

SUBJECT: TITLE VI COMPLAINT PROCEDURE

ADOPTED DATE:

PAGE 1 OF 1

---

This policy outlines the complaint procedure to assure under Title VI of the Civil Rights Act of 1964 and Civil Rights Restoration Act of 1987 that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, disability or handicap, and income status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by Cass County, its recipients, sub-recipients, and contractors.

Since Cass County is a recipient of Federal aid funding for road projects, it must be compliant with Title VI. The complaint procedure is outlined and attached as part of this policy.

HISTORICAL REFERENCE DATE: MARCH 21, 2011

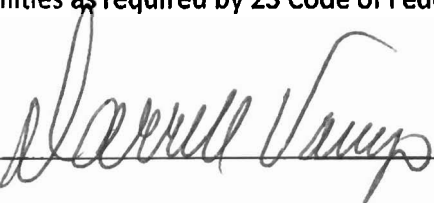
**CASS COUNTY  
TITLE VI AND NON-DISCRIMINATION POLICY STATEMENT**

Cass County hereinafter referred to as the "LPA" is committed to compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and all related regulations and statutes. The LPA assures that no person or groups(s) of persons shall, on the grounds of race, color, sex, age, national origin, disability/handicap, and income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the LPA, regardless of whether those programs and activities are federally funded or not.

The LPA also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies, and activities on minority and low-income populations. In addition, the LPA will provide meaningful access to services for persons with Limited English Proficiency.

In the event the LPA distributes federal-aid funds to a subrecipient, the LPA will include Title VI language in all written agreements and will monitor for compliance.

The LPA's Title VI Coordinator (Name of Person, Title, phone, mail, and email address) is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21.

  
\_\_\_\_\_  
Signature

Chairman, Cass County Commission  
\_\_\_\_\_  
Title

Title

3-21-2011  
\_\_\_\_\_  
Date

Date

# CASS COUNTY

## TITLE VI COMPLAINT PROCEDURE

### SCOPE OF TITLE VI COMPLAINTS

The scope of Title VI covers all external Cass County activities. Adverse impacts resulting in Title VI complaints can arise from many sources, including advertising, bidding, and contracts.

Complaints can originate from individuals or firms alleging inability to bid upon or obtain a contract with Cass County for the furnishing of goods and/or services. Examples include advertising for bid proposals; prequalification or qualification; bid proposals and awards; selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.

Complaints can originate as a result of project impacts on individuals or groups. For example, social and economic, traffic, noise, air quality, access, accidents, and failure to maintain facilities.

### FORMAL TITLE VI COMPLAINT PROCEDURE

Cass County Title VI Policy assures that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, and disability or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by Cass County, its recipients, subrecipients, and contractors. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on income status.

Cass County uses the following detailed, internal procedures for prompt processing of all Title VI complaints received directly by it. These procedures include but are not limited to:

Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with Cass County. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of Cass County programs for it to be considered and processed as an allegation of a discriminatory practice.

2. The complaint **must** be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. Cass County Title VI Complaint Form **must** be used.

3. The complaint may also be filed with the Secretary, U. S. Department of Transportation, Room 4132, 400 Seventh Street, Southwest, Washington, D.C. 20590. The complaint **must** be filed, in writing, no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary, U. S. Department of Transportation.
4. Immediately, upon receipt of a Title VI complaint, Cass County determines a course of action. Possible courses of action include:
  - a. Title VI complaints filed against Cass County are referred to the North Dakota Department of Transportation (NDDOT) for processing. NDDOT notifies the Federal Highway Administration (FHWA) Division Office of the complaint.
  - b. Title VI complaints filed against Cass County recipients and subrecipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed by Cass County in accordance with FHWA approved complaint procedures, as required under 23 Code of Federal Regulations Part 200. NDDOT is available to provide assistance.
    - (1) A copy of the complaint, together with a copy of Cass County's report of the investigation and recommendations, are forwarded to the FHWA Division Office, 1471 Interstate Loop, Bismarck, ND 58503, within sixty (60) days of the date the complaint was received by Cass County.
    - (2) A copy of the complaint, together with a copy of Cass County's report of the investigation and recommendations, are provided to NDDOT, Local Government Division, 608 East Boulevard, Bismarck, ND 58505-0700, for informational purposes only.
    - (3) The FHWA Headquarters Office of Civil Rights makes the final agency decision.
5. Cass County reviews and determines the appropriate action regarding every complaint. Cass County will recommend to the FHWA Division Office, with a copy to NDDOT, not to proceed with or continue a complaint investigation if:
  - a. **The complaint is, on its face, without merit.**
  - b. The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions.
  - c. The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.

