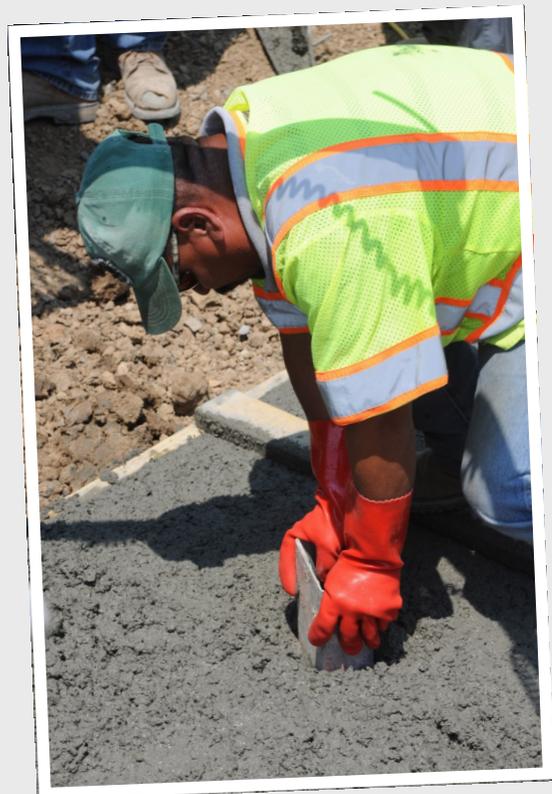




OFFICE OF CIVIL RIGHTS COMPLIANCE

TITLE VI

2016



IMPLEMENTATION PLAN

KANSAS DEPARTMENT OF TRANSPORTATION

**TITLE VI/NONDISCRIMINATION PROGRAM
IMPLEMENTATION PLAN**

**PREPARED BY
OFFICE OF CONTRACT COMPLIANCE**

December 22, 2015

**KANSAS DEPARTMENT OF TRANSPORTATION
TITLE VI / NONDISCRIMINATION PROGRAM**

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Kansas Department of Transportation

December 22, 2015

MEMORANDUM TO: STATE TRANSPORTATION ENGINEER
CHIEF COUNSEL
INSPECTOR GENERAL
DIVISION DIRECTORS
BUREAU CHIEFS
OFFICE HEADS
DISTRICT ENGINEERS
TITLE VI COORDINATORS

REGARDING TITLE VI/NONDISCRIMINATION POLICY

It is the policy of the Kansas Department of Transportation to assure full compliance with Title VI/Nondiscrimination of the Civil Rights Acts of 1964, 1987 and 1991 and subsequent related statutes including Title II of the Americans with Disabilities Act (Title II ADA) and Sec 504 of the Rehab Act of 1973 (Sec 504). This policy has been incorporated into the Title VI/Nondiscrimination assurances, executed by the Department of Transportation in connection with all Federal-Aid Programs including Federal Highway Administration, Federal Transit Administration and Federal Aviation Administration.

Title VI ensures that no person shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity administered by the Kansas Department of Transportation.

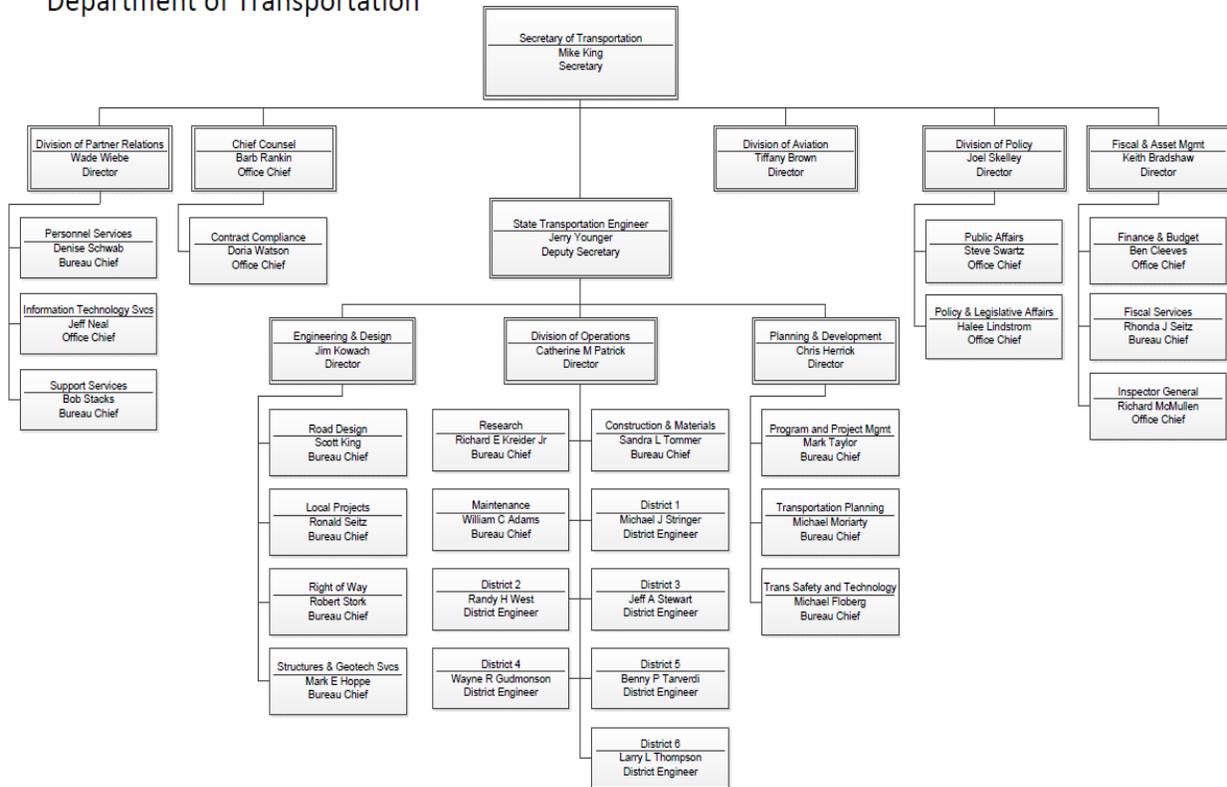
Subsequent nondiscrimination authorities and directives also ensure that no person or group of persons shall, on the grounds of age, religion, disability, gender, or low income be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity administered by the Kansas Department of Transportation.

To ensure that all Title VI/Nondiscrimination requirements are met, all management personnel shall make every effort to identify and eliminate discrimination which may occur in any program or activity of the department; and implement policies and procedures to ensure compliance with Title VI/Nondiscrimination requirements.

Mike King
Secretary of Transportation
Director of Kansas Turnpike Authority

ORGANIZATION AND RESPONSIBILITIES: The Secretary of Transportation, as the chief executive officer, has the responsibility for all matters relating to civil rights. The Secretary has direct authority and control over the Department's Title VI/Non-Discrimination functions, which are delegated to the State Transportation engineer, and the Civil Rights Administrator. The Civil Rights Administrator serves as Director of the Office of Contract Compliance.

Department of Transportation



Updated 11/13/2015

THE LAWS AND REGULATIONS

1964 Civil Rights Act – Titles:

Title I -	Voting Rights
Title II -	Public Accommodations
Title III -	Desegregation of Public Facilities
Title IV -	Desegregation of Public Education
Title V -	Commission on Civil Rights (EEOC)
Title VI -	Nondiscrimination in Federal Assisted Programs and Activities
Title VII -	Equal Employment Opportunity
Title VIII -	Registration and Voting Statistics
Title IX -	Intervention and Procedure after removal in Civil Rights Cases
Title X -	Establishment of Community Relations Services
Title XI -	Miscellaneous

Title VI of the Civil Rights Act of 1964: “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 subjected to discrimination under any program or activity receiving Federal financial assistance.”

Under this act contracting opportunities are considered a benefit. Denial of contract opportunities based on discrimination is prohibited.

Uniform Relocation Assistance and Real Property Acquisition Act of 1970: Prohibits unfair and inequitable treatment of persons displaced or whose property will be acquired as a result of Federal-aid programs and/or projects.

Section 504, Rehabilitation Act of 1973: “No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.”

Federal-aid Highway Act of 1973: “No person shall on the grounds of sex be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title.”

Age Discrimination Act of 1975: “No person shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance.”

Civil Rights Restoration Act of 1987: This act broadens the scope of civil rights to include:

1. All programs and activities of KDOT,
2. All programs, activities and contracts (in the same geographic area) of federal-aid contractors and consultants,
3. All programs and activities of any city or county receiving federal-aid funds,
4. All programs and activities of any agency or group receiving federal-aid funds whether such programs, activities or contracts are federally assisted or not.

Americans with Disabilities Act of 1990: This act ensures non-discrimination and inclusion for any qualified individual with a disability by KDOT, all Kansas counties and local governments.

Civil Rights Act of 1991: The act provides coverage for contracts under non-discrimination laws.

