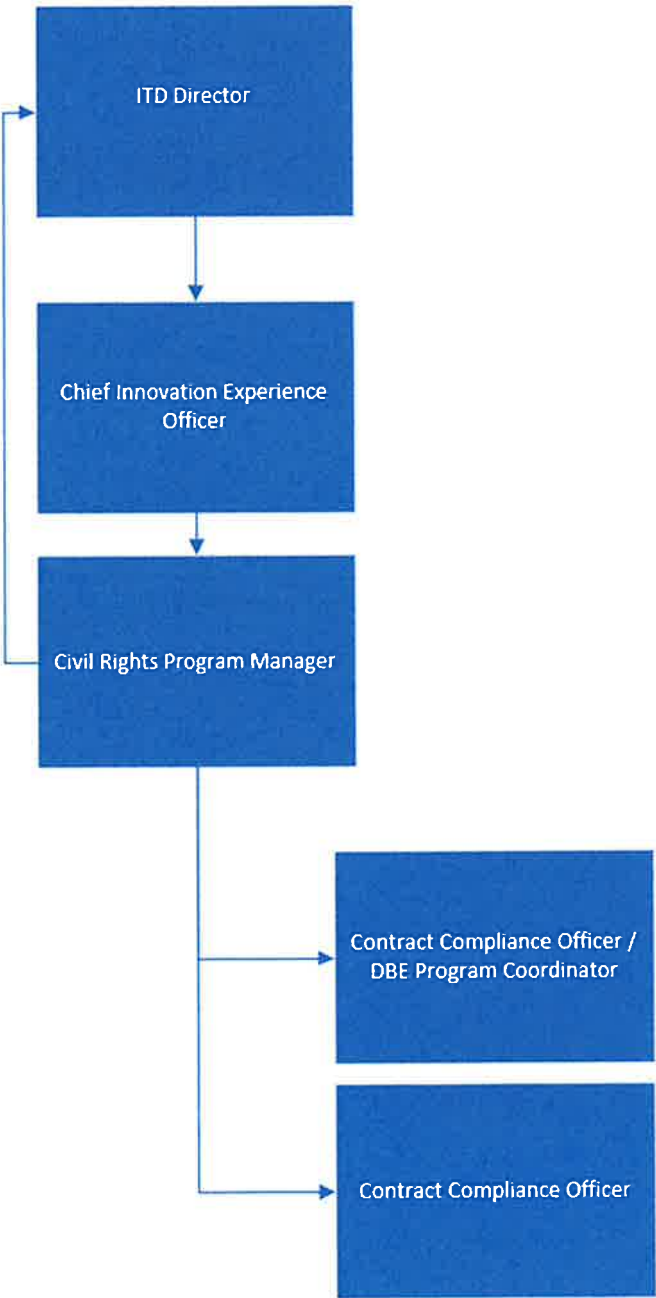
While Executive Orders and other guidance do not directly apply to Recipients, they do direct Federal agencies to take specific actions concerning federally assisted programs and activities of their Recipients. As a result, this requires these agencies to ensure that ITD undertake certain activities. As an example, Executive Order 12898, 3 C.F.R. 859 (1995), entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," emphasizes that Federal agencies have a duty to use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination for low-income and minority populations. Executive Order 13166, 3 C.F.R. 289 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the application of Title VI's prohibition on national origin discrimination when providing information only in English to persons with limited English proficiency.

List of Title VI/Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d, 78 stat. 252) prohibits discrimination in federally funded programs on the basis of race, color, and national origin.
- Federal-Aid Highway Act of 1973 (23 USC § 324): amended Title VI to prohibit discrimination on the basis of sex in Federal-Aid highway programs.
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC § 4601): prohibits unfair and inequitable treatment of persons as a result of projects undertaken with Federal Financial Assistance.
- Age Discrimination Act of 1975, as amended (42 USC § 6101): prohibits discrimination in federally funded programs on the basis of age; Civil Rights Restoration Act of 1987 (Public Law 100-259 March 1988) amended Title VI of the 1964 Civil Rights Act and prohibits discrimination throughout all the operations of an agency if any part of the agency receives Federal assistance;

- Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.
- Executive Order 13166 (Limited English Proficiency): Improving Access to Services for Persons with Limited English Proficiency.
- 23 CFR Part 200: FHWA Title VI Program and Related Statutes – Implementation and Review Process.
- Section 504 of the Rehabilitation Act of 1973, (29 USC § 794) as amended; prohibits discrimination on the basis of disability.
- Americans with Disabilities Act of 1990, (42 USC § 12101): prohibits discrimination on the basis of disability.
- The National Environmental Policy Act of 1969 (42 USC § 4321) prohibits disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.
- 49 CFR Part 21: Nondiscrimination in Federally-Assisted Programs of The Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964.
- 49 CFR Part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.
- 49 CFR Part 28: Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- 49 CFR Part 37: Transportation Services for Individuals with Disabilities – ADA.
- 28 CFR Part 35: Discrimination on the Basis of Disability in State and Local Government Services; and
- 28 CFR Part 50.3: Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.