6. If an investigation is to be initiated, Cass County determines the method of investigation and who will conduct the investigation.
7. The entire investigation process, including the submission of the final report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT, is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by Cass County.
8. Cass County acknowledges receipt of the allegation(s) within ten (10) working days. The complainant is notified of the proposed action to be taken to process the allegation(s). The notification letter contains:
  - a. **The basis for the complaint.**
  - b. A brief statement of the allegation(s) over which Cass County has jurisdiction.
  - c. A brief statement of Cass County jurisdiction over the recipient to investigate the complaint; and
  - d. An indication of when the parties will be contacted.
  - e. Depending on the nature of the complaint, the complaint will be referred to the following for final decision:
    - (1) Federal Highway Administration (FHWA)
    - (2) U. S. Department of Justice (USDOJ)
9. Cass County also notifies the FHWA Division Office, with a copy to NDDOT, within ten (10) calendar days of receipt of the allegations. The following information is included in the notification to FHWA:
  - a. **Name, address, and phone number of the complainant.**
  - b. Name(s) and address(es) of persons alleged to have been involved in the act.
  - c. Basis of alleged discrimination (i.e., race, color, sex, age, national origin, disability/handicap, or income status).
  - d. Date of alleged discriminatory act(s).
  - e. Date complaint was received by Cass County.
  - f. A brief statement concerning the nature of the complaint.

- g. Other agencies (federal, state, or local) with which the complaint has been filed.
  - h. An explanation of the actions Cass County proposes to take to resolve the issues raised in the complaint.
10. The investigation consists of an in-depth, personal interview with the complainant(s). Information gathered in this interview includes but is not limited to: identification of each complainant by race, color, sex, age, national origin, disability/handicap, or income status; name of the complainant; a complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint; the date the complaint was filed; and any other pertinent information the investigator(s) feels is relevant to the complaint. The interview(s) is recorded, either on audio tape or by an investigator taking notes. The investigator(s) arranges for the complainant to read, make necessary changes to, and sign the interview transcript or interview notes.
  11. Following the interviews, the investigator(s) develops a report of the investigation and recommendations based on the facts. The report contains the investigator's(s') findings, conclusions concerning each issue raised in the complaint, and recommendations for corrective action. The report is the last document prepared by the investigator(s). Any other actions taken as a result of the investigator's(s') findings and conclusions are the responsibility of Cass County management.
  12. The complainant receives a letter from Cass County detailing the findings and any recommendations for corrective action to be taken based on the facts. All issues in the complaint are addressed. The complainant is informed that the final determination is made by the FHWA Headquarters Office of Civil Rights.
  13. Cass County forwards the report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT. Included with the report is a copy of the complaint, copies of all documentation pertaining to the complaint, the date the complaint was filed, the date the investigation was completed, and any other pertinent information.
  14. The FHWA Headquarters Office of Civil Rights makes the final agency decision.

#### **INFORMAL TITLE VI COMPLAINT PROCEDURE**

1. Title VI complaints may be resolved by informal means. When informal means are used, the complainant is informed of his or her right to file a formal written complaint.
2. Any complaint received in writing is considered to be a formal complaint and is handled under the formal complaint procedure outlined above.

3. Cass County periodically informs NDDOT of the status of all informal complaints.
4. When a complaint has been directly filed with another federal or state agency, Cass County is to be informed by the agency where the complaint has been filed and is to take whatever action is needed to resolve the complaint.

**CASS COUNTY  
TITLE VI AND NON-DISCRIMINATION POLICY STATEMENT**

Cass County hereinafter referred to as the "LPA" is committed to compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and all related regulations and statutes. The LPA assures that no person or groups(s) of persons shall, on the grounds of race, color, sex, age, national origin, disability/handicap, and income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the LPA, regardless of whether those programs and activities are federally funded or not.