Executive Order 12898 of February 11, 1994: The Order adds Title VI coverage to low income populations and stresses environmental justice in the National Environmental Policy Act process.

Executive Order 13166 of August 11, 2000: Improving access to services for persons with Limited English Proficiency.

Executive Order 13175 of November 6, 2000: Consultation and Coordination with Indian Tribal Governments.

Title VI Transportation Implementing Regulations:

United States Department of Transportation Regulations (49 CFR 21)

- Requires Recipient Affirmative Action
- Requires Recipient Formal Assurance
- Provides for sanctions in the event of noncompliance

Federal Highway Administration Regulations (23 CFR 200)

- Requires Recipient Assurance
- 90 day corrective action requirement
- Actions and activities to assure compliance

Federal Transit Administration Circular 4702.1B

Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients

TITLE VI TERMINOLOGY

Discrimination – Refers to any intentional or unintentional act, or any failure to act, which has the effect of excluding or denying a person from participation in benefits, or has otherwise subjected a person to unequal treatment under any program or activity because of race, color or national origin.

Environmental Justice – Amplifies Title VI by providing that “each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

Low Income Populations - Person(s) whose household income or community/group whose average household income is at or below the United States Department of Health and Human Services (HHS) Poverty Guidelines. See 2013 Guidelines – Appendix A

Minority – Black, Hispanic, Asian American, American Indian and Alaskan Indian.

Minority Populations – Any readily identifiable groups of minority persons living in geographical proximity and similarly affected by a proposed Federal program, policy or activity.

National Origin – means the particular Nation where a person was born, or where the person’s parents or ancestors were born.

Recipient – Any state, political subdivision, instrumentality or any public or private agency, institution, department or other organizational unit, to whom financial assistance is directly extended by a federal agency.

Sub-recipient – means any entity that receives federal financial assistance through a primary recipient.

TITLE VI ACRONYMS

LEP – Limited English Proficiency

MPO – Metropolitan Planning Organization

SIP - State Improvement Plan

STIP - Statewide Transportation Improvement Program

TIP – Transportation Improvement Program

TITLE VI/NON-DISCRIMINATION

POLICY: It is the policy of the Kansas Department of Transportation:

- A. To ensure, in all programs and activities to the maximum possible extent, compliance with Title VI of the Civil rights Act of 1964, 49 CFR Part 21; and related statutes and regulations;
- B. To assess all plans and proposals so that no person shall be excluded from participation in, be denied the benefits of, or in any manner discriminated against or treated inequitably by reason of the person's race, color, sex, national origin, or veteran's status under any department program or activity receiving federal financial assistance;
- C. To identify and eliminate discrimination where found to exist within any program or activity of the Department;
- D. To develop and implement policies and procedures or to amend existing procedures to comply with Title VI requirements; and
- E. To promptly resolve conditions of inadequacy or non-compliance.

ASSURANCES: Signed "assurances" are required of each state highway agency (SHA) by Title 49, Code of Federal Regulations, Part 21 (49 CFR 21) and related statutes and regulations. These are necessary to implement the foregoing policy. Title VI/Non-Discrimination assurances identify the major transportation operational areas where extensive exclusion, adverse and/or disparate impact and denial of benefits may occur. Understanding of the Title VI assurances is vital to all parties in carrying out operational responsibilities within the Department, and should distinguish the difference between EEO, Title VI and other civil rights areas. Title VI/Non-Discrimination does not apply to employment matters except in two instances:

- A. When the primary objective of a federally assisted program is to provide employment (as in Appalachia); or,
- B. When discrimination has been found in a program and the employment posture of the administrating unit is found to be a significant contributing factor in inhibiting and contrary to Title VI/Non-Discrimination policy.

The most recent Title VI Assurances were signed by Kansas Secretary of Transportation & Director of Kansas Turnpike Authority, Mike King, on September 1, 2015. See Appendix B

The Office of Contract Compliance is responsible for initiating and monitoring KDOT's Title VI/Non-Discrimination activities and preparing required reports. Principal responsibilities include:

- A. Developing and implementing procedures for the prompt processing of discrimination complaints,
- B. Coordinating Title VI/Non-Discrimination program development with KDOT managers,
- C. Conducting Title VI/Non-Discrimination reviews of cities, counties, planning agencies and other recipients of federal-aid highway funds,
- D. Reviewing with managers Title VI/Non-Discrimination issues that apply to their activities,
- E. Conducting Title VI/Non-Discrimination orientation and training for managers or designated subordinates, civil rights personnel and others,
- F. Preparing a periodic report of Title VI/Non-Discrimination accomplishments and setting of goals for the following year,
- G. Participating with KDOT managers in developing Title VI/Non-Discrimination information to disseminate to the public. See Appendix E – Title VI Brochure

- H. Conducting reviews of work unit activities when necessary to cover Title VI/Non-Discrimination Assisting KDOT managers in correcting identified Title VI/Non-Discrimination problems.

PUBLIC NOTICE: A public notice of Title VI Rights (Appendix F) can be found on the KDOT website and on the official bulletin board located in the Eisenhower State Office Building. The notice contains directions on how to file a complaint. The Title VI Complaint Process and Complaint form can be found on the KDOT website. Individual transit agencies and MPOs are responsible for posting similar public information at their facilities and websites. Title VI Rights Brochures (Appendix E) also contain information how to file a complaint. The brochures are distributed at KDOT public meetings, Title VI reviews and through Local Public Agencies. In addition, the brochures can be downloaded from the KDOT website for public use.

DATA COLLECTION: The following is a list of the types of data KDOT may keep on each project or program:

- A. What services, benefits or impacts will be provided by this project or program?
- B. Who or what groups of people will be impacted by the project or program.
- C. A population breakdown by race, color, sex, national origin and income status for the affected area.
- D. Are bilingual employees needed in this area?
- E. The location of existing facilities (stores, doctor, school, public buildings, recreation, etc.) and if easy access will be limited or denied.
- F. The membership by race, sex, color, and national origin of any planning or advisory board connected to the project or program.
- G. The steps used in the relocation process.
- H. Other demographic maps, racial composition or census data about the affected area.

MONITORING AND REVIEW PROCESS: the following are examples of specific activities, which may be undertaken to monitor Title VI/Non-Discrimination issues. The Civil Rights Administrator will prioritize activities.

A. Identification of Impacts:

- 1) Assist managers in identifying Title VI/Non-Discrimination impacts on proposed projects.
- 2) Attend meetings of managers during the early development of environmental assessments of projects.
- 3) Review procedures in identifying and considering impacts of projects on communities.

B. Public Involvement:

- 1) Assist in obtaining public involvement, when applicable.
- 2) Attend meetings involving Title VI/Non-Discrimination issues.
- 3) Assist in the development of Title VI/Non-Discrimination information for the public in languages other than English, when necessary.
- 4) Review procedures and efforts in obtaining the involvement of minorities and women in public hearings. KDOT's current Public Participation Plan is called "Sharing The Future" Public Involvement in The Kansas Transportation System dated January 2011. <http://www.ksdot.org:9080/burTransPlan/pdf/SharingtheFuture.pdf>

Excerpts from "Sharing The Future":

***Summary of KDOT's Public Participation Plan (Page 45)
6.1.6 Process for Seeking Out and Considering Needs of Traditionally
Underserved Populations***

Traditionally underserved populations may include minority and ethnic groups and low-income households, women, children, poorly educated people, the elderly, and other groups who, by virtue of their culture, language, physical or mental abilities, and economic differences may experience barriers to participating in transportation decision-making. A number of resources and case studies are available from the FHWA that describe ways to seek and use the participation of traditionally underserved populations.

There are four basic steps in KDOT's process for seeking out and considering the public transportation needs of these populations. The extent to which the steps are applied will vary depending on the situation

1. Identify the population(s) using tools and activities which may include:

- a. U.S. Census Bureau data and maps*
- b. Modern Language Association website tools*
- c. Local land-use maps and appraiser data*
- d. Drive-through of a potentially affected area*
- e. Talks with local, transit, or MPO officials*
- f. Interviews with neighborhood associations, education, religious, health, or social service officials*

2. If a traditionally underserved population is identified, seek out their needs using activities such as:

- a. Personal interviews*
- b. Group or neighborhood association meetings*
- c. Interviews with health, school, law enforcement, or religious officials*
- d. Public involvement opportunities which encourage their participation*

Step Two may occur concurrently with Step One. The services of a qualified interpreter or facilitator may be necessary to communicate effectively with some individuals in this population.

3. Once needs are identified, they may be considered in one or more ways, for example:

- a. Reviewing the needs for their relevance to the project or program*
- b. Comparing the potential impacts of alternatives on the identified population*
- c. Discussing ways of addressing the needs, which can include discussions with potentially affected members of the population*

4. If relevant needs are identified, recommend solutions to address the needs, if feasible and practicable to do so.

C. Benefits and Services:

- 1) Accompany right-of-way staff to compare treatment received by all people, especially minorities and females.
- 2) Review appraisal, acquisition and relocation procedures to assure equitable benefits and services to all property owners.

