The State of Montana
DEPARTMENT OF TRANSPORTATION

TITLE VI PLAN

CIVIL RIGHTS BUREAU
2701 PROSPECT AVENUE – PO BOX 201001
HELENA, MONTANA  59620-1001

Telephone: Voice (406) 444-6331
TTY 1-800-335-7592 or (406) 444-7696

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Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall on the grounds of race, color, or national origin be discriminated against under any program or activity receiving Federal financial assistance. The Federal Aid Highway Act of 1973 (23 U.S.C. 324) added “sex” as a protected status in all Federal Highway Administration (FHWA) activities. The Title VI Program also refers, where appropriate, to other Federal civil rights statutes. The State of Montana forbids discrimination in many areas through its Constitution, codes and rules.

Title VI was amended by the Civil Rights Restoration Act of 1987 (P.L. 100-259), effective March 22, 1988, which added section 606, expanding the definition of the terms “programs and activities” to include all of the operations of an educational institution, government entity, or private employer that receives federal funds if any one operation receives federal funds.

The Montana Department of Transportation (MDT) is a State governmental entity. It is the policy of MDT to ensure compliance with Title VI of the Civil Rights Act of 1964 and all related statutes of regulations in all programs and activities.

MDT assures that no person shall, as provided by Federal and State civil rights laws, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. MDT further ensures every effort will be made to ensure non-discrimination in all programs and activities, whether those programs and activities are federally funded or not.

The Department recognizes the need for continuous Title VI training for Department personnel. When MDT distributes federal-aid funds to another governmental entity, MDT will include Title VI language in all written agreements and will monitor for compliance.

Title VI activities are delegated by the Civil Rights Bureau (CRB). Title VI responsibilities are delegated to the appropriate District/Division program managers. The CRB charges them with the responsibility to develop and implement procedures and guidelines to adequately monitor their programs. In turn, the CRB conducts periodic compliance reviews to assure implementation is adequate.

The MDT Director has delegated the authority to administer and monitor the Title VI Program as promulgated under Title VI of the Civil Rights Act of 1964 and any subsequent legislation to the CRB Chief. The Title VI Coordinator will provide technical assistance on an agency-wide basis.

[Signature]
MDT Director

[Date]

OVERVIEW

PURPOSE

To provide guidelines for:

1. Implementing Title VI compliance programs under Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations.
2. Conducting Title VI program compliance reviews; and
3. Processing Title VI complaints.

APPLICATION

The provisions of this Title VI Plan apply to all recipients of federal assistance with and through MDT. A “recipient” includes any public or private entity or any individual receiving the benefits of any federal-aid highway assistance, transit, or aeronautics program and to all phases of MDT operations.

AUTHORITIES


Other federal statutes with related authority that may apply:

Title VII of the 1964 Civil Rights Act as amended;
Age Discrimination in Employment Act (45 CFR 90)
Environmental Justice Act, Executive Order 12898
Civil Rights Restoration Act of 1987 (P.L. 100-259)
Limited English Proficiency, Executive Order 13166
Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123)

Applicable Montana non-discrimination statutes include:

The Montana Human Rights Act, Title 49, Chapter 2, M.C.A. and Governmental Code of Fair Practices, Title 49, Chapter 3, M.C.A.
MONTANA DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE RESPONSIBILITIES REQUIRED BY 23 CFR PART 200

1. “Establish a Civil Rights Unit and designate a coordinator who has a responsible position and easy access to the Director. The Coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports.”

2. The CRB must be “adequately staffed to effectively implement the requirements.”

CIVIL RIGHTS BUREAU (CRB) TITLE VI COORDINATOR RESPONSIBILITIES

1. Develop procedures for prompt processing and disposition of Title VI complaints.

2. Conduct Title VI reviews of program areas.

3. Conduct annual reviews of special emphasis program areas to determine effectiveness.

4. Review MDT program directives and include Title VI and related requirements.

5. Conduct Title VI training for State program staff.

6. Prepare an annual Title VI accomplishments report and work plan by October 1.

7. Submit an updated Title VI plan within time frames for each federal agency.

8. Disseminate Title VI information to the general public.

9. Establish procedures for pre-grant and post-grant approval reviews of MDT programs and applicants; i.e., highway location, design and relocation, and persons seeking contracts with MDT.

10. Establish procedures to identify and eliminate discrimination when found to exist.

11. Establish procedures for promptly resolving deficiency status through voluntary means, if possible.

DIVISION/UNIT/DISTRICT TITLE VI REPRESENTATIVE RESPONSIBILITIES

1. Complete Title VI Public Meeting Form or ensure form is completed by meeting organizer for each public meeting not already covered, and submit electronically to Coordinator. (For purposes of this requirement, a “public meeting” is any meeting or hearing for which there is an open invitation [via news release, paid advertising and/or letter of invitation] to the general public [not just contractors] to attend for the purpose of informing the public and/or soliciting input from the public.)
2. Complete and submit Title VI Periodic Report every four months.

3. Report all written Title VI complaints immediately to Coordinator.

4. Seek opportunities to train staff/public on Title VI and notify Coordinator.

5. Attend Title VI Representative meeting once every four months.

6. Ensure current Title VI pamphlets are available at all unit public meetings and hearings and in unit area.

7. As necessary, work with consultants to ensure all public meetings and hearings have Title VI pamphlets and a public meeting form will be completed by consultant or MDT staff present at meeting/hearing and submitted to the Coordinator.

8. Monitor Division activities for potential Title VI impact and consult with MDT Title VI Coordinator as necessary.

**GENERAL PROGRAM AREA RESPONSIBILITIES**

**ADMINISTRATION DIVISION**
Ensures Title VI compliance with MDT’s financial management, fuel tax administration, and the procurement of supplies and services. Also ensures Title VI compliance in administration of the International Fuel Tax Agreement (IFTA) tax processing and collection procedures, dealer and distributor licensing, fuel tax refund program and mail services.