The LPA also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies, and activities on minority and low-income populations. In addition, the LPA will provide meaningful access to services for persons with Limited English Proficiency.

In the event the LPA distributes federal-aid funds to a subrecipient, the LPA will include Title VI language in all written agreements and will monitor for compliance.

The LPA's Title VI Coordinator (Name of Person, Title, phone, mail, and email address) is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21.

---

Signature

---

Title

---



**North Dakota Department of Transportation**  
**Title VI Pre-Bid Checklist**  
 October 30, 2010

Name of Local Public Agency: \_\_\_\_\_

**Title VI Pre-Bid Checklist:** All Local Public Agencies (LPA's) will be required to complete, sign, and return this checklist to the North Dakota Department of Transportation (NDDOT), Local Government Division prior to project approval. Compliance with these requirements is necessary to assure non-discrimination in LPA transportation projects. This check list also serves as a preview as to the processes, procedures, policies, and documentation that must be in place prior to project authorization. Copies of this information must be provided either in the annual compliance report or during a Title VI audit.

This checklist covers a reporting period of the most recent July 1 to June 30 period. If the LPA is selected to be audited, this is the reporting period that will be audited. A "No" answer does not necessarily mean the LPA is in "non-compliance." A compliance or non-compliance determination will be made by the NDDOT after submittal of this checklist.

**EMPLOYMENT**

**Yes    No**

- |  |     |     |
|--|-----|-----|
| 1. Can the LPA produce a current copy of the Annual EEO-4 Report on employees? <i>(NOTE: People who are compensated for serving as members of commissions, councils, boards or committees are considered LPA employees.)</i> | ___ | ___ |
| 2. Can the LPA produce a list showing members of commissions, councils, boards or committees, by race and sex?   | ___ | ___ |
| Does the list show if the members are appointed or elected?  | ___ | ___ |
| Is equal opportunity considered when appointments are made?  | ___ | ___ |
| 3. Are recruiting opportunities for both vacancies and promotions documented?  | ___ | ___ |
| Does the documentation include race and sex of the applicants?   | ___ | ___ |
| Does the documentation include race and sex of the persons hired or promoted?  | ___ | ___ |
| Are recruitment efforts made to hire minority or female applicants?<br><u>If yes</u> , are these efforts documented?   | ___ | ___ |
| Are vacancies advertised both internally and externally?   | ___ | ___ |

**TITLE VI PLAN, ASSURANCES, AND POLICY STATEMENT**

Yes No

4. Does the LPA have a Title VI Plan? \_\_\_\_\_

Can the LPA provide documentation demonstrating dissemination of the Title VI Plan both internally to employees and externally to the public? \_\_\_\_\_

Does the LPA have a Title VI Coordinator? \_\_\_\_\_

Is the Title VI Coordinator's name, address, phone number and email address posted both internally and externally? \_\_\_\_\_

If appropriate, based on the demographics of the communities the LPA serves, can the LPA provide documentation demonstrating that the policy was disseminated in languages other than English? \_\_\_\_\_

Is the Title VI Plan posted in any other language? \_\_\_\_\_

**LIMITED ENGLISH PROFICIENCY**

Yes No

5. Does the LPA have a Limited English Proficiency (LEP) plan? \_\_\_\_\_

Using the most current data (US Census or North Dakota census data) can the LPA provide the population demographics within their jurisdiction? \_\_\_\_\_

- Resources:
  - See [www.lep.gov](http://www.lep.gov) Click on "Resources" for numerous planning tools, specifically "Accessing and Using Language Data from the Census Bureau" and "Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance"
  - See [www.census.gov](http://www.census.gov)
  - See also [www.dpi.state.nd.us](http://www.dpi.state.nd.us) Click on "Programs & Services," then click on "Bilingual & Language Acquisition Programs," then click on "Title III Information," then click on "List of English Learners by Regional Education Cooperatives for Limited English Proficient," statistics for youth.

Has the LPA conducted any activities and/or studies that provide data relative to minority persons, neighborhoods, income levels, physical environment and travel habits within the LPA? \_\_\_\_\_

If yes, can the LPA provide documentation? \_\_\_\_\_

Has anyone else conducted a study that covers the LPA's jurisdiction? \_\_\_\_\_

If yes, can the LPA provide documentation? \_\_\_\_\_

**PUBLIC OUTREACH**

Yes No

6. Can the LPA provide documentation describing any public outreach activities related to activities conducted for federally funded transportation project(s) undertaken during the reporting period? *(For example: public announcements*

and/or communications for meetings, hearings, and project notices directed by an LPA representative?)