See brochures:

ACQUISITION, Real Property Acquisition for Kansas Highways, Roads, Streets and Bridges.

<http://www.ksdot.org:9080/bureaus/burRow/Acquisition/AcquisitionWcover.pdf>

RELOCATION, Your Rights and Benefits as a Displaced Person under the Federal Relocation Assistance Programs, dated June 2005.

<http://www.ksdot.org/bureaus/burRow/Relocation/RelocationRevTwo508.pdf>

D. Contracting:

- 1) Review consultant selection procedures.
- 2) Review the monitoring of consultants for Title VI/Non-Discrimination compliance.

- 3) Assist in identifying minority and female appraisers.
- 4) Review contractor prequalification procedures and determine uniformity to all contractors.
- 5) Ensure monitoring procedures during construction are not discriminatory.
- 6) Ensure inclusion of Title VI/Non-Discrimination in all contracts and supply agreements.

E. Research:

- 1) Assist in identifying minority and female researchers.
- 2) Review the monitoring for Title VI /Non-Discrimination compliance by researchers.

F. Management:

KDOT managers have the following responsibilities in daily monitoring activities:

- 1) Maintain statistical data by race and sex of participants and beneficiaries of KDOT's programs.
- 2) Ensure Title VI/Non-Discrimination requirements are included in directives and that procedures used will prevent discrimination.
- 3) Advise External EEO Officer of discrimination complaints or problems.
- 4) Cooperate with Title VI/Non-Discrimination reviews and comply with report findings.

G. Sub-recipient Monitoring:

- 1) The Title VI brochure was distributed to all of the 5310/5311/5316 & 5317 transit providers. Each provider agency handed the brochure out to their passengers when they received it. All new passengers are given the brochure when they make ride inquiries at the local transit services office, or when they ride the bus. If a transit services provider updates their policies the Title VI information is included in the update & is distributed again.
- 2) The on-site review document includes questions about the Title VI brochure and the provider must respond.
- 3) Each transit services agency has a grievance procedure/complaint process that is used if a passenger makes a complaint. The process includes complaints that are made in regards to Title VI.
- 4) Demographics information for the State of Kansas is available on the KU Transportation website. There is also a question on the KDOT grant application for all 5310/5311/5316 & 5317 applicants to answer in regards to the demographics of their service area.
- 5) The Coordinated Transit Districts across the state each have a Human Services Plan that is used for planning purposes. The number of socio-economic groups and the transportation needs of the low income or minority populations are identified in the plan. Transportation gaps and the need for expanded services are also identified.
- 6) The benefits of the public transportation investment are easily identified through the grant application process and also through the required recipient reporting.
- 7) Each demand response and rural fixed route transit provider is required (effective with FTA Circular 4702.1B) to have a written Title VI program. Letters from KDOT were sent to each transit provider in April 2013. The letters included guidance and samples of a Title VI program and LEP plan. Completed Title VI plans were due back to KDOT for review by October 2013. 127 out of 139 Title VI programs have been approved by KDOT as of 1/9/2014. The remaining 12 programs have been submitted to KDOT; the content has been approved by KDOT and is awaiting approval by the transit agencies governing board.
- 8) Each of the six metropolitan planning organizations (MPOs) in the state are required to have established a Title VI Program, inclusive of a LEP Plan. Title VI Programs and LEP Plans were developed by the MPOs in 2009 and 2011 respectively. The Mid-America Regional Council (MARC), however, had previously adopted a Title VI Program in its role as a direct recipient of FTA funds. With the issuance of FTA Circular 4702.1B, a gap analysis and further guidance was provided to the MPOs in order to make updates to their programs as

appropriate. These updates were due to KDOT by December 31, 2013. KDOT staff participated in the review and development of these programs as part of the MPO planning process. To date, Title VI Program updates have been approved by five of the MPOs and are on file at KDOT. In February 2013, a new MPO, the Flint Hills MPO, was officially designated and is currently in the process of developing a Title VI Program in accordance with FTA Circular 4702.1B in order to ensure non-discriminatory practices in their planning process and activities.

REVIEWS OF CITIES AND COUNTIES:

KDOT must assure that the benefits of federal-aid programs are provided to all eligible beneficiaries on a basis that is quantitatively proportionate and qualitatively equivalent. The goal of the reviewer is to point out deficiencies and assist the recipient to achieve compliance, not to find discrimination. The US Justice Department has the legal responsibility for enforcement of Title VI/Non-Discrimination.

- A. Develop data to identify first-class cities in Kansas by population size. 10,000 would be the smallest area reviewed.
- B. Develop data to identify counties in Kansas by population size. 20,000 would be the smallest area reviewed.
- C. Identify the recipient's use of the funds (such as right-of-way, construction, etc.)
- D. Note the total population, the minority population and the distribution of the minority population.
- E. Note the significant social impact of projects.
- F. The review questionnaire should be directed to the type of activity being done with federal funds (research, engineering, etc.).
- G. Reviews should be scheduled with cities or counties utilizing federal-aid funds at the current time and with a significant minority population that could be impacted.
- H. During the review the following documents should be examined:
 - 1) Copy of the agreement between the city/county and KDOT to check for Title VI/Non-Discrimination references.
 - 2) List of consultants being utilized for federal-aid projects.
 - 3) Documentation of efforts to identify and utilize minority and female consultants, if applicable.
 - 4) Copy of the city/county consultant contracts to check for Title VI/Non-Discrimination references.
 - 5) Information on city/county effort to involve minorities and females in preliminary engineering, if applicable.
 - 6) If any deficiencies are noted, KDOT should make every effort to assist the city/county in its corrective measures.
 - 7) All review activity completed by KDOT is reported in the year-end report to FHWA each year.

REVIEWS OF CONSULTANTS:

Those subject to Title VI/Non-Discrimination review have contracts with KDOT or a city or are financed with federal-aid funds. The review will not look at employment practices, but rather an examination of specific activities to ensure nondiscrimination (to the extent possible) in the benefits and services of its contract. Priority should be given to consultants whose studies will impact high minority areas. The review should concentrate on the consultant's efforts to insure input and/or participation by those affected by the project.

REVIEWS OF METROPOLITAN PLANNING ORGANIZATIONS:

- A. Review list of documents:

- 1) Title VI plan
 - 2) Title VI Assurances
 - 3) Title VI complaint procedure
 - 4) Limited English Proficiency (LEP) plan
 - 5) ADA transition plan
- B. How the public is notified of the identity of the Title VI Coordinator in the event questions or complaints arise.
 - C. The methods used to inform the public of their rights under Title VI as it relates to the MPO's transportation planning process.
 - D. Information on the members of the MPO Policy Body and Technical Advisory Committee, method of selection and the jurisdiction each member represents.
 - E. What the total dollar amount of Consolidated Planning Grant (CPG) funds received annually by the MPO from KDOT.
 - F. Information on consultant contracts during this review period.
 - G. Efforts made to utilize DBE firms in the MPO's federally funded contracts.
 - H. Strategies for public involvement/participation.
 - I. Methods used to inform low-income and minority communities of planning efforts for transportation related services and/or improvements.
 - J. Information regarding Title VI complaints during the review period.
 - K. Describe Title VI training that was attended by MPO staff during this review period. Describe participation in any other kind of civil rights training (e.g., title and course content), and provide a list of participants by job title (e.g. supervisor, manager, etc.)
 - L. Review of Title VI plan to assure it meets all FTA Circular 4702.1B Requirements.

REVIEWS OF DEMAND AND FIXED ROUTE TRANSIT PROVIDERS:

Note: KDOT does not provide fixed route transportation. KDOT does monitor the transit providers who provide fixed routes by:

KDOT Reviews the Title VI Plan of demand and fixed route transit providers to confirm each contains the following:

- A. Title VI Assurance
- B. Title VI Notice to Public
- C. Public Participation Plan (PPP)
- D. Limited English Proficiency Plan (LEP)
- E. Title VI Complaint Procedures
- F. Title VI Complaint Form
- G. List of transit-related Title VI investigations, complaints, and lawsuits
- H. Table of membership of non-elected boards and committees (as appropriate)
- I. Copy of minutes, resolution, or other documentation showing approval of Title VI Program
- J. Title VI equity analysis (as appropriate)
- K. Service Standards (fixed route providers)
- L. Service Policies (fixed route providers)

REVIEWS OF SUB-RECEIPENTS:

Sub-recipients receiving federal funds for programs such as DBE supportive services, OJT support services and NSTI will periodically be reviewed to assure non-discrimination in their respective programs. Items to be monitored:

- A. Steps taken to ensure non-discrimination in all programs, operations and activities of the respective program.
- B. What actions are taken to improve diversity and inclusion of minorities, women and other disadvantaged individuals in their program and activities.
- C. Does the program provide taxi coupons or other transportation assistance for the elderly and citizens with disabilities?