**AERONAUTICS DIVISION**
Ensures Title VI compliance that relates to maintenance and operation of state-owned airports and the various components of airport infrastructure.

**DIRECTOR’S OFFICE**
Ensures Title VI compliance in internal audit, civil rights, media contact, public informational meetings and hearings, and response to citizen complaints. Internal Audit Unit ensures facilitation of public audits in a fair and equitable manner. Civil Rights Bureau ensures Title VI compliance in the implementation of agency wide Title VI requirements including but not limited to the Disadvantaged Business Enterprise (DBE) program, Americans with Disabilities Act (ADA), training activities, and complaint activities.

**DISTRICT OPERATIONS**
Rely upon Accounting Controls Bureau, Purchasing Services Section, to ensure Title VI compliance in the purchase of goods and services and in contract requirements. District staff ensures Title VI compliance in public meetings/hearings and response to citizen complaints.
ENGINEERING DIVISION
Ensures Title VI compliance in all activities including contractor recruitment (e.g. Contract Plans), Pre-construction (e.g., Right of Way), Consultant Design including the Community Transportation Enhancement Program (CTEP), Construction (e.g., bid advertising and contracting); and Research.

HUMAN RESOURCES DIVISION
Ensures Title VI compliance in agency wide Title VI requirements including but not limited to recruitment and selection, training activities, and complaint investigations.

MAINTENANCE DIVISION
Ensures facilitation of the summer and winter maintenance of Montana’s highway infrastructure in a fair and equitable manner and Title VI compliance in all activities including training.

MOTOR CARRIERS SERVICES DIVISION
Ensures Title VI compliance in all commercial vehicle licensing, registration, and permit issuance, enforcement, commercial vehicle safety, and response to citizen complaints.

RAIL, TRANSIT, AND PLANNING DIVISION
Ensures Title VI compliance in the transportation planning process and in related programs such as rail, transit, and state highway traffic safety. This includes necessary environmental documentation to meet the requirements of the National Environmental Policy Act (NEPA) and the Montana Environmental Policy Act (MEPA), including Community Impact Assessments and Title VI reviews of appropriate cities, counties, rail and transit providers and consultant contracts.

SPECIFIC AREA RESPONSIBILITIES

ADMINISTRATION DIVISION
The Administration Division consists of three bureaus:

Accounting Controls Bureau

The Accounting Controls Bureau (ACB) is responsible for establishing internal control structures, developing and implementing accounting policies, ensuring proper accounting treatment of transactions, developing and implementing MDT’s accounting structure, and providing technical oversight to departmental financial functions.

The ACB consists of two sections: Accounting Controls Section and Purchasing Services Section.

Accounting Controls Section
Engages specific positions such as District Financial Officers and Financial Contacts to aid in managing the accounting treatment and oversight for MDT’s programs and assists with the complex programs of the department.

**Purchasing Services Section**

Ensures all formal solicitations include approved Title VI language. The Section ensures solicitations are posted to the DOA website as prescribed by Montana law. Letters are sent to vendors who may be interested. Vendors may be selected from the DOA vendor list, the MDT vendor list, the DBE Directory, Chamber of Commerce referrals, the phone book, or local business advertisements. Solicitations are available on the DOA website. Alternative accessible formats are available upon request to the Section.

**Budget and Planning Bureau**

Maintains financial planning processes and systems that MDT divisions need to conduct financial analyses. The primary functions of the Bureau are department wide budget development and fiscal programming. The Bureau has two distinct sections to meet the above responsibilities. Staff members from both sections are available to answer questions and provide training as needed.

**Budget Section**

Responsible for the development and monitoring of the Department’s operating budget, tentative construction plans, director reports, long-range financial planning, and setting budget procedures for the agency. The section is involved firsthand with the executive planning processes (EPP); fiscal note development and financing; and funding structures and models for MDT programs.

The Budget Section utilizes a variety of development and monitoring systems to assist in these processes such as the:

- budget development system (BDS),
- personal service budget monitoring system (PSBM),
- personal service administration (PSA),
- statewide accounting, budgeting, and human resource system (SABHRS), and
- Montana budget analysis and reporting system (MBARS).

**Fiscal Programming Section:**

Responsible for developing, obtaining approval, and monitoring the fiscal aspects of implementing the Transportation Construction Program (TCP) for the State of Montana. The Section also develops and maintains various financial information systems; coordinates MDT’s use of these systems, and uses the information from these systems to analyze, report, and frame departmental recommendations regarding the use of available fiscal resources.
Fiscal Operations Bureau

This Bureau consists of the Accounting Systems Operations Section, Collections Section, Motor Fuels Section, and Payroll Section.

The Bureau is responsible for establishing and maintaining a variety of accounting functions for MDT such as payroll and benefits, accounts payables/receivables/collections, and management of the gasoline and special fuel tax. The Bureau develops and implements accounting policy and procedure, conducts financial monitoring, and ensures the department’s internal accounting and financial information systems comply with state and federal regulations and align with the Division’s accounting operational goals, objectives and priorities.

Motor Fuels Section:

- Ensures that all fuel taxes legally owed to the state by licensed and unlicensed distributors are properly collected and remitted;
- Processes and approves licenses for gasoline and special fuel distributors, compressed natural gas dealers and liquid petroleum gas dealers;
- Provides education and training services for both internal and external customers on motor fuel tax laws;
- Administers the Alcohol Tax Incentive Administration Act of 1983 that provides for payments to Montana ethanol producers;
- Coordinates the administrative rule process that pertains to motor fuels;
- Coordinates the dyed fuel enforcement program;
- Validates refund requests of fuel tax from aviation and railroad users before they are issued;
- Coordinates the first step in the dispute resolution process, which conducts reviews involving motor fuel appeals.

Collection Section

- Reports according to the International Fuel Tax Agreement which includes distribution and processing of motor fuel tax returns; and
- Distributes fuel tax refund applications, processing and payment of the refunds.