\_\_\_ \_\_\_

Were special language needs assessed?

\_\_\_ \_\_\_

If yes, can the LPA provide documentation listing the special language needs assessment(s) conducted and examples of those assessment(s)?

\_\_\_ \_\_\_

Were outreach efforts made to insure that minority, women, elderly, disabled low income, and Limited English Proficiency population groups were provided equal opportunity to participate in any outreach activities? (For example: provided written materials in languages other than English, met with local social services agencies, or advertised in a minority publication.)

\_\_\_ \_\_\_

When special language services are requested, can the LPA provide a list of these services to include: the service provided, date, number of persons served, and any other relevant information?

\_\_\_ \_\_\_

Are demographics gathered from attendees at public meeting, hearing, etc?

\_\_\_ \_\_\_

Can the LPA provide documentation regarding the demographics gathered?

\_\_\_ \_\_\_

Do public meeting ads, public notices, or posters have a contact person and number, for attendees to contact, when accommodations are needed?

\_\_\_ \_\_\_

**CONTRACTS AND AGREEMENTS**

**Yes No**

7. During the reporting period, were all federally funded transportation projects bid through NDDOT bid process?

\_\_\_ \_\_\_

If yes, skip to Question 10.

8. Do contracts, let through the LPA bidding process, contain the required Title VI statements similar to those bid through the NDDOT?

\_\_\_ \_\_\_

Do contracts for consultant agreements for planning, design, engineering, environmental, research, maintenance, etc. contain the required Title VI statements?

\_\_\_ \_\_\_

Were Disadvantaged Business Enterprise firms notified of and afforded the opportunity to bid on the federally funded transportation related projects?

\_\_\_ \_\_\_

**MONITORING AND COMPLIANCE**

**Yes No**

9. Does the LPA have monitoring and compliance procedures in place to monitor Title VI activities and responsibilities for their organization?

\_\_\_ \_\_\_

Does the LPA's monitoring and compliance provide for the following:

\_\_\_ \_\_\_

- Develop a program to conduct Title VI reviews of program areas.
  - List the LPA's program areas

- Define the process to review the LPA program areas.
- State if the LPA has training scheduled for subrecipients. Include if and how project or program area is monitored by LPA, weekly, monthly, or annually. State if the LPA has plans for bringing discriminatory programs into compliance within a specified time period.

Has the LPA scheduled and conducted an annual Title VI review of its program areas to determine the effectiveness of program area activities at all levels?

\_\_\_ \_\_\_

Does the LPA have any subrecipients of federal aid highway funds?

\_\_\_ \_\_\_

If yes, does the LPA have monitoring and compliance procedures in place to monitor Title VI activities and responsibilities of subrecipients?

\_\_\_ \_\_\_

If yes, has the LPA scheduled and conducted Title VI reviews of subrecipients? (For example: cities, counties, consultants, contractors, colleges, planning agencies, and other recipients of federal-aid highway funds)

\_\_\_ \_\_\_

**ENVIRONMENTAL IMPACTS**

**Yes No**

10. During the reporting period, was there a Project Concept Report (PCR), Environmental Assessment (EA), or Environmental Impact Statement (EIS) prepared for any federally funded transportation-related projects?

\_\_\_ \_\_\_

If no, skip to Question 11.

If yes, can the LPA provide documentation?

\_\_\_ \_\_\_

If yes, were there any potential impacts (positive or negative) to minority, women, elderly, disabled, low income and Limited English Proficiency(LEP) population identified? Impacts such as displacements, increased noise, bisecting neighborhoods. Include information about, if applicable, projects that specifically benefit community cohesion such as: adding sidewalks, improving access to properties that improve access for low-income populations.

\_\_\_ \_\_\_

If yes, did the LPA document what those impacts were and how they were minimized or mitigated?

\_\_\_ \_\_\_

**RIGHT OF WAY**

**Yes No**

11. During the reporting period, was right of way acquired for any federally funded transportation related project?

\_\_\_ \_\_\_

If no, skip to Question 12.