Appendix B: ITD OCR Organization Chart



## Appendix C: Title VI Program Area Review Questionnaire

### TITLE VI PROGRAM AREA REVIEW QUESTIONNAIRE SFY23 Planning Services

In accordance with Title VI requirements, ITD is required to provide FHWA a summary of the information requested in this questionnaire for the reporting period July 1, 2022 through June 30, 2023.

Reviewing actual documentation of your activities may be necessary in determining compliance, in addition to your narrative responses to the questions below. You may provide electronic documents or a link to your website for documents and materials as an alternative to providing a paper copy.

If you believe that a question does not pertain to your activities during the previous year, please state and provide the reason why it does not pertain. Please do not use 'not applicable' or 'N/A'. Do not leave questions blank.

In the response to this questionnaire, please include any documentation that you believe will assist us in evaluating your responses to the questions below.

#### CONSULTANT AGREEMENTS

1. On the table below, list all the firms with whom you have agreements. Identify whether the firm is an ITD-certified DBE, and indicate what work was performed along with the dollar amount of the agreement.

Firm	DBE	Female	Minority	Work Performed	Amount

2. What is the process for selecting consultants for planning work?
3. What methods are used to provide female and minority consultants/subs with an equal opportunity for participation?

#### METROPOLITAN PLANNING ORGANIZATIONS

4. What was the amount and type of federal (MPO) money passed through ITD?

Fund Category	COMPASS	BPO	BMPO	KMPO	LCVMPO

-5-



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#### STRATEGIES/SERVICE EQUITIES

5. What strategies are used to ensure that all components of the transportation planning process comply with Title VI?
6. How is Planning using demographic data in conducting transportation equity analyses, origin-destination studies, corridor studies, or other assessments regarding determining transportation needs?
7. With respect to minority and low-income populations, how do you use demographic information to assess the distribution of benefits/burdens across various community groups?
8. What data source and tools do you use to support the analysis?

#### COORDINATION WITH TRIBAL GOVERNMENTS

9. What process do you have in place that will help ensure that ITD provides opportunities for active involvement of Indian tribal governments in statewide and metropolitan planning and programming?
10. How is participation solicited?
11. What specific involvement activities are taking place at the local level by district planners?

#### ACCOMPLISHMENTS

12. During this past year, were there any instances where Title VI issues were identified and discrimination prevented? ☐ Yes ☐ No  
If yes, describe action taken.
13. What efforts were made to take Environmental Justice concerns into consideration in the transportation planning process?
14. List any innovative or best practice processes you would like to highlight for this year's report:

#### TRAINING

15. Did anyone from Planning receive any Title VI or Environmental Justice training during this reporting period?  
☐ Yes ☐ No

Employee Name	Course Attended	Date Attended

#### COMPLAINTS

16. Did Transportation Planning receive any Title VI-related complaints during this reporting period? ☐ Yes ☐ No

If yes, please detail and describe action taken.

#### COMPLIANCE

17. List individual responsible within the Planning Services Section for Title VI monitoring and compliance.

Report completed by:

Contact information:

## Appendix D: ITD Title VI Program Discrimination Complaint Form

Discrimination Complaint

\* Required

1. First & Last Name \*

Enter your answer

2. Street Address: City | State | Zip \*

Enter your answer

3. Phone Number \*

Enter your answer

4. Name of the Person(s) or Entity that Discriminated Against You \*

Enter your answer

5. Date of Alleged Incident \*

Please input date (MM/DD/YYYY)

6. Please Select the Basis for the Discrimination \*

☐ Race

☐ Color

☐ National Origin

☐ Sex

☐ Age

☐ Disability

☐ Income Status

☐ Limited English Proficiency

7. Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved and describe the corrective action you are seeking. \*

Enter your answer

8. By clicking the signature button below, you certify that the information you provided is both factual and accurate. \*

☐ Electronic Signature

Submit

## **Appendix E: Modality Contact Information**

### **US Department of Transportation, Federal Highway Administration, Idaho Division**

3050 Lakeharbor Lane, #126

Boise, ID 83703

Phone: (208) 334-1843

Website: <https://www.fhwa.dot.gov/iddiv/>

### **US Department of Transportation, Federal Aviation Administration**

800 Independence Avenue, SW Washington, DC 20591

Phone: 1-866-TELL-FAA (1-866-835-5322)