Monitoring
- The Purchasing Section ensures that all solicitations include approved Title VI language;
- The Representative submits Title VI periodic reports to MDT Title VI Coordinator;
- The Representative participates in periodic revisions of the FHWA Title VI plan and Title VI meetings/trainings as they are scheduled.

AERONAUTICS DIVISION

The Aeronautics Division oversees the maintenance and operation of state-owned airports and the various components of airport infrastructure, including visual and electronic navigation facilities and flying aids; fosters and promotes aviation and aviation safety through educational efforts and programs; is responsible for all airport inspections; provides technical and engineering assistance as requested; produces aviation publications for pilot use; registers aircraft and pilots in accordance with Montana laws and regulations; and coordinates and supervises statewide aerial search and rescue operations. In accordance with the maintenance and safety aspects of the Division’s overall mission, it administers a loan and grant program to municipal governments to fund airport development projects.

The Division serves in a liaison capacity between the State and various entities including the U. S. Department of Transportation, other federal and state entities and commercial airlines to assure the retention and continuation of airline services to the rural communities of the State.

Monitoring

Aeronautics relies upon:
- Purchasing Services Section and Public Involvement Unit to ensure public meetings are advertised in accordance with MDT policy.
- Consultant Design Bureau to ensure Title VI requirements are met in consultant contracts.
- CRB to ensure all proposals conform to Title VI requirements.

DIRECTOR’S OFFICE

Civil Rights Bureau

The Civil Rights Bureau (CRB) is responsible for developing and implementing the agency-wide Title VI Plan, enforcing requirements of the ADA, conducting Division/District Title VI reviews (including recipients of pass through funding) and managing the DBE Program. All corrective actions necessary as a result of review findings will be reduced to writing and delivered to the entity reviewed within 90 days of the review. All non-construction contracts will be reviewed and approved by CRB to ensure incorporation of appropriate Title VI language. Complaints will be processed in accordance with 49 CFR §21.11, subject to individual agency (FHWA, FTA, or FAA) requirements. The Title VI Coordinator monitors contracts and other activities for Title VI compliance.
Americans with Disabilities Act (ADA) Program

The ADA (1990) prohibits discrimination against people with disabilities including transportation, public services, and public accommodations. The MDT ADA Program Specialist works to ensure compliance with ADA requirements.

ADA requires:

- Nondiscrimination based on disability;
- That MDT will provide a fully accessible transportation system. MDT transportation facilities are planned, designed, constructed, and maintained with accessibility in mind;
- MDT’s state and local partners have accessible programs and services;
- Transportation-related public meetings will be accessible and public announcements offer reasonable accommodation when the meetings pertain to a project that receives federal aid or is federally mandated.

Disadvantaged Business Enterprise (DBE) Program

The MDT DBE Program has been approved by FHWA, FTA, and FAA.

To ensure that bidding opportunities are made available for minority and women owned businesses, the DBE Program will:

- Seek out minority and women-owned businesses for certification;
- Publish a directory of certified firms;
- Monitor participation levels in Federal-aid construction contracts and consultant contracts;
- Monitor work performed by certified firms and prime contractors, and provide technical assistance to contractors.

The definition of “construction” for DBE purposes includes virtually all MDT activities, including Maintenance, Purchasing, CTEP, Transit, etc.

Audit Services

Audit Services selects audits randomly or based on requests from other entities. The Unit makes every effort to ensure protected individuals or groups are selected neither more nor less frequently than other citizens.
Public Information/Public Involvement Units

The Public Information / Public Involvement Units are responsible for ensuring that Montana citizens are aware of transportation issues/projects and afforded the opportunity to participate in public involvement activities (public informational meetings, public hearings, i.e. Environmental Assessment hearings, comment periods, etc.). The Public Information Unit provides media support for the department. The Public Information Officer (PIO) acts as the director's spokesperson and coordinates marketing activities; manages media contacts; writes speeches and press releases; and assists staff when media issues arise. In addition, the PIO coordinates publication of the Interchange, MDT’s online employee newsletter, every payday.

The Public Involvement Unit works to increase public awareness of upcoming projects and to provide the public with ample opportunity to become involved in shaping project design and development.

This is primarily accomplished through two mechanisms:

1. Public meetings
   The Public Involvement Coordinator organizes certain public meetings for upcoming road projects throughout the state, working with district staff and MDT consultants to ensure that MDT provides ample opportunity for public input and comment. Notice of public meetings/hearings (display ads) are also created within the Public Involvement Unit and submitted via email to the various media outlets (newspapers, television and radio stations) within the project’s area announcing the upcoming meeting/hearing. Display ads are usually run twice in the regional newspapers. Community officials, i.e. county commissioners, city commissioners, tribal transportation planners, etc. are notified within this e-mail distribution list as well. The Coordinator ensures that provisions are made for special meeting accommodations for protected groups or individuals (with sufficient notice to obtain it, ideally 48 hours). Accommodations include, but are not limited to, translators, sign language interpreters, etc. The Coordinator will frequently moderate or facilitate public meetings/hearings along with the project manager.

2. News releases
   The Public Involvement Coordinator prepares and distributes news releases to the region’s public media outlets and community/county officials announcing proposed projects such as: total reconstructions, paving or overlay projects, railroad crossings, bridge replacements, temporary detours, etc. as well as public informational meetings and public hearings. Special formats of all written documents are provided on request.

Direct mail letters and/or postcards may also be used to notify interested/affected parties regarding upcoming public meetings or hearings.

DISTRICT RESPONSIBILITIES

Each of the five MDT Districts relies upon the Purchasing Services Section to administer MDT’s purchasing procedures connected with procuring items and equipment costing
greater than $5,000 purchased by MDT. District purchasing policy adheres to the Headquarters’ Purchasing Bureau’s Procedures Manual. In cases when leasing is required, the District utilizes a format provided by MDT’s Purchasing Services Section that includes the necessary Title VI language.