If yes, answer the following questions concerning right of way acquired:

Were there any minority, women, elderly, disabled, low income and Limited English Proficiency(LEP) population groups affected by the project(s)?

\_\_\_ \_\_\_

If yes, can the LPA identify based on race, sex, national origin, etc.?

\_\_\_ \_\_\_

Were there any LEP issues addressed? \_\_\_\_\_  
If yes, can the LPA provide documentation as to how they were addressed? \_\_\_\_\_

Were outside appraisers used? \_\_\_\_\_  
If yes, were any of the appraisers a minority or a woman? \_\_\_\_\_

Does LPA documentation demonstrate how many negotiations were made during the reporting period? \_\_\_\_\_  
If yes, does the documentation report the information by race and sex? \_\_\_\_\_

Were there any concerns raised by minorities or women concerning their options in the negotiation phase? \_\_\_\_\_  
If yes, did the LPA document what action was taken to correct those concerns? \_\_\_\_\_

If relocations occurred, did the LPA list the number of relocations made during the reporting period – including businesses, land, and residents by minority status, sex, age, disability, income status, or LEP? \_\_\_\_\_

**AMERICANS WITH DISABILITIES (ADA)** **Yes No**

12. LPA's with 50 or more employees are required by Title VI to develop and implement an Americans with Disabilities Act (ADA) Transition Plan.

Does the LPA have 50 or more employees? (*Note: Comments on Page 1, Employment, Question 1*) \_\_\_\_\_  
If no, continue to Question 13. \_\_\_\_\_

Does the LPA have an ADA transition plan? \_\_\_\_\_

Can the LPA summarize progress towards meeting the plan's schedule of ADA corrections by: number and type of corrections made; number of deficiencies reduced by percentage, etc.? \_\_\_\_\_

Does the LPA have an ADA Coordinator for the next year? \_\_\_\_\_

Is the ADA plan and the name and contact information of the ADA Coordinator posted externally for the public? \_\_\_\_\_

Is there a process available so a member of the public can request an accommodation? \_\_\_\_\_

**TITLE VI COMPLAINTS** **Yes No**

13. Does the LPA have a Title VI complaint form and procedure for filing a complaint? \_\_\_\_\_

Can the LPA describe how the complaint form and procedures are disseminated to employees and the public?

Does the LPA have a Title VI complaint log which lists and describes any Title VI related complaints as a result of transportation activities and projects?

Does the Title VI complaint log contain information regarding: allegation or concern, procedures used, action taken, and resolution?

**TRAINING**

**Yes No**

14. Have LPA employees received Title VI training?    
If no, is training planned within the next 3 months?

---

**Person(s) who submitted information for the checklist please indicate by signing below. By signing below you are stating that the answers above are true and accurate.**

\_\_\_\_\_  
Name Title Date

\_\_\_\_\_  
Name Title Date

# CASS COUNTY

## TITLE VI COMPLAINT FORM

### PART I - COMPLAINANT INFORMATION (Print all items legibly.)

|                         |       |               |
|-------------------------|-------|---------------|
| Name                    |       | Telephone     |
| Street Address/P.O. Box |       | Email Address |
| City                    | State | Zip Code      |

### PART II - CAUSE OF DISCRIMINATION BASED ON [Check all appropriate box(es).]

Race     Color     Sex     Age     National Origin     Disability/Handicap

Income Status

### PART III - THE PARTICULARS ARE: (Include names, dates, places, and incidents involved in the complaint.) [If additional space is needed, attach extra sheet(s).]

|  |
|--|
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |

### PART IV - REMEDY SOUGHT [State the specific remedy sought to resolve the issues(s).]

|  |
|--|
|  |
|  |
|  |
|  |
|  |

### PART V - VERIFICATION

Complainant's Signature \_\_\_\_\_ Date \_\_\_\_\_

## INSTRUCTIONS

### GENERAL

1. Under Title VI of the Civil Rights Act of 1964 and the related statutes and regulations, no person or groups(s) of persons shall, on the grounds of race, color, sex, age, national origin, disability/handicap, and income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by **(LPA)**. Any person or groups(s) of persons who feel they have been discriminated against may file a complaint.
2. Instructions provided within this form are not meant to be all inclusive. Complainants are responsible for all procedural requirements.
3. Complainants **must** include all required information and **must** meet all timeframes as defined in the Cass County Title VI Complaint Procedure.
4. Legible copies of all available pertinent documentation should be attached to this form.
5. All inquiries should be directed to **(Name of Title VI Coordinator, LPA, Street Address/P.O. Box, City, State, Zip Code, Telephone, TTY)**.