Website: <http://www.faa.gov/>

### **US Department of Transportation, Federal Motor Carrier Safety Administration**

1200 New Jersey Ave. SE Washington, DC 20590

Phone: 202-366-8810

Website: <https://www.fmcsa.dot.gov/>

### **US Department of Transportation, Federal Transit Administration**

1200 New Jersey Avenue, SE Washington, DC 20590

Phone: 202-366-4043

Website: <https://www.transit.dot.gov/>

### **US Department of Transportation, National Highway Traffic Safety Administration**

1200 New Jersey Ave. SE, Washington, DC 20590

Phone: 1-888-327-4236

TTY: 1-800-424-9153

Website: <http://www.nhtsa.gov/>

## Appendix F: FHWA Standard Assurance 1050.2A

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

#### Discrimination Assurances

#### DOT Order No. 1050.2A

The **Idaho Transportation Department** (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through **Federal Highway Administration**, is subject to and will comply with the following:

#### Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

#### General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the **Federal Highway Administration**."*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **Federal-Aid Highway Program**:

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

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

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

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

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

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

**Idaho Transportation Department**

by

  
\_\_\_\_\_  
Scott Stokes, Director

Date

10/10/23



## 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 (FHWA)** as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **Federal Highway Administration (FHWA)** 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 (FHWA)**, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **Federal Highway Administration (FHWA)** 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 (FHWA)** 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 U.S. Department of Transportation as authorized by law and upon the condition that the **Idaho Transportation Department** will accept title to the lands and maintain the project constructed thereon in accordance with **Idaho Code Title 67 and Title 40**, the Regulations for the Administration of **Idaho Administrative Procedures Act, Section 39**, and the policies and procedures prescribed by the **Federal Highway Administration (FHWA)** 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 **Idaho Transportation Department** 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 **Idaho Transportation Department** 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 **Idaho Transportation Department**, its successors and assigns.

The **Idaho Transportation Department**, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the **Idaho Transportation Department** 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, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S.

Department of Transportation and its assigns as such interest existed prior to this instruction].\*

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

## APPENDIX C

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

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the **Idaho Transportation Department** 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, **Idaho Transportation Department** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the **Idaho Transportation Department** 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 **Idaho Transportation Department**) and its assigns.\*

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

## APPENDIX D

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

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

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

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

## APPENDIX E

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

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

## Appendix G: FMCSA Standard Assurance 1050.2A

### The United States Department of Transportation

### Standard Title VI/Non-Discrimination Assurances

### DOT Order No. 1050.2A

The **Idaho Transportation Department** (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the **Federal Motor Carrier Safety Administration (FMCSA)**, is subject to and will comply with the following:

### Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 Stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 49 C.F.R. part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 49 C.F.R. part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
- 49 C.F.R. part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
- 49 C.F.R. part 303 (FMCSA’s Title VI/Nondiscrimination Regulation);
- 28 C.F.R. part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898 (1995), entitled “Federal Actions to Address Environmental



Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice: [http://www.fhwa.dot.gov/environment/environmental\\_justice/index.cfm](http://www.fhwa.dot.gov/environment/environmental_justice/index.cfm)

Additionally, Executive Order 13166 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “*application of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*” When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT’s “*Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,*” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

### **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*“No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income, or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from DOT, including the FMCSA.”*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FMCSA Program**:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in 49 C.F.R. §§ 21.23 (b) and 21.23 (e) will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations;
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection

with the FMCSA Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The Idaho Transportation Department, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.”;*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.



## 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 Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), 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, national origin, sex, age, disability, income-level, or LEP 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 as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. 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, national origin, sex, age, disability, income-level, or LEP.
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 FMCSA 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 FMCSA, 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 FMCSA 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.

**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 FMCSA 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 Idaho Transportation Department will accept title to the lands and maintain the project constructed thereon in accordance with Idaho Code Title 67 and Title 40, the Regulations for the Administration of Idaho Administrative Procedures Act, Section 39, and the policies and procedures prescribed by the FMCSA of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation 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 Idaho Transportation Department all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

#### (HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto Idaho Transportation Department 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 Idaho Transportation Department, its successors and assigns.

The Idaho Transportation Department, 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, national origin, sex, age, disability, income-level, or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the Idaho Transportation Department 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, Department of Transportation, subtitle A, Office of the Secretary, part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the 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 **Idaho Transportation Department** 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 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, national origin, sex, age, disability, income-level, or LEP 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, **Idaho Transportation Department** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the **Idaho Transportation Department** 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 **Idaho Transportation Department** and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate 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 **Idaho Transportation Department** 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, national origin, sex, age, disability, income-level, or LEP 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, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, **Idaho Transportation Department** will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, **Idaho Transportation Department** will there upon revert to and vest in and become the absolute property of **Idaho Transportation Department** and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate 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:

- Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d *et seq.*), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. part 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 *et seq.*) (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794 *et seq.*) (prohibits discrimination on the basis of disability); and 49 C.F.R. part 27;
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (Pub. L. 97-248 (1982)), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (102 Stat. 28) (“...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.”);
- 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 Justice regulations at 28 C.F.R. parts 35 and 36, and 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.*).