Schedules of public meetings, open houses and forums should be coordinated between the MDT Public Information Office and either the District Preconstruction Engineer, Area Engineer, Project Design Engineer, Consultant Project Engineer, or the appropriate MDT Design Project Manager. The nearest location or town offering accessible facilities for all protected groups is selected. Consideration for meeting time and location is given to assure all protected groups have an opportunity to participate. Documentation is maintained to assure these considerations have been accomplished.

**Monitoring**

1. Either the Administrative Support Supervisor, District Financial Officer, District Purchasing Agent, or District Preconstruction Engineer is responsible to report any Title VI compliance issues as they relate to purchase orders and agreement requirements.

2. District Construction personnel are responsible to report any Title VI compliance issues regarding construction documents (state and contractor) and operations.

3. Persons scheduling public meetings, open houses, and forums are responsible for Title VI compliance. The District Title VI Representative is responsible for periodic reporting of this activity.

4. Purchasing Services Section ensures appropriate Title VI language is contained in contracts issued by the District. The District Title VI Representative reports any Title VI compliance issues.

5. Specific duties of District Title VI Representatives are included in this Plan under the section entitled “Division/ District Title VI Responsibilities”.

**ENGINEERING DIVISION**

The Engineering Division (headed by the Chief Engineer) is comprised of three parts that have significant potential Title VI impact: Preconstruction, Construction, and Research Section. Preconstruction is comprised of Bridge Bureau, Consultant Design Bureau, Highways Bureau, Right-of-Way Bureau, and Traffic Safety Bureau. Construction is comprised of Contract Plans Bureau, Construction Administration Services Bureau, Construction Engineering Services Bureau, and Materials Bureau.
PRECONSTRUCTION

Preconstruction: Consultant Design Bureau - Consultant Selection Procedures

Consultant Selection Procedures are administered by Consultant Design and intended to eliminate unfair advantage and provide equal economic opportunity for all qualified consultants.

Consultant Design contracts are not awarded to the lowest bidder as are construction contracts because they are governed by different laws. Consultant Design contracts are awarded based on the “Brooks Act” in federal law that requires open competition based on demonstrated competence and qualifications at a fair price.

Consultant Selection procedures allow for two separate selection processes, the biennial Pre-Qualification process (used since 1999) and the Request for Qualifications/ Request for Proposal (RFQ/RFP) process. The Pre-Qualification process is used for most consultant selections. It greatly speeds up the time required to select consultants, especially when a large number of projects is involved; the RFQ/RFP process is generally used for large, complex projects or projects that are not compatible with the categorized disciplines in the pre-qualification process.

The pre-qualification process compiles a rating for each respondent consultant in each discipline and the consultants are then ranked on a roster. The Consultant Selection Board (CSB) then meets and uses the discipline-specific rosters to select consultants for projects throughout the year. As the need for projects come up, the CSB short-lists three consultants from the appropriate pre-qualified roster and selects one with which to enter contract negotiations. MDT then enters into negotiations with the top-rated firm. If a fair and reasonable price cannot be agreed upon, MDT begins negotiations with the next highest qualified firm.

The RFQ/RFP process solicits statements of qualifications for specific projects through letters to consultants who have requested to be on a mailing list and on the MDT website at [http://svc.mt.gov/gsd/OneStop/SolicitationDefault.aspx](http://svc.mt.gov/gsd/OneStop/SolicitationDefault.aspx). RFQ/RFPs are sent to some or all consultant firms on MDT’s mailing list, depending on the subject work type. Then the top ranked consultants from the RFQ may be asked to provide final proposals (RFP) that are then rated and used to select a firm for contract negotiations. The Consultant Selection Board has final approval in the RFQ/RFP process also.

A firm is placed on the mailing list when they submit a standard form 330 which can be done at any time. Interested parties may request inclusion on the mailing list by accessing [http://www.mdt.mt.gov/business/contracting/mailinglist.shtml](http://www.mdt.mt.gov/business/contracting/mailinglist.shtml).

Both processes rate responses on the same criteria which are typically: quality of firm and personnel (30%), capability and capacity of firm (35%), and record of past performance (30%). The remaining 5% for location is incorporated later in the prequalification process and as needed in the RFQ/RFP process, after project needs have been identified, and
location can be factored in.

Consultant selection is dependent upon both state and federal requirements. Title VI requires that “all persons” have a right to participate in federal aid programs. MDT has chosen to deal with this requirement by assigning a minimal weight (5%) to location as a consideration in the selection process.

DBE goals are established as required in proposed contracts prior to RFP announcements. Specific Title VI Assurances are included in all RFPs and in all executed consultant contracts.

Monitoring

The MDT Title VI Coordinator reviews consultant contractors periodically to ensure that all Title VI requirements are met. CRB reviews consultant contracts to determine compliance with Title VI contract specifications.

Preconstruction: Right-of-Way Bureau (ROW)

The ROW Bureau ensures that appraisals, acquisitions, relocations, and land sales are conducted on a non-discriminatory basis by standardization of procedures, uniformity of administration, and published information that concerns Title VI considerations in brochures and public notices.

When language or other barriers, such as age, are identified, ROW personnel (including contractors) employ interpreters, tribal members, relatives and/or friends of the client to assist with negotiations and other issues.

EEO training is regularly provided to all ROW staff at the annual ROW academy or other MDT training venue.

Preconstruction: ROW Real Estate Appraisals

When it becomes necessary to hire fee appraisers, MDT uses the State required contracted services procedures. Certified DBE appraisers are solicited for these projects.

Preconstruction: ROW Real Estate Acquisitions

MDT and Consultant Acquisition agents exclusively handle real estate acquisitions and an acquisition history is completed for every contact with landowners. Field ROW Supervisors and Headquarters ROW staff review completed acquisition documents to ensure all customers have been given fair and equal treatment. Acquisition brochures are made available at public meetings and at the beginning of negotiations. Alternate accessible format statements are included on the brochures.
Preconstruction: ROW Relocation Assistance and Advisor Services

When relocation actions are necessary, affected individuals are informed of their rights at public hearings prior to the acquisition phase of project development. Relocation brochures and formal written notices are provided at public hearings, at the beginning of negotiations and during the vacancy phase. Alternate accessible format statements are included on the brochures.