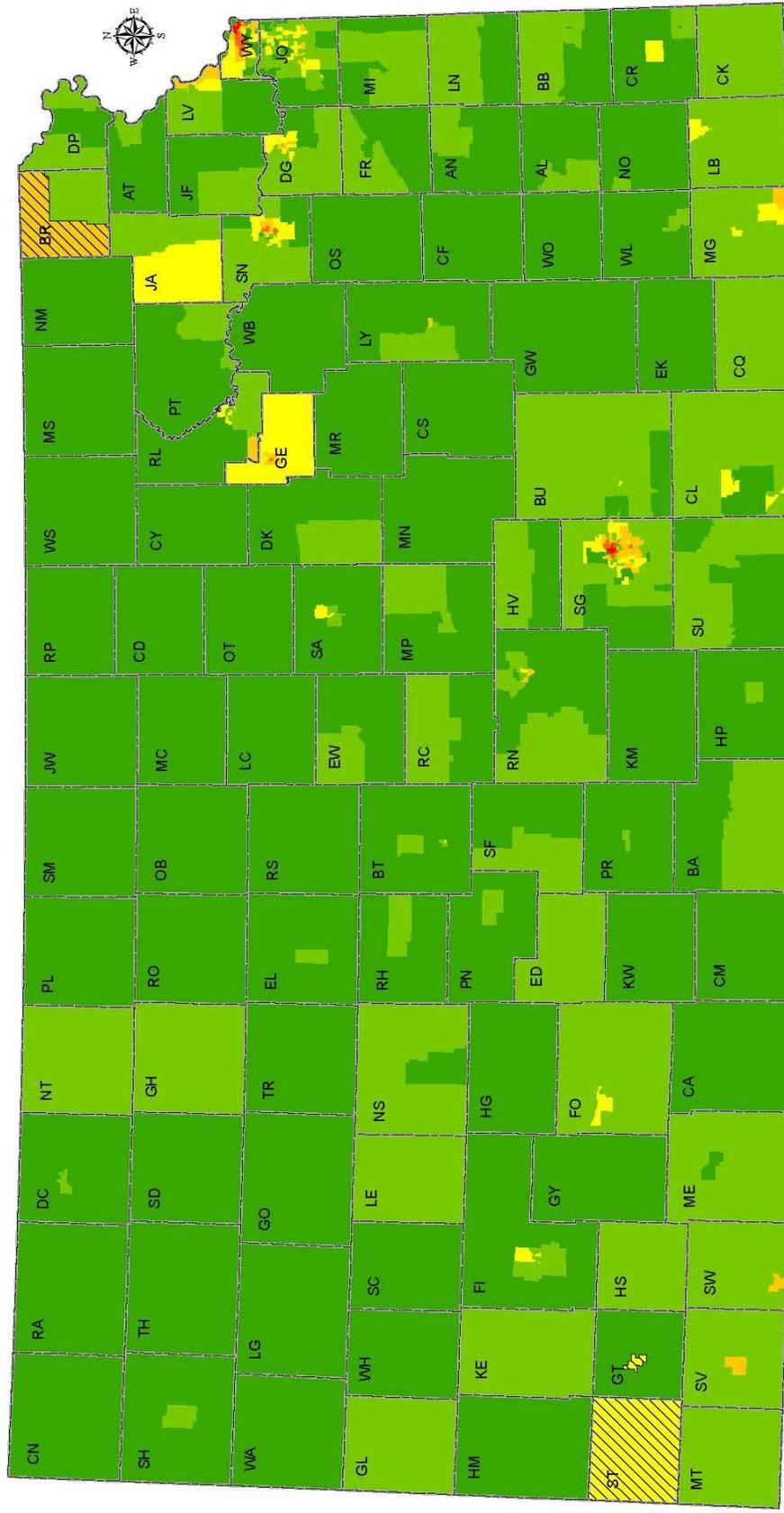
AGENCY DEMOGRAPHIC ANALYSIS OF BENEFICIARIES

KDOT keeps detailed ridership data. See Appendix D which illustrates one month of ridership information.

DEMOGRAPHIC MAP

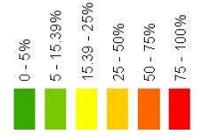
State map illustrating Above Average Minority Population Areas Without Public Transit Service.
(Next page)

Above Average Minority Population Areas Without Public Transit Service



 Above Average Minority Population Areas Without Public Transit Service

Percent Minority Population by Census Tract



PREPARED BY THE
KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF TRANSPORTATION PLANNING

MAP CREATED MONDAY, MAY 13, 2013

KDOT makes no warranties, guarantees, or representations for accuracy of this information and assumes no liability for errors or omissions.

The maps and charts being referenced in this section of the report are on 2007-2011 American Community Survey Data. The minority population is determined by aggregating all non-“white alone” populations. The average percentage of minority population in all census tracts in the state is 15.39%. All tracts that have an above average minority population for the purposes of this report will be classified as minority tracts. The map on the previous page illustrates which of the total 770 census tracts in the State of Kansas are minority tracts. As represented in Table X below, there are 257 census tracts in the state that have above average minority populations and 254 or 98.8% are served by state and federally funded public transit. The three remaining tracts that aren’t served by transit are detailed below in Table X. These census tracts are also noted on the map on the previous page.

Table X Distribution of State and Federal Funds to Minority Populations

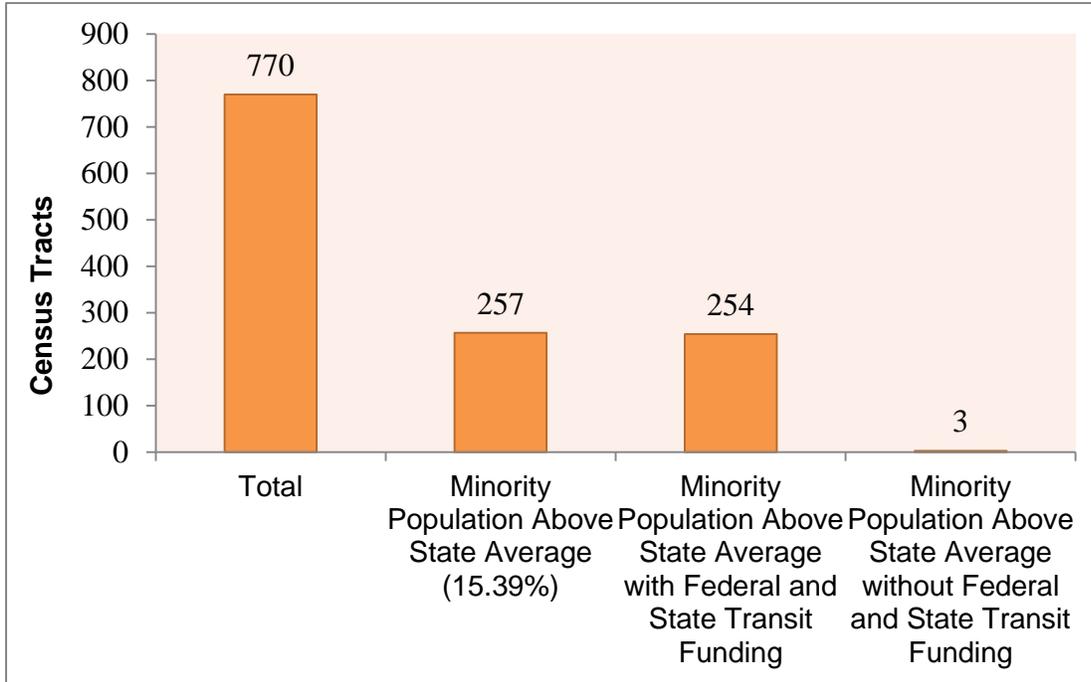


Table X Minority Tracts without State and Federally Funded Public Transit

Census Tract	Location	Total Population	Minority	Minority %	Predominant Minority Group
9637	City of Ulysses	6291	1331	21%	Hispanic
4806	North and East Brown County	2835	790	28%	American Indian
9641	Stanton County	2204	414	19%	Hispanic

Analysis of the State’s transportation systems investments:

In terms of public transit service in the State of Kansas and minority populations, there is minimal impact on minority populations. Only 3 of the 257 census tracts that have above average minority population are without state or federally funded transit programs. This is 1.2% of minority census tracts.

The Kansas Department of Transportation is currently undergoing an effort to regionalize transit throughout the state. A goal of this process is to expand transit access. As the process moves forward, transit will ideally be expanded into the minority population areas mentioned above that aren’t currently served. Also a part of this process is the identification of needs. A needs

assessment is being completed to better understand the transit needs of the citizens of Kansas. This will allow us to better understand the needs of the entire population, including minority population groups.

CONSTRUCTION PROJECTS & ENVIRONMENTAL JUSTICE

An environmental justice analysis is an integral part of our National Environmental Policy Act (NEPA) documentation on construction projects. This information can be viewed in the environmental assessment (EA) or environmental impact statement (EIS) documents.

Construction projects funded with FTA dollars that meet NEPA requirements will have an environmental justice analysis completed and submitted to FTA for review and approval. All documents will be attached to the appropriate grant in TEAM.