### PART I

Complete all information in this section.

### PART II

Check all boxes that apply indicating the basis for the complaint. The discrimination **must** be based on at least one of the listed categories.

### PART III

State the specific complaint in a manner that clearly identifies the issues upon which the complaint is based.

### PART IV

State the minimum remedy acceptable for resolution of this complaint.

### PART V

Sign and date this section to verify the information contained in Parts I through IV.

### Complaints filed with U. S. Department of Transportation

Discrimination complaints based on race, color sex, age, national origin, disability/handicap, and income status may be filed with the Secretary, U.S. Department of Transportation, Room 4132, 400 Seventh Street, Southwest, Washington, D.C. 20590. The complaint **must** be filed, in writing, no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary, U.S. Department of Transportation.



## TITLE VI ASSURANCES

Cass County in the State of North Dakota (hereinafter referred to as the Recipient) HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the U. S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives to the end that, in accordance with the Act, regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, 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 through the North Dakota Department of Transportation, including the U.S. Department of Transportation and the Federal Highway Administration; and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Subsection 21.7(a)(1) of the Regulations.

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

1. That the Recipient agrees that each "program" and each "facility," as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or materials subject to the regulations and made in connection with the Federal-aid Highway Program and, in adapted form, in all proposals for negotiated agreements:

The Recipient, 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, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation, issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract 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, sex, age, national origin, disability/handicap, or 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.



Cass County will insert or add the following clauses into every contract subject to the Act and Regulations associated with the receipt of Federal financial assistance:

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

1. Compliance with Regulations: The Contractor shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, age, national origin, disability/handicap, or 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 Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation, made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, age, national origin, disability/handicap, or 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 of information and its facilities as may be determined by Cass County or the North Dakota Department of Transportation 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 Cass County, or the North Dakota Department of Transportation, 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, Cass County and the North Dakota Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
  - a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
  - b. cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions: The Contractor shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The Contractor shall take such action with respect to any subcontract or procurement as Cass County or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the Contractor may request Cass County enter into such litigation to protect the interests of Cass County; 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

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

### (HABENDUM CLAUSE)

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

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

---

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI 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 Cass County, pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate), for him or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases, add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. 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, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

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

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

[Include in deed.]\*

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

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

The (grantee, licensee, lessee, permittee, etc., as appropriate), for him or herself, his or her 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 grounds of race, color, sex, age, national origin, disability/handicap, or income status, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person, on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, shall be excluded from participation in, be 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, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

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

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

[Include in deeds.]\*

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

---

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

# North Dakota Department of Transportation Title VI Pre-Audit Checklist

Name of Local Public Agency: \_\_\_\_\_

**Pre-Audit Checklist:** All Local Public Agencies (LPA's) participating in the summer of 2010 Title VI audits will be required to complete, sign, and return this Pre-Audit Checklist, with all supporting documentation, to the North Dakota Department of Transportation (NDDOT), Local Government Division, prior to the audit meeting. Compliance with these requirements is necessary to assure non-discrimination in (LPA) transportation projects. This check list also serves as a preview to you as to the processes, procedures, policies, and documentation that will be expected in the annual compliance report.

You may provide electronic documents or a link to your website for documents and materials as an alternative to providing a paper copy during the audit process. When paper copies of documentation are provided, please label them relative to the following questions.