All relocated persons are given assistance on an individual basis according to ROW manual procedures. Documentation is maintained on all relocation assistance activities. This documentation is reviewed by Field ROW Supervisors and Helena Acquisition Section to ensure all customers have been given fair and equal treatment.

Issuance of 90-day notices, final notices, and extensions of occupancy are uniformly applied to all persons being relocated by a project.

Fair housing requirements are covered in detail in MDT’s relocation brochure, discussed with Realtors, and explained to affected individuals when offers are made.

Preconstruction: ROW Property Management

Property Management policies, procedures, and statutes are uniformly applied to ensure customers are given fair and equal treatment.

Monitoring

The ROW Title VI Representative periodically reviews randomly-selected files to assure compliance with all required regulations.

Preconstruction – Community Transportation Enhancement Section (CTEP)

The Community Transportation Enhancement Program (CTEP) is a section within the Consultant Design Bureau. CTEP sub-allocates funds to all local units of government including counties, first-, second-, and third-class cities and tribal governments to design and construct transportation enhancement projects.

Currently this includes all 56 counties and 49 cities, and the 7 Indian Reservations within the state. This program places the responsibility for compliance with all federal, state and local requirements upon local government, the final federal fund recipient. Title VI reviews are conducted by the Title VI Coordinator at selected local governments annually.

CONSTRUCTION

The Construction Bureaus (which are under the Construction Engineer), principally through Contract Plans Bureau, ensure that open, free and competitive bidding processes are in place by providing accessible locations and by assuring construction contracts are awarded on the basis of low bid, responsibility, responsiveness, bonding, insurance and DBE requirement compliance.
When applicable, race conscious DBE goals are established by the CRB in all federal-aid contracts prior to bid letting.

The Construction Bureaus comply with Title VI by reviewing all sub-contracts submitted by prime contractors for the FHWA Form PR-1273 and the appropriate wage decision.

**Construction: Contract Plans Bureau**

Contract Plans Bureau edits, compiles and distributes bid packages for highway construction projects across the state. Advertising is accomplished via the Internet and newspapers having major circulation throughout the State, via a mailing list which anyone can request to be put on, and to out-of-state plan rooms as requested.

Contract Plans’ staff provides support and training in the use and implementation of the mandatory electronic bidding system (Expedite™ Bidding software). Special efforts have been made to provide training to Indian reservations. Accessible computers and printers are available for public use in the Contract Plans Bureau office. Staff members allow the public to access their computers. Desk arrangements allow handicapped access. Staff members contact Civil Rights Bureau staff if any unique accommodations requests arise.

**Monitoring**

To determine Title VI compliance, Contract Plans' administrative staff evaluates the activities and practices of the bidding, advertising and distribution process by reviewing:

- Special efforts to accommodate protected groups with regard to the physical location of the bid opening;
- Training practices in the use and implementation of the mandatory electronic bidding system (Expedite™ Bidding software);
- State and federal mandates that address legal advertising, with emphasis on communicating project information to protected groups;
- That all Title VI related documents are included in bid packages, publications and legal advertisements. Prime contracts are reviewed pursuant to federal aid regulations for detail including the PR-1273, wage rates, and appropriate DBE goals.
- Emerging technological advances to provide for more equitable access for both handicapped and non-handicapped individuals to project information and support data using electronic communication. MDT capability to provide Braille documents is currently limited by available equipment and funds.
- As Read and Transportation Commission Award reports, for potential Title VI impact.
**Construction: Research Section**

The Research Section is responsible for contracting research projects through its Research Program, conducting an Experimental Projects Program, and performing technology transfer activities related to both programs.

Solicitations for research projects are distributed to tribal governments, universities, public and tribal colleges, private consultants, and any group or individual who has either submitted an idea in the past or expressed an interest in being placed on the mailing list.

The Research Section contracts with various government and private entities to conduct research projects and with Montana State University to conduct the Local Technical Assistance Program (LTAP). LTAP provides training and various educational materials to local governments in Montana. (The Tribal Technical Assistance Program (TTAP) is administered through another agency.)

MDT Purchasing Services Section or Consultant Design Bureau requirements are used to solicit and select private contractors to perform research projects. MDT Research requirements are used for contracting with various public entities to perform research projects.

**Monitoring**

The Research Title VI Representative monitors mailing lists and conducts periodic reviews to ensure that protected groups have equal access to research opportunities information.

**HUMAN RESOURCES DIVISION**

**Workforce Planning Bureau**

The Workforce Planning Bureau administers MDT’s training programs and administers recruitment, selection, and succession planning processes in a non-discriminatory, fair, and consistent manner. The Bureau works with District and Divisional Human Resource staff to proactively recruit qualified applicants.

**Occupational Safety & Health Bureau**

The Occupational Safety & Health Bureau administers MDT’s safety and occupational safety and health programs. The Bureau develops and presents safety training; formulates and implements policies for protection for the general public and reducing costs associated with accidental losses, tort liability and compliance with regulations.

Both Bureaus contract for training products/services and professional services using public and private sector providers (including the National Highway Institute). The Purchasing Services Section in Administration Division handles requests for quotes and requests for proposals. All contracts are approved by CRB as containing the appropriate language for Title VI compliance.
**Monitoring**

Purchasing Services Section ensures that all contracts contain the Title VI provisions.

**MAINTENANCE DIVISION**

Service level guidelines are established by Maintenance Chiefs, District Administrators, and the Maintenance Division Administrator. These guidelines prescribe uniform service levels and winter hours of service for the traveling public.

Winter road reports are provided to the traveling public. Telecommunication Devices for the Deaf (TDD) are available for public use and are included at rest area locations along interstate highways.

Purchasing Services Section requirements are utilized when maintenance contracts are advertised and awarded.