When KDOT initially programs a FHWA funded project, its scope, funding, schedule, and costs are estimated; and it is placed in KDOT's project program. The project's programmed scope is used to identify the proposed NEPA Class of Action under which the project would fall. The FHWA reviews the programmed scope to determine if the proposed environmental classification is appropriate, if federal aid is to be used or the project is to remain eligible for federal funding. For non-federal aid projects (Kansas funded), all determinations of the class of action are made by KDOT. The NEPA class of action can change during project development if the situation warrants. The Design Summary Memo (sent after the environmental studies and environmental documentation is complete) summarizes the project and environmental process and is copied to the FHWA. The Design Summary Memo must be approved by the FHWA (on federal aid projects) prior to KDOT completion of final design and beginning right-of-way acquisition activities.

Copies of environmental documents prepared by KDOT Design are always retained in the State Road Office. Sometimes they are also placed on the KDOT Website *Project Information Portal*.

COMPLAINT PROCESS

Any external complaints alleging discrimination, violation of civil rights or non-compliance with civil rights requirements shall receive prompt and thorough attention from KDOT. The Civil Rights Administrator should be involved at the earliest stages of any external civil rights complaints.

- A. KDOT will notify the public of its Title VI/Non-Discrimination policy, the right to file complaints of discrimination, the 180-day time limit for filing, and the avenues of appeal.
- B. KDOT will notify the FHWA or FTA of Title VI/Non-Discrimination complaints received.
- C. KDOT will process, investigate and resolve all complaints in a timely manner.

The Civil Rights Administrator has the responsibility for surveillance and review of all Title VI/Non-Discrimination, equal employment opportunity and civil rights related complaints and shall be advised of all formal complaints relating to civil rights matters and be furnished copies of all correspondence related thereto. Title VI/Non-Discrimination complaints may originate from a variety of sources but, generally, will fall within one of two categories:

- A. Complaints originated by individuals or firms alleging that they were unable to bid upon or obtain a contract with the Department for furnishing of goods and/or services with KDOT or any local government.
- B. Complaints from individuals or groups alleging discriminatory treatment resulting in loss of property, unfair compensation, inequitable benefits or other forms of hardship caused by department activities.

The Civil Rights Administrator will:

- 1) Advise upon, if necessary, and maintain surveillance over the progress, handling and disposition of any formal complaint being processed by any Office, Bureau or District, or;
- 2) Process and handle the case in its entirety, including investigation of facts and make recommendations of corrective action or other disposition to the Secretary as deemed appropriate.
- 3) Notify the complainant in writing of the finding and proposed action.
- 4) Notify the complainant of the right to bring the matter to the attention of the FHWA, FTA, DOT, Department of Justice or other appropriate federal authority.
- 5) Initiate prompt action to amend any KDOT procedure that caused a complaint and to preclude further complaints arising from the same cause.
- 6) Ensure that the investigation and resolution of discrimination complaints will take place within the time frame established by the appropriate federal agency.
- 7) Forward the department's report of investigation to the FHWA division office within 60 days from the date the complaint was received.

Date Rec'd: _____

Case No. _____

KANSAS DEPARTMENT OF TRANSPORTATION COMPLAINT FORM

Name: _____
Address: _____
City & Zip: _____
Telephone: _____

Cause of Discrimination (check one):

- | | |
|---------------------------------------|--------------------------------|
| <input type="radio"/> Race | <input type="radio"/> Religion |
| <input type="radio"/> Color | <input type="radio"/> Age |
| <input type="radio"/> National Origin | <input type="radio"/> Sex |
| <input type="radio"/> Disability | <input type="radio"/> Income |

Who discriminated against you:

Name: _____

Title: _____

Employer: _____

Explain the problem:

What would be a reasonable settlement of your charge:

I swear that the charge as listed is true to the best of my knowledge, information and belief.

(Signature)

(Date)

(County)

(State)

SUBSCRIBED AND SWORN TO before me this _____ day of _____ 20_____.

TITLE VI COORDINATORS

KDOT Title VI Specialist	Debra Hepp	Program Consultant II
Bureau of Construction and Materials	Stacey Lowe	Materials Management Engineer
Bureau of Local Projects	Ron Seitz	Bureau Chief
Bureau of Maintenance	Clay Adams	Bureau Chief
Bureau of Research	Rick Kreider	Bureau Chief
Bureau of Right of Way	Polly Jones	Land Specialist
Bureau of Road Design	Scott King	Bureau Chief
Division of Partner Relations	Leslie Gish	Human Resource Prof. II
Division of Transportation Planning	Allison Smith	Transportation Planner
District 1	Michelle Anschutz	Field Engineer Admin.
District 2	Jaci Novak	Human Resource Prof.
District 3	Travis Scott	Dist. Construction Engineer
District 4	Kristy Kelley	Comm. Affairs Mgr
District 5	Brenda Cikanek	Human Resource Prof. II
District 6	Rod Nix	Area Construction Manager

- Effective May 11, 2015

TITLE VI COORDINATOR TRAINING AND RESPONSIBILITIES

Training:

The Office of Contract Compliance will present, in conjunction with FHWA, periodic training on Title VI and Environmental Justice issues. This training course will:

- Define Environmental Justice and Title VI of the Civil Rights Act of 1964.
- Explain the relationship between Environmental Justice and Title VI.
- List and explain the fundamental principles of Environmental Justice.
- Learn how to apply the principles of Environmental Justice.
- Explain why the accomplishment of Environmental Justice applies to every stage of transportation decision making and how it improves decision making.
- Describe the benefits of Environmental Justice in transportation decision making and the opportunities for partnership among all stakeholders.
- Develop proactive strategies, methods and technique to integrate Environmental Justice in transportation decision making.

Reports:

Each year, the Office of Contract Compliance prepares a Title VI report for FHWA. Every three years, an updated Title VI Plan will be prepared for FTA. These reports serve as an assurance to FHWA, FTA and other governmental bodies that KDOT is taking measures to assure that we are not discriminating in the products or services that we provide. It includes such information as:

- KDOT's Title VI Policy
- Summarized Title VI Reviews performed on Cities, Counties, Subrecipients and MPOs and findings, if any, during the reporting period.
- Title VI Accomplishments by various areas of KDOT during the reporting period.
- Title VI Goals for various areas of KDOT for the next reporting period.
- Details of Title VI Complaints received during the reporting period and findings for each.
- ADA Coordinator report
- Limited English Proficiency (LEP) report

LIMITED ENGLISH PROFICIENCY (LEP)

Purpose

The Kansas Department of Transportation and those receiving assistance from the federal government must take reasonable steps to ensure that Limited English Proficiency (LEP) persons have meaningful access to the programs, services, and information those entities provide. This will require recipients to create solutions to address the needs of this ever-growing population of individuals, for whom English is not their primary language.

Who is a Limited English Proficient Person?

Persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP". These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter. These services are provided free of charge to the public and this notice is provided on all public meeting notices, is posted on KDOT's website, and on the official bulletin board located in the Eisenhower State Office Building.

Examples of populations likely to include LEP persons who are served or encountered by the Kansas Department of Transportation recipients and should be considered when planning language services include, but are not limited to:

- Public transportation passengers
- Persons who apply for a driver's license at the department of motor vehicles
- Persons subject to the control of Kansas or local transportation enforcement authorities
- Persons served by emergency transportation response programs
- Persons living in areas affected or potentially affect by transportation projects
- Business owners who apply to participate in the Kansas Disadvantaged Business Enterprise program

Authorities

Title VI of the 1964 Civil Rights Act

"No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

-42 U.S.C 2000d

Executive Order 13166

On August 11, 2000, President Clinton signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. It is expected that agency plans will provide for such meaningful access consistent with, and without unduly burdening, the fundamental mission of the agency. The Executive Order also requires that the Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

Who must comply?

All programs and operations of entities that receive assistance from the federal government (i.e. recipients), including:

State agencies (i.e. Kansas Dept of Transportation)

Local agencies

Private and nonprofit entities

Sub recipients (entities that receive federal funding from one of the recipients listed above) also must comply.

All programs and operations of the federal government also must comply.

Other Legal Authorities

FHWA Title VI Regulation, 23 CFR 200

USDOT Title VI Regulations, 49 CFR 21

USDOT LEP Guidelines, 70 FR 74087 (Dec. 14, 2005)

Four-Factor Analysis

KDOT has an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important transportation services. KDOT has assessed the following four factors:

Factor One: The number or proportion of LEP persons served or likely to be encountered in the eligible KDOT service population

In an effort to determine LEP persons in Kansas, KDOT collected data from several sources. Available data illustrated:

The Total Population in Kansas is 2,895,801 according to the 2013 U.S. Census Bureau. (2,665,346 are over the age of 5 years old). The 2013 Census estimates that 293,188 people, or 11% of our total population, speak a language other than English at home (population 5 years and over).