This Pre-Audit Checklist covers the period of \_\_\_\_\_ through \_\_\_\_\_

## **EMPLOYMENT**

- In the table below, list current paid personnel employed by position. Include all employees, and members of commissions, councils, boards, and committees. (See sample excel spreadsheet provided with tabs for each of the 4 groups previously mentioned). If you employ 15 or more employees, you are required by Public Law 88-352, Title VII of the Civil Rights Act of 1964, <http://www.eeoc.gov/employers/eo4survey/e4instruct.cfm> to submit an annual EEO-4 Report on your employees. You may submit a copy of your EEO-4 Report as an alternative to filling out the table below.

| Employee Classification,<br>Commission; Council,<br>Board or Committee | Employee,<br>Elected,<br>Appointed | Vacant | Sex |   | Race/Ethnicity |          |       |       |                 |       |  |
|--|------------------------------------|--------|-----|---|----------------|----------|-------|-------|-----------------|-------|--|
|  |                                    |        | F   | M | White          | Hispanic | Asian | Black | Native American | Other |  |
|  |                                    |        |     |   |                |          |       |       |                 |       |  |
|  |                                    |        |     |   |                |          |       |       |                 |       |  |
|  |                                    |        |     |   |                |          |       |       |                 |       |  |
|  |                                    |        |     |   |                |          |       |       |                 |       |  |
|  |                                    |        |     |   |                |          |       |       |                 |       |  |
|  |                                    |        |     |   |                |          |       |       |                 |       |  |

- Specify which commissions, councils, boards, or committees are appointed or elected? How do you ensure that equal opportunity is provided when appointments are made?
- List the recruiting opportunities during the report period including the number of vacancies and promotions:
  - How was recruitment done (where were vacancies advertised, posted, etc.)?



- Race and sex of applicants for each vacancy or promotion.
- Race and sex of person hired or promoted.
- What recruitment efforts were made to hire minority or female applicants?

## **TITLE VI PLAN, ASSURANCES, AND POLICY STATEMENT**

4. Provide a copy of your Title VI Plan.
- Provide documentation to show dissemination of your Title VI Policy Statement internally to inform employees, and externally to inform the public.
  - Provide documentation demonstrating that the policy was disseminated in language(s) other than English if appropriate (based on demographics of the communities you serve). See question 5.
  - Provide the name, address, phone number, and email address of the individual who will be serving as the Title VI Coordinator for the coming year. How is this information disseminated to your employees and the public?

## **LIMITED ENGLISH PROFICIENCY**

5. Provide a copy of your Limited English Proficiency plan.
- Using the most current data available, (through US Census or North Dakota census data) provide the population demographics within your jurisdiction.
  - Resources:
    - See [www.lep.gov](http://www.lep.gov) Click on "Resources" for numerous planning tools, specifically "Accessing and Using Language Data from the Census Bureau" and "Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance"
    - See [www.census.gov](http://www.census.gov)
    - See also [www.dpi.state.nd.us](http://www.dpi.state.nd.us) Click on "Programs & Services," then click on "Bilingual & Language Acquisition Programs," then click on "Title III Information," then click on "List of English Learners by REAs (Regional Education Cooperatives) for Limited English Proficient," statistics for youth.
  - Have you conducted any activities and /or studies that provided data relative to minority persons, neighborhoods, income levels, physical environment, and travel habits? If so provide copies.

## **PUBLIC OUTREACH**

6. Describe any public outreach activities *related to any federally funded transportation related projects undertaken* during the reporting period such as: public announcements and/or communications for meetings, hearings, project notices. Include the following:
- How were special language needs assessed? List the special language needs assessments conducted. Attach examples of assessments.
  - What outreach efforts did you use to ensure that minority, women, elderly, disabled, low-income, and Limited English Proficiency (LEP) population groups were provided equal opportunity to participate in those outreach activities. (Examples: provided written materials in other languages, met with local social services agencies, advertised in a minority publication). Attach documentation of these activities.
  - List the special language services provided – note the language services provided, if

any, including the name of the service, date provided, number of persons served, and any other relevant information.

- Attach demographics gathered from attendees at public meetings, hearings, etc.
- Provide copies of ads, posters, or public notices.

## **CONTRACTS AND AGREEMENTS**

If the NDDOT let the bid for the project being audited skip to Question 10. If the project was let by the LPA continue with Question 7.

7. Provide documentation to show that appropriate non-discrimination language was included in solicitations for proposals/bids for agreements/contracts that were issued as part of federal aid projects.
  - Other than advertising, what outreach was made to Disadvantaged Business Enterprise (DBE) firms that a contracting opportunity existed within your agency?
  - Provide documentation to support your activities.
8. List and provide copies of all the federally funded transportation related contracts, which were executed, during the reporting period, by the LPA. Include construction, consultant agreements for planning, design, engineering, environmental, research, maintenance, etc. For each contract provide:
  - List subcontracts/agreements issued by primes.
  - Identify the contracts/agreements that were awarded to DBE
  - Include dollar value of each DBE or non-DBE subcontract/agreement.