**Monitoring**

Each District’s Maintenance Supervisor(s) monitors written reports, public comments, and performs road inspections to ensure all members of the public receive equal road maintenance services.

**MOTOR CARRIER SERVICES DIVISION**

The Motor Carrier Services Division (MCS) is responsible for commercial vehicle licensing, registration, permit issuance, and commercial vehicle safety and enforcement of federal and state motor carrier laws and regulations. MCS’s customers include interstate and intrastate commercial motor carriers, contractors, loggers, and farm trucking operations. This division issues commercial vehicle registrations, licenses, safety credentials, overweight, and other permits.

Instructional manuals are provided to the public and are available in alternate formats. Language explaining the availability of accommodations, including the Telecommunication Devices for the Deaf (TDD) phone number (TTY (800) 335-7592, or by calling Montana Relay at 711), is printed on all public documents. The Trucker’s Handbook provides an overview of motor carrier regulations and lists sources for obtaining additional information such as telephone and cell-phone numbers of permanent weigh stations and areas patrolled by each MCS Patrol Officer. The handbook is available in both hard copy and on the Internet.

The Getting Started booklet provides new and existing commercial motor carriers with information about federal safety and hazardous materials regulations, state safety laws, and rules required to safely and legally operate on Montana highways. The booklet is available in hardcopy, CD, and MDT’s web site via the Internet. MCSAP also conducts carrier training upon request from the industry.
Administrative Rule changes are noticed for public hearing as required by state statute. MDT is required to conduct a small business analysis if a proposed rule change significantly and directly impacts small businesses. Informal meetings are conducted to solicit information pertaining to proposed legislation or rule changes and to inform and explain the proposed changes.

MCS Officers ensure that the motor carrier industry complies with all State and Federal vehicle licensing, oversize and overweight regulations by inspecting documents and weighing vehicles at permanent weighing facilities and by random stops by MCS Patrol. MCS Officers and Motor Carrier Safety Assistance Program (MCSAP) Inspectors also conduct commercial vehicle and driver safety inspections. Concentrated special assignments are also conducted in areas where no permanent weigh station facility is located or where a weigh station is easily bypassed.

**Monitoring**

The Division Title VI Representative periodically reviews procedures to assure proper compliance with regulations and works with staff to ensure all public meetings, weigh stations, MCS headquarters and district offices, and MCSAP offices have current Title VI pamphlets.

**RAIL, TRANSIT, AND PLANNING DIVISION**

Rail, Transit, and Planning Division (RTPD) is subject to both FTA and FHWA Title VI responsibilities. RTPD provides a broad range of multi-modal transportation planning functions and analyses to enable project selection and programming for MDT’s short and long-range transportation and grant programs. The principal duties in this Division which have Title VI impacts are planning, public involvement, contractual/consultant services procurement, grant/sub-grant recipients, equipment procurement, rail transit, special studies and sub allocated pass-through funding to governmental subdivisions.

The impacts of these areas are incorporated in the Process Handbook for Transportation Planning program description. At a minimum, RTPD ensures that:

- Grant and sub-grant programs for non-governmental organizations are publicized through the State to assure that protected groups receive appropriate notification and are able to participate in identified programs;

- Existing statistical data identifying concentrations of protected group populations is used in the development of MDT Public Involvement Strategies; and

- Procurement of consultant services and equipment will be accomplished in accordance with State and Federal law (see Purchasing section of this Plan).

The statewide transportation planning process includes the development, administration, and update of highway, transit, rail and bicycle/pedestrian plans and programs in accordance with federal and state laws, regulations, and policies. The process relies heavily on cyclical and ongoing public involvement efforts to involve stakeholders, the
public, and other state, tribal and local agencies and governments in the decision-making process. Products include plans, reports, and studies that guide MDT decision makers in carrying out MDT’s statutory responsibilities as the Montana agency responsible for comprehensive statewide transportation planning and policy.

FTA regulations governing Section 5310 funds (elderly and disabled transportation) and Section 5311 funds (non-urban transportation) require that the state management plan include:

- A description of the process by which the state develops the annual program of projects submitted to FTA as part of its Section 5311 grant application, especially the method used to ensure fair and equitable distribution of funds, including to Native American tribes where present.

- A description of the state’s efforts to assist sub-recipients\(^1\) in applying for Section 5311 funds, especially any efforts made to assist minority applicants.

- A description of the state’s criteria for selecting transit providers to participate in the program, especially its efforts to include sub-recipients serving significant minority populations.

- A description of the state’s ongoing process to monitor sub-recipient’s compliance with Title VI, such as ongoing site visits to each sub-recipient, review checklists, etc.

**Transit Section and Rail Planner**

The Transit (Urban) Section, and the MDT’s Rail Planner are responsible for ensuring that Montana residents are aware of transit and rail issues and programs and that the benefits of MDT’s services are equitably distributed. This is accomplished by publicizing the availability of assistance in regional, local and minority newspapers, the MDT newsletter, and direct mail. Staff solicits participation from throughout Montana including the seven Indian reservations.

Staff also provides opportunities to participate in the transit and rail planning and decision-making processes through public meetings, surveys, toll-free telephone numbers, and consultant studies. Interpreters will be used to aid those with special needs.

To prevent discriminatory treatment of protected groups, staff ensures that applicants and recipients of assistance have access to processes for corrective or remedial actions. Complaint procedures are in place that will facilitate a resolution of problems at the lowest possible level.

Staff also ensures that decisions on locations of services and facilities and the level and quality of transit services comply with Title VI requirements.

Transit (Urban) Section staff and the Rail Planner are also involved in the following

\(^1\)“Sub-recipient” is a local government or other entity receiving pass-through federal funds from MDT.
activities:

- Review data to determine if concentrations of Title VI protected populations exist and may affect decision-making;
- Review (by Urban) of Metropolitan Planning Organization (MPO) Title VI plans to ensure the plans effectively address and comply with Title VI requirements;
- Review of FTA Section 5310 and 5311 transportation providers on a three-year rotational basis with one-third being reviewed each year;
- Reviews of MPOs (by Urban) on a three-year rotational basis to ensure compliance with Title VI requirements;
- Review of urban areas without formal transportation plans as appropriate or as changes in federal-aid property projects may dictate; and
- Other RTPD Title VI activities.