In 2013, the U.S. Census indicated there were 2,665,346 people over the age of 5 living in Kansas. Of those, the Census identified 120,275 persons (or 4.5%) who speak English less than “very well”. The languages spoken were identified as:

Spanish or Spanish Creole	85,065
Other Indo European language	7,739
Asian or Pacific Island language	23,498
Other language	<u>3,973</u>
Total	120,275

Initially we identified the seven counties with the largest number of individuals who speak English less than “very well” in Kansas to be: Sedgwick, Johnson, Wyandotte, Finney, Shawnee, Seward and Ford.

Because of previous court rulings, we wanted to also consider the fact that the following six counties in Kansas have been designated as Covered Areas for Voting Rights Bilingual Election Materials – Under the Voting Rights Act Amendments of 1992, Determinations Under Section 203 of the Federal Register/Vol. 67, No. 144/Notices.

Section 203 mandates that a state or political subdivision must provide language assistance to voters if more than 5 percent of the voting age citizens are members of a single-language minority group who do not “speak or understand English adequately enough to participate in the electoral process” and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade. When a state is covered for a particular language minority group, an exception is made for any political subdivision in which less than 5 percent of the

voting age citizens are members of the minority group and are limited in English proficiency, unless the political subdivision is covered independently. A political subdivision also is covered if more than 10,000 of the voting age citizens are members of a single-language minority group, do not “speak or understand English adequately enough to participate in the electoral process,” and the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade.

The political subdivisions obligated to comply with the language assistance provisions of Section 203 are listed below:

<u>County</u>	<u>Group</u>
Finney	Hispanic
Ford	Hispanic
Grant	Hispanic
Haskell	Hispanic
Kearny	Hispanic
Seward	Hispanic

Because of the Court’s determination of language assistance eligibility in the above counties, we have determined that it is reasonable to include these counties for transportation language assistance consideration as well. It is reasonable to conclude that those individuals who are 18 years and over and are registered to vote are also likely to be involved in the public input process of transportation planning.

Therefore, combining these two groups of counties, the counties LEP individuals are most likely to be encountered based on residence are:

Language Spoken at Home for the Citizen Population 18 years and over who Speak English Less Than “Very Well”

County	Total	Spanish/Spanish Creole	Indo European	Asian Pacific Island	Other
Sedgwick	20,655	13,023	936	6,157	545
Johnson	16,807	9,929	1,833	4,108	937
Wyandotte	15,199	13,005	285	1,587	322
Ford	5,406	5,074	8	106	218
Seward	5,248	4,754	86	265	143
Finney	5,038	4,239	46	542	211
Shawnee	4,001	3,433	146	366	56
Grant	884	866	17	0	1
Haskell	328	261	64	3	0
Kearny	273	273	0	0	0

A comparison of the languages spoken at home (18-64 years old and speak English less than very well) to the county population:

County	Total Pop. (2013 US Census)	Spanish or Sp. Creole	% of County Pop.
Finney	33,354	4,239	12.7
Ford	30,920	5,074	16.4
Grant	7,162	866	12.1
Haskell	3,942	261	6.6
Johnson	514,305	9,929	1.9
Kearny	3,648	273	7.5
Sedgwick	461,842	13,023	2.8
Seward	20,787	4,754	22.9
Shawnee	166,126	3,433	2.1
Wyandotte	144,677	13,005	9.0

County	Total Pop. (2013 US Census)	Indo European	% of County Pop.
Finney	33,354	46	.1
Ford	30,920	8	-
Grant	7,162	17	.2
Haskell	3,942	64	1.6
Johnson	514,305	1,833	.4
Kearny	3,648	0	-
Sedgwick	461,842	936	.2
Seward	20,787	86	.4
Shawnee	166,126	146	-
Wyandotte	144,677	285	.2

County	Total Pop. (2013 US Census)	Asian Pacific Island	% of County Pop.
Finney	33,354	542	1.6
Ford	30,920	106	.3
Grant	7,162	0	-
Haskell	3,942	3	-
Johnson	514,305	4,108	.8
Kearny	3,648	0	-
Sedgwick	461,842	6,157	1.3
Seward	20,787	265	1.3
Shawnee	166,126	366	.2
Wyandotte	144,677	1,587	1.2

County	Total Pop. (2013 US Census)	Other	% of County Pop.
Finney	33,354	211	.6
Ford	30,920	218	.7
Grant	7,162	1	-
Haskell	3,942	0	-
Johnson	514,305	937	.2
Kearny	3,648	0	-
Sedgwick	461,842	545	.1
Seward	20,787	143	.7
Shawnee	166,126	56	-
Wyandotte	144,677	322	.2

Based on these calculations by county and broken down by language spoken, the following counties reveal that 5 or more percent of the county does not speak English “very well” and speak a common language other than English:

Finney, Ford, Grant, Haskell, Kearny, Seward and Wyandotte

The common language spoken is Spanish or Spanish Creole.

Factor Two: The frequency with which LEP individuals come in contact with KDOT programs, activities or services

KDOT has and will continue to provide whatever services were needed to enable communications with the traveling public free of charge. Estimated future LEP Contact: approximately five contacts per year.

Factor Three: The nature and importance of program, activity or services provided by KDOT.

Safe Harbor Provision:

KDOT has identified several counties with an eligible LEP language group. The eligible LEP language group is Spanish/Spanish Creole. To provide a Safe Harbor for the affected population, KDOT has the following translated vital public documents in Spanish:

For the traveling population:
Driver safety information – DUI, texting
Motorcycle driving & safety awareness
Passenger safety information - car seats
Notice of person's rights under Title VI
Complaint information
Transit route information
Public Notice Announcements for Construction Projects

For the construction workers on federal and state funded projects:
EEO Jobsite posters
Wage rate interview questionnaire
EEO worker interview

The above referenced documents are available statewide.

KDOT has also identified the following as core documents: TIP (Transportation Improvement Program), STIP (Statewide Transportation Improvement Program) and our PPP (Public Participation Program). Because these documents are accessible on-line, translation applications such as Google Translate provide a viable option to those interested in viewing these documents in languages other than English.

KDOT employees provide timely language assistance by utilizing contracted “on-demand” telephonic interpreter services.

Transit Providers:

All transit providers are required to provide specific documents for their transit users. These documents include items such as application forms, route information, notices of route changes, etc. The providers identify their LEP population in their Title VI plan and provide language assistance as needed for their commuters free of charge.

Traffic Safety Section:

KDOT Traffic Safety Section (TSS) has determined that the minority population including the LEP drivers, in Kansas, is a High Risk segment of the driving population. To reach out to the LEP drivers and as a response to requests, TSS has taken the initiative to translate their safety messages into Spanish as they are developed and/or updated. In addition, the TSS has translated their Mission Statement, on their internet website, into Spanish.

TSS opened their Traffic Safety Resource Office in October 2007. One of their five staff is bilingual in Spanish and English. This dedicated staff reaches out to Kansas residents, including the Latino community, to further increase awareness on: traffic safety issues, education on impaired driving, motorcycle safety & awareness and novice drivers.

Internal EEO Officer:

A telephonic interpreter service is available for use when conversing with our customers who are non-English speakers. Hard copy instruction cards with Access Codes were mailed to all locations in the districts. Electronic copies of these cards were e-mailed to the contacts in the Districts and Bureaus. This service is available 24 hours per day, 7 days per week, and 365 days per year.

If a Sign language interpreter is requested, the agency contacts the Kansas Commission for the Deaf and Hard of Hearing for assistance in locating an interpreter.

Braille transcription services and production of brochures in Braille is available to KDOT through the State Library of Kansas for those visually impaired.

The Office of Contract Compliance:

The Office of Contract Compliance monitors the job-site posters on KDOT construction projects. This office maintains a limited inventory of these posters and the majority are available in both English and Spanish. These posters are provided to contractors during pre-construction meetings and on an “as-needed” basis.

Bureau of Right Of Way

KDOT takes whatever measures are needed to work with the public that the staff in Right of Way (ROW) encounters in administering the Relocation Assistance Program. Typically, it has not been necessary to hire an outside translator because ROW has always been able to utilize a KDOT staff member that is bilingual or the constituent has had a family member or friend who was able to assist in translation.

The KDOT ROW utilizes an informational brochure that describes the rights and benefits of a person being displaced. The brochure: *“RELOCATION Your Rights and Benefits as a Displaced Person Under the Federal Relocation Assistance Program”* is available in English and Spanish.

KDOT ROW staff is trained to communicate in the simplest level to those they are working with especially with persons who may be relocated or otherwise displaced. If information is needed in Spanish or other language, ROW will consult with FHWA, HUD and other state ROW departments to find whatever tool or service is needed.

Bureau of Construction and Materials

KDOT takes whatever actions are needed to address communication problems as they are encountered. Increasingly, contractors working on KDOT projects have crews that consist of persons who speak a language other than English. Most often, they speak Spanish. KDOT relies on that contractor’s foreman or supervisor to assist with translation. Telephonic interpreter services can also be utilized whenever needed.

KDOT recognizes the higher likelihood of encountering Spanish speaking individuals in District 6 (See Seward County) and provides a Safe Harbor by making Public Announcements for Projects in both English and Spanish. Spanish interpreters are available to assist whenever needed or requested.