## **MONITORING AND COMPLIANCE**

9. Describe how you as the LPA monitor your various LPA departments for compliance with Title VI. Provide the same information for any subrecipients.
  - Develop a program to conduct Title VI reviews of program areas.
    - List the LPA's program areas
    - Define your process to review your agency program areas.
    - State if you have training scheduled for subrecipients. Include if and how project or program area is monitored by LPA, weekly, monthly, or annually.
    - State if you have plans for bringing discriminatory programs into compliance within a specified time period
  - Schedule and conduct an annual Title VI review of its program areas to determine the effectiveness of program area activities at all levels; and
  - Schedule and conduct Title VI reviews of sub-recipients (i.e., cities, counties, consultants, contractors, colleges, planning agencies, and other recipients of Federal-aid highway funds.)

## **ENVIRONMENTAL IMPACTS**

10. During the reporting period, was there a Project Concept Report (PCR), Environmental Assessment (EA), or Environmental Impact Statement (EIS) prepared for any transportation related project(s)? Y\_\_\_\_N\_\_\_\_ If yes, please provide a copy of this document(s). If no, proceed to Question 11.

- Were any potential impacts (positive or negative) to minority, women, elderly, disabled, low-income, and Limited English Proficiency (LEP) population indentified? Impacts such as displacements, increased noise, bisecting neighborhoods. Include information about, if applicable, projects that specifically benefit community cohesion such as: adding sidewalks, improving access to properties that improve access for low-income populations.  
Y\_\_\_\_N\_\_\_\_ If no, proceed to the next question.
- If yes - explain what those impacts were and how were they minimized or mitigated.

## **RIGHT OF WAY**

11. During the reporting period, was right of way acquired for any federally funded transportation related project? Y\_\_\_\_N\_\_\_\_ If no, proceed to question 12.
- Identify the number of minority, women, disabled, low-income, and Limited English Proficiency (LEP) population groups affected by the project(s). Indentify based race, sex, national origins, etc.
    - Were there any LEP issues? If so, how were they addressed?
  - If applicable, how many appraisers were utilized during the reporting period?
    - If appraisers were required, how many were minorities or women?
  - If applicable, how many negotiations were made during the reporting period?
    - If negotiations were conducted, what were the negotiated rates for minorities or women and non-minorities?
    - Were there any concerns raised by minorities or women concerning their options in the negotiation phase? If so – what action was taken to correct those concerns?
  - If applicable, list the number of relocations during the reporting period – include businesses, land, and residents
    - Minority
    - Women
    - Elderly
    - Disabled
    - Low-income
    - LEP

## **AMERICANS WITH DISABILITIES (ADA)**

12. LPA's with 50 or more employees are required by Title II to develop and implement an Americans With Disabilities Act (ADA) Transition Plan. Provide a copy of the LPA's ADA Transition Plan.
- Summarize progress towards meeting the Plan's schedule of ADA corrections (number and type or corrections made; number of deficiencies reduced by percentage, etc.).
  - If you have 50 or more employees, provide the name of the individual who will be serving as the ADA Coordinator for the next year.
  - How do you provide notice to the public the name and contact information for your ADA Coordinator?
  - What process is available so that a member of the public can request an accommodation?

**TITLE VI COMPLAINTS**

13. Provide a copy of the LPA's complaint form, procedure and log of previous and current complaints (See sample form). Describe how the complaint form and procedures are disseminated to employees and the public.

List and describe any Title VI related complaints, as a result of transportation activities and projects. Include:

- What was the allegation or concern?  
Procedures used.
- Action taken
- Resolution

**TRAINING**

14. List any Title VI training taken by or provided to LPA's staff:

| ATTENDEE | NAME OF TRAINING | DATE |
|----------|------------------|------|
|          |                  |      |
|          |                  |      |
|          |                  |      |

Person who submitted information for the audit please indicate by signing below.

\_\_\_\_\_  
Name Title

\_\_\_\_\_  
Name Title

\_\_\_\_\_  
Name Title