The Bicycle and Pedestrian Transportation Program is a part of the RTPD. It is tasked with institutionalizing bicycle and pedestrian modes and to target bicycle-related and pedestrian improvements.

**Monitoring**

The Transit Section retains a Title VI Representative on staff. This Representative monitors Title VI and DBE compliance in applicable areas by submitting Periodic Reports, and conducting Division internal reviews and external compliance reviews (which include metropolitan planning organizations (Urban), transit providers, and urban areas) as necessary.

**Environmental Services Bureau**

The Environmental Services Bureau is responsible for all environmental documentation. The documentation meets the requirements of the National Environmental Policy Act (NEPA) and Montana Environmental Policy Act (MEPA) for transportation highway projects including Community Impact Assessments.

In Montana, the areas of concern for Title VI issues are primarily on Indian reservations and urban areas, which are categorized as follows:

1) Reservation lands
2) Tribal lands outside a reservation
3) Minority/low income neighborhoods
Potential impacts of transportation projects and alternatives are evaluated. Potential for adverse impact is rare since most projects follow existing transportation corridors or are in rural non-developed areas.

After appropriate analysis, evaluation, and determination of appropriate mitigation for the impacts of a transportation project and alternatives on neighborhoods, the following statements with appropriate explanations and documentation will be incorporated into the final environmental report when applicable. The statements will be included for Categorical Exclusions.

“This project will not induce significant land use changes or promote unplanned growth. There will be no significant effects on access to adjacent properties or present traffic pattern.

This project will not create disproportionately high and adverse human health or environmental effects on minority and low-income populations (E.O. 12898) and complies with Title VI of the Civil Rights Act of 1964 (42 U.S.C.2000d).”


The Engineering, Resource, and Hazardous Waste Sections of Environmental Services Bureau all contract for additional services to complete transportation projects. These contracts are normally awarded through the Consultant Design Bureau, Purchasing Services Section, or the DOA Purchasing Bureau (larger projects).

**Monitoring**

The Environmental Services Engineering Section Supervisor or the Environmental Services Bureau Chief reviews all Section work. The review covers the completeness, accuracy, and documentation of all studies relating to Title VI issues and their relationship with each project.

Major transportation project environmental documentation is also reviewed for overall content by Legal Services and various design sections of MDT. The Title VI Coordinator will review selected draft environmental documents for Title VI compliance.

**State Highway Traffic Safety Section**

The State Highway Traffic Safety Section’s (SHTSS) mission is to reduce the number and severity of traffic crashes, injuries and fatalities on Montana highways. SHTSS conducts several programs with multiple projects that focus primarily on impaired driving prevention and occupant protection, and other traffic safety related problem areas using National Highway Traffic Safety Administration (NHTSA) funds.

Using federal funds, the SHTSS contracts with other state government agencies, local government agencies, and non-governmental entities to provide highway traffic safety, enforcement, and education programs within the state. At least 75% of all federal funds
apportioned to Montana under 23 USC §402 are expended annually. The SHTSS invites law enforcement agencies to conduct overtime activities for highway traffic safety programs. Funding is distributed to local agencies based upon population size and crash rates, with areas having the highest crash rates/fatalities assigned priority. Funding is not distributed based upon sex, race, color, or national origin.

In FFY 2007, SHTSS was awarded grant funding from NHTSA for the specific purpose of prevention of racial profiling. SHTSS has been collaborating with MDT management, law enforcement, tribal representatives, minority organizations, other state agencies, and others to implement programs that meet the intent of the funding.

Traffic safety related funds not involving law enforcement are awarded based upon selection of grant applications that contribute to reducing traffic fatalities and injuries that meet the goals and objectives of the Comprehensive Highway Safety Plan. This is done without regard to sex, race, color, or national origin. The Contractor funded with NHTSA monies will not participate either directly or indirectly in discrimination that is prohibited by 49 CFR §26.5. Applications are made available on the MDT website (http://www.mdt.mt.gov/safety/safetyprg.shtml) that allows all interested parties equal opportunity to apply. The website is advertised on SHTSS’s written material, public announcements, and by staff contacts with the public.

All contracts provided to those receiving NHTSA funds include assurances and certification notices to the contractor that consist of contract language on compliance with Title VI of the Civil Rights Act of 1964 for Federal-aid contracts. Grant recipients are responsible for compliance with all federal, state and local requirements.

Monitoring

The Title VI Representative will ensure that Title VI language is added in SHTSS’s Operating Procedures as it relates to the allocation of grant funds and grant management.

The RTPD Title VI Representatives will assist in conducting formal complaint investigations of program participants. Formal complaints against a local government and sub-recipients will be referred directly to the CRB. The CRB Chief will approve finalizations of investigations.

Transit related formal complaints filed against MDT will be investigated by MDT and a written report will be sent to FTA. Formal complaints related to FHWA funding will be investigated immediately with a written report subsequently sent to FHWA.

SPECIAL EMPHASIS PROGRAM AREAS

At this time CRB has not identified any Special Emphasis Program Areas. A program area is designated as a “special emphasis area” if during the previous year’s review process the program area shows deficiencies in how it complies with Title VI requirements. In addition, a program area may be designated a “special emphasis area” if CRB receives a complaint
about or an indication of a possible violation within the program area from an MDT employee or a member of the public. The facts of each specific complaint and/or alleged violation report will determine if a “special emphasis” designation is proper. If a program area is designated as a “special emphasis program area,” the program area will remain so designated until the Title VI Coordinator determines that the program area no longer requires special attention outside of the normal reporting requirements to CRB.