The Flagger Handbook is available and provided to contractor’s personnel in both English and Spanish.

Factor Four: The resources available to recipient and costs.

Utilization of State contract for telephonic interpreter services.

The State of Kansas has a contractor who will provide telephonic interpreter services for use when conversing with our customers who are non-English speakers.

In addition to telephone interpreter services, on-location interpretation and document translation are also available free of charge.

Cost to KDOT: Over the phone interpreter, \$1.09 per minute for Spanish and \$1.39 per minute for other languages. Onsite translation and/or interpretation, \$49.00 per hour for Spanish and \$59.00 per hour for other languages.

Utilization of in-house print shop to print brochures in languages other than English.

Types of items printed: Various EEO posters printed in Spanish for distribution at Pre-Construction meetings for posting on contractor's project bulletin boards. Title VI "Your Rights" brochures printed in Spanish for distribution at public meetings, public hearings, and informational kiosks at city and county municipalities.

Cost: Little or no additional cost other than the standard cost of printing of the brochure, poster or document.

Public Transportation Safety Messages translated into languages other than English.

There is an initial cost when a new document is translated into a language other than English. Generally, a contractor is selected for this service and that cost is considered when the work RFQ is proposed.

Printing cost: there is little or no additional cost other than the standard cost of printing of the safety message.

Public Announcements translated into languages other than English.

Whenever public meetings or hearings are planned for community with an increased likelihood that individuals who speak a language other than English are encouraged to attend, public announcements will be published in English and in the language deemed most likely to be encountered for that community. For example, Notices published in English and Spanish.

Cost: The advertising cost is generally doubled because most advertising is sold by the linear inch and the Notice is essentially being repeated.

KDOT Learning Center Courses.

KDOT has an on-line course to teach Construction Spanish. The course contains 17 different modules and is available agency-wide.

Cost: Available at no cost to KDOT employees.

Construction Spanish Dictionary

Small pocket sized dictionary with construction words and phrases in both English and Spanish. SPANISH ENGLISH CONSTRUCTION DICTIONARY 2ND EDITION.

Cost: Available through the Associated General Contractors of America (AGC) Item #5099 \$23.95 to members; \$53.85 to non-members; and Kansas Contractors Association (KCA) \$17.96 to members.

Sign Language Interpreter

Contact the Kansas Commission for the Deaf and Hard of Hearing.

Cost: Hourly rate plus mileage

Braille Services

The State Library of Kansas provides Braille transcription and production services for state agencies that need their brochures or other shorter documents printed in Braille.

If the State Library of Kansas is not able to do the transcription, a list of referrals to other organizations can be provided.

Cost: No cost to agency for basic brochures or shorter documents. There may be material costs for larger documents. KDOT will contact the State Library of Kansas for details when needed.

Hearing and/or speech Disabilities

The Kansas Relay Center facilitates communication with Kansans that have hearing and/or speech disabilities. These persons communicate with a telecommunications device for the deaf (TDD), a combination telephone/typewriter that enables the individual to type out his or her portion of the conversation. Other forms of TDDs include teletypewriters and compatible personal computers with modems.

Cost: Both speech/hearing disabled and hearing Kansans can access the Kansas Relay Center by calling a toll free number.

Monitoring

1. Data collection at KDOT:
 - A. The Office of Contract Compliance will monitor usage of telephonic interpreter services utilized for interpretation or translation. Information to be tracked can include: Office or department requesting the service, what service was requested, time involved and cost.
 - B. Title VI Coordinators will report occurrences of contact with LEP individuals in their respective district or bureau.

This data will be included in annual LEP Plan updates.

2. Periodically assessing changes in:
 - A. Current LEP populations in Kansas affected or encountered
 - B. Frequency of encounters with LEP language groups
 - C. Nature and importance of activities to LEP persons
 - D. Availability of resources, including technological advances and sources of additional resources, and the costs imposed
 - E. Whether existing assistance is meeting the needs of LEP persons
 - F. Whether KDOT staff knows and understands the LEP plan and how to implement it
 - G. Whether identified sources for assistance are still available and viable.
3. Complaint Procedure
 - A. Individuals wishing to file an LEP complaint may use KDOT Form Number 1001 "Kansas Department of Transportation Complaint Form".
 - B. LEP complaints will be processed following the complaint procedure established for discrimination complaints.

LEP Training

1. Periodically, approximately every three years, the Office of Contract Compliance provides Civil Rights training for field construction staff. This training includes a segment on Title VI and LEP.
2. Annually KDOT Office of Contract Compliance personnel attend construction and maintenance district meetings. They briefly touch upon Title VI topics and are available to answer any civil rights questions from the field personnel.
3. Title VI Coordinators throughout the agency receive periodic in-depth Title VI training.

APPENDICES

APPENDIX A

2013 HHS Poverty Guidelines

Persons in Family or Household	48 Contiguous States and D.C.	Alaska	Hawaii
1	\$11,490	\$14,350	\$13,230
2	15,510	19,380	17,850
3	19,530	24,410	22,470
4	23,550	29,440	27,090
5	27,570	34,470	31,710
6	31,590	39,500	36,330
7	35,610	44,530	40,950
8	39,630	49,560	45,570
For each additional person, add	4,020	5,030	4,620

SOURCE: *Federal Register*, Vol. 78, No. 16, January 24, 2013, pp. 5182-5183

Standard U.S. Department of Transportation Title VI Assurances

The State of Kansas (hereinafter referred to as the “Recipient”) HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation and the Federal programs including the Federal Highway Administration, Federal Transit Administration and Federal Aviation Administration, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation Sub Title A, Office of the Secretary, Part 21, nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures (hereinafter referred to as the Regulations) and other pertinent nondiscrimination authorities and directives, to the end that in accordance with the Act, Regulations, and other pertinent nondiscrimination authorities and directives, no person in the United States shall, on the grounds of race color, or national origin, sex (23 USC 324), age (42 USC 6101) disability/handicap (29 USC 790) and low income status (Executive Order 12898) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, Federal Transit Administration and Federal Aviation Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Title 49 Code of Federal Regulations, subsection 21.7(a)(1) and Title 23 Code of Federal Regulations, section 200.9(a)(1) of the Regulations, copies of which are attached.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal-Aid Highway, Transit and Aviation Programs:

1. That the Recipient agrees that each “program” and each “facility as defined in 49 CFR subsections 21.23(e) and 21.23(b) and 23 CFR 200.5(k) and (g) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with the Federal-Aid Highway and, in *Programs* adapted form in all proposals for negotiated agreements:

The State of Kansas in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Sub Title A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, issued pursuant to such Act, hereby notifies all bidden that it will affirmatively insure that in any contact entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin, sex, age, disability/handicap and low income status in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to right to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under Federal-Aid

Highway, Transit or Aviation Programs; and (b) for the construction or use of or access to space on over or under real property acquired, or improved under Federal-Aid Highway, Transit or Aviation Programs.

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

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

Dated 12/28/2015

Michael King
Secretary of Department of Transportation
Director of Kansas Turnpike Authority
State of Kansas

Attachments: Appendices A, B, C, D, E

APPENDIX A

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

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulations relative to the nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, disability/handicap and low income status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, 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, reach potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, disability/handicap and low income status.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources or information, and its facilities as may be determined by the (*Recipient*) or the FHWA, FTA or FAA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the (*Recipient*), or the FHWA, FTA or FAA as appropriate, and shall set forth what efforts it has made to obtain the information.

- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the (*Recipient*) shall impose such contract sanctions as it or the FHWA, FTA or FAA may determine to be appropriate, including, but not limited to:
- (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b) Cancellation, termination or suspension of the contractor, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as the (*Recipient*) or the FHWA, FTA or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the (*Recipient*) to enter into such litigation to protect the interests of the (*Recipient*), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

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

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the (*Recipient*) will accept Title to the lands and maintain the project constructed thereon, in accordance with K.S.A.68-401 et Seq. the Regulations for the Administration of the Department of Transportation, and also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub Title A, Office of the Secretary, Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statues (hereinafter referred to as the Regulations) pertaining to and effectuating the provision 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 Kansas Department of Transportation all the right, Title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

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

The Kansas Department of Transportation, in consideration or the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, sex, age, disability/handicap and low income status, 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 Kansas Department of Transportation shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub Title A, Office of Secretary, Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.*

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

APPENDIX C

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

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub Title A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

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

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

[Include in deed.]*

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

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

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his 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, sex, age, disability/handicap and low income status shall 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, sex, age, disability/handicap and low income status, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub Title A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

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

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

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

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, Kansas Department of Transportation shall have the right to reenter said land and facilities there-on, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of Kansas Department of Transportation and its assigns.

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

APPENDIX D

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

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

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the

benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, 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 of the above Non-discrimination covenants, (**Title of Recipient**) will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, (**Title of Recipient**) will there upon revert to and vest in and become the absolute property of (**Title of Recipient**) and its assigns.*

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

APPENDIX E

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

- **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 U.S.C. § 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 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.*).

FHWA FORM 1273
Required Contract Provisions
Federal-Aid Construction Contracts

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Payment of Predetermined Minimum Wage
- V. Statements and Payrolls
- VI. Record of Materials, Supplies, and Labor
- VII. Subletting or Assigning the Contract
- VIII. Safety: Accident Prevention
- IX. False Statements Concerning Highway Projects
- X. Implementation of Clean Air Act and Federal Water Pollution Control Act
- XI. Certification Regarding Debarment, Suspension Ineligibility, and Voluntary Exclusion
- XII. Certification Regarding Use of Contract Funds for Lobbying

Attachments

- A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.
3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.
4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:
Section I, paragraph 2;
Section IV, paragraphs 1, 2, 3, 4, and 7;
Section V, paragraphs 1 and 2a through 2g.
5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.
6. **Selection of Labor:** During the performance of this contract, the contractor shall not:
 - a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or
 - b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the

Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for

employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. Training and Promotion:

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

- a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union

and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.

- d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement

providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the contractor shall document the following:

1. The number of minority and non-minority group members and women employed in each work classification on the project;

2. The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;

3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

4. The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. General:

- a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.
- b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.
- c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

- a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.
- b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:
 1. the work to be performed by the additional classification requested is not performed by a classification in the wage determination;
 2. the additional classification is utilized in the area by the construction industry;
 3. the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 4. with respect to helpers, when such a classification prevails in the area in which the work is performed.
- c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the

views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:

- a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.
- b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

a. Apprentices:

1. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.
2. The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.
3. Every apprentice must be paid at not less than the rate specified in the registered program

for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

4. In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

1. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the

predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.

2. The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

3. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

4. In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. **Helpers:**

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. Apprentices and Trainees (Programs of the U.S. DOT):

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

6. Withholding:

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or

any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours

worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally--assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

- a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers and guards working at the site of the work.
- b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not,

normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

- c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required being maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing

Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

1. that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

2. that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;

3. that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative Furnish materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

d. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards

and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related

project submitted for approval to the Secretary of Transportation; or Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat.355), as amended and supplemented; Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.) By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed there under.
3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. Instructions for Certification - Primary Covered Transactions:

(Applicable to all Federal-aid contracts - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier

covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tiers covered transactions and in all solicitations for lower tier covered transactions.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b. Have not within a 3-year period preceding this proposal been convicted of or had a civil

judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

e. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Covered Transactions:

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tiers covered transactions and in all solicitations for lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

3. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions:

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

- 1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering

into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT PREFERENCE FOR APPALACHIAN CONTRACTS

(Applicable to Appalachian contracts only.)

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the sub-region, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 4 below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which he estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, he shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment

Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within 1 week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph 1c above.

5. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

APPENDIX D Ridership Summary

The table below illustrates the ridership of all public transportation programs from SFY2010 through SFY2013 that utilize FTA funding administered by KDOT. This includes 5310 Elderly and Disabled, 5311 General Public Transportation, 5316 Job Access and Reverse Commute, and 5317 New Freedom programs. These numbers do not include urban area ridership figures. Over the past three years ridership numbers have been trending upward and are projected to reach near three million in SFY2014.

KDOT Public Transportation Ridership Summary SFY2010 - 2013				
Year	SFY2010	SFY2011	SFY2012	SFY2013
Ridership	2,910,615	2,815,125	2,891,650	2,947,032
% Change	-	-3.4%	2.6%	1.9%

The Office of Public Transportation collects monthly ridership data for each federally funded vehicle in the program. This data is organized in a database containing a breakdown of trip type, vehicle mileage, and cost. An example of one month's data for a single agency is listed below. For more detailed information in regards to public transportation ridership for programs administered by KDOT, contact the Office of Public Transportation.

Veh ID#	Funding Source	Used As	CTD #	ORGANIZATION	RIDERSHIP				ENDING				VOLUNTEER DRIVEN	
					ELDERLY	HCP	PUBLIC	TOTAL	MILEAGE	ODOMETER	COST	INCOME	DRIVERS	HOURS
7679	5311	5311	13	FUTURES UNLIMITED	61	166	23	250	3,262	79,825	\$4,712.40	\$528.00	0.00	94.00
1651	5309	5311	13	FUTURES UNLIMITED	16	91	15	122	1,330	64,182	\$436.86	\$67.00	0.00	42.50
1546	5311	5311	13	FUTURES UNLIMITED	144	331	182	657	1,924	47,625	\$5,602.82	\$1,338.10	0.00	154.00
4326	5311	5311	13	FUTURES UNLIMITED	88	429	204	721	2,147	22,773	\$5,201.56	\$628.00	0.00	126.75
7231	5311	5311	13	FUTURES UNLIMITED	21	156	63	240	496	100,183	\$4,188.18	\$246.50	0.00	42.75

WHAT CAN I DO ABOUT DISCRIMINATION ?

A person may file a complaint with the Kansas Department of Transportation. All complaints will be referred to the Civil Rights Officer, who will evaluate and refer the complaint to the appropriate program area. Every effort will be made to resolve the complaint as quickly as possible.

WHO MAY FILE A COMPLAINT?

Any person who feels he or she has been subject to discrimination because of race, color, age, national origin, sex, disability, veteran or low income status.

WHEN SHOULD I FILE A COMPLAINT?

You should file a complaint within 180 days following the discriminatory action.

HOW TO FILE A COMPLAINT?

Contact the Office of Contract Compliance in writing or by phone to request assistance in filing your complaint.

Kansas Department of Transportation Office of Contract Compliance

700 SW Harrison, 3rd Floor West
Topeka, Kansas 66603-3754
Phone: 785-296-7940
Fax: 785-296-0723
Or visit us on the web at:
www.ksdot.org

or

Office of Public Transportation
Phone: 785-296-4907
Fax: 785-296-0963

This information is available in alternative accessible formats. To obtain an alternative format, contact the KDOT Bureau of Transportation Information, Eisenhower Building, 700 SW Harrison, 2nd Floor West, Topeka, KS, 66603-3754, or (785) 296-3585 (Voice)/Hearing Impaired - 711.



EQUAL OPPORTUNITY AND CIVIL RIGHTS INFORMATION (INCLUDING TITLE VI)

KANSAS DEPARTMENT OF TRANSPORTATION OFFICE OF CONTRACT COMPLIANCE & OFFICE OF PUBLIC TRANSPORTATION May 2013 EXTERNAL CIVIL RIGHTS COMPLAINT PROCESS

THE ASSURANCE:

The Kansas Department of Transportation, as a recipient of federal funds for programs, has given the assurance that within

daily operations, KDOT will not discriminate against any person on the basis of race, color, national origin, sex, age, disability, veteran or low income status.

THE LAWS:

Title VI of the Civil Rights Act of 1964 as amended and 49 CFR Part 21 prohibit discrimination based on race, color and national origin in all federal-aid programs.

Sex discrimination is also prohibited by Section 162 (a) of the Federal-Aid Highway Act of 1973. Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 (see 49 CFR 27) prohibit discrimination based on disability and The Age Discrimination Act of 1975 (42 USC 6101) prohibits discrimination based on age.

The basic philosophy of the laws is that people affected by transportation programs should receive the services, benefits, and opportunities to which they are entitled with no differences

because of race, color, national origin, age, sex, disability, veteran or low income status.

WHAT IS DISCRIMINATION ?

An intentional or unintentional act which subjects a person or a group to unequal treatment under a transportation program. Everyone, no matter what their race, sex, color or national origin, age, disability, veteran or low income status should be treated fairly and equally in all matters relating to transportation.

EXAMPLES OF PROHIBITED DISCRIMINATORY ACTS:

1. Public meetings that are held at hard-to-reach or inaccessible sites or at times when most affected people are working.
2. Zoning changes that would lower the quality of life in a neighborhood.
3. Unequal payments offered or paid for similar properties.

4. Unequal relocation assistance or housing payments.

5. New housing that is not equal to the property replaced.

6. No effort made to locate minority or women contractors, consultants or researchers for transportation projects.

7. Minority and women contractors not notified about highway projects to be let for bid.

8. A neighborhood loses access to stores, services, medical offices, churches, recreation or transportation due to highway construction.

9. Property value decreases or increases in unequal ways due to highway construction.

10. Minority neighborhood roads that are not as well-maintained as those in non-minority areas.

11. Environmental impact is more severe on a minority or low income neighborhood as compared to a higher valuation area.

Notifying the Public of Rights Under Title VI
**Kansas Department of
Transportation**

- The Kansas Department of Transportation (KDOT) operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with KDOT.
 - For more information on KDOT's civil rights program, and the procedures to file a complaint, contact 800-854-3613; (Hearing Impaired 711); email civilrights@ksdot.org; or visit our administrative office at 700 SW Harrison Street, 3rd Floor West, Topeka, Kansas 66603. For more information, visit www.ksdot.org
- A complainant may file a complaint directly with the U.S. Department of Transportation by filing a complaint with the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590
- If information is needed in another language, contact 800-854-3613.