**SUB-RECIPIENT REVIEW PROCEDURES**

Each year, the Title VI Coordinator conducts reviews to ensure sub-recipients are implementing programs that comply with Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations. There are three Metropolitan Planning Organizations (MPOs) in Montana; each MPO is reviewed every three years with one review occurring each year. The review procedures are outlined in Appendix D.

**TRAINING**

Civil Rights training is prepared and conducted by the Title VI Coordinator. MDT’s current policy requires that all MDT employees receive Civil Rights training every 2 years. Training is offered throughout the state at various times throughout the year. In addition, all new employees receive Civil Rights training as part of their New Employee Orientation. For sub-recipients, Civil Rights includes a training aspect into the review procedures.

**COMPLAINT PROCEDURES**

See Appendices A, B, and C for CRB’s complaint procedure, policy, and complaint form. All investigations are conducted by personnel trained in compliance investigations.

CRB tracks Title VI complaint information using the following log sheet:

<table>
<thead>
<tr>
<th>Case #</th>
<th>Protected Class on which complaint is based</th>
<th>Nature of the Complaint</th>
<th>Date Filed</th>
<th>Date Investigation Complete</th>
<th>Disposition</th>
<th>Date of Disposition</th>
<th>Notes</th>
</tr>
</thead>
</table>

CRB will notify the applicable federal agency of any Title VI complaints and findings within the appropriate time frame.

**LIMITED ENGLISH PROFICIENCY**

Executive Order 13166 implements Title VI of the Civil Rights Act of 1964 by requiring meaningful access to all federally financially assisted programs and activities by persons with limited English proficiency (LEP).

Limited English proficiency is defined as “individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.” LEP individuals are entitled by EO 13166 to language assistance with respect to a particular type of service, benefit or encounter. FHWA has mandated that “…recipients
must take reasonable steps to ensure that such persons have meaningful access to the programs, services, and information those recipients provide, free of charge....”

Options for MDT include:
- Multi-language flashcards that MCS could use to identify the driver's language, then access to an interpreter.
- Using family members to interpret for LEP individuals
- http://www.lep.gov should be accessed as statewide and district-wide LEP populations are identified.
- Contract for Deaf/ Hard of Hearing Services.
- Referring questions to International Relations departments at state colleges.
- Creating and maintaining an “MDT Interpreters List.”

Under the DOJ guidance, MDT is obligated to determine the extent of its obligation to provide LEP services: This determination requires a flexible and fact-dependent analysis on a case-by-case basis of four factors:

1. The number of proportion of LEP persons serviced or encountered in the eligible service population.
2. The frequency with which LEP individuals come in contact with the program.
3. The nature and importance of the program, activity or service provided by the program.
4. The resources available to the recipient and cost.


The MDT Interpreters List has been developed, distributed to MCS, updated as new information is received, and included on the MDT Title VI Internet site at http://www.mdt.mt.gov/other/civilrights/external/interpreters-list.pdf. MDT enforces LEP in the same manner as Title VI. LEP is included as review criteria in all Title VI compliance reviews. CRB will continue to monitor LEP requirements both internally and in federal aid reviews of local governments and contractors.

ENVIRONMENTAL JUSTICE

Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (1994),” was enacted to reinforce Title VI of the Civil Rights Act of 1964.

The Civil Rights Act states, “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.”

Executive Order 12898 states, “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."

MDT enforces Environmental Justice in the same manner as Title VI. Environmental Justice is included as review criteria in:

- All Title VI compliance reviews, particularly local government reviews, and
- Analyses prepared for compliance with the Montana and National Environmental Policy Acts (MEPA and NEPA).

**REVIEW OF STA DIRECTIVES**

All Department directives are discussed at Administrator meetings at which the CRB Chief is present and is able to voice any concern relating to nondiscrimination requirements. In addition, all directives are reviewed by MDT’s legal team and if any civil rights issues are involved, CRB is notified and is provided an opportunity to consult on the issue.
MDT NONDISCRIMINATION AND DISABILITY ACCOMMODATION
NOTICE

Montana Department of Transportation ("MDT") is committed to conducting all of its business in an environment free of discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination on the grounds of race, color, national origin, sex, age, physical or mental disability, parental/marital status, pregnancy, religion/creed/culture, political belief, genetic material, veteran status, or social origin/ancestry (hereafter "protected classes"). by its employees or anyone with whom MDT chooses to do business.

For the duration of this contract/agreement, the PARTY agrees as follows:

(1) **Compliance with Regulations:** The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) **Non-discrimination:**
   a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
   b. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
      i. Statement that PARTY does not discriminate of the grounds of any protected classes.
      ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
      iii. Contact information for PARTY’s representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
      iv. Information on how to request information in alternative accessible formats.
   c. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of any protected class.
(3) Participation by Disadvantaged Business Enterprises (DBEs):
   a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
   b. By signing this agreement the PARTY assures that:

   The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

   c. PARTY must include the above assurance in each contract/agreement the PARTY enters.

(4) Solicitation for Subcontracts, Including Procurement of Materials and Equipment:
   In all solicitations, either by competitive bidding, or negotiation, made by the PARTY for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the PARTY of the PARTY’s obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(5) Information and Reports:
   The PARTY will provide all information and reports required by the Acts, Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(6) Sanctions for Noncompliance:
   In the event of a PARTY’s noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:
   a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

(7) Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statues and authorities; including but not limited to:

**Federal**
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 200d *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 displacees or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways 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 Americas with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR 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 prevents 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.).

**State**
- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

*(8) Incorporation of Provisions:* The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.
TITLE VI ASSURANCES

FEDERAL HIGHWAY ADMINISTRATION
DIVISION OFFICE
Helena, Montana
NONDISCRIMINATION
AGREEMENT
THE FEDERAL HIGHWAY ADMINISTRATION

MONTANA DIVISION ADMINISTRATOR
AND
Montana Department of Transportation

The Montana Department of Transportation, (hereinafter referred to as the "Recipient") hereby agrees to comply with the following Federal statutes, U.S. Department of Transportation and Federal Highway Administration Regulations, and the policies and procedures promulgated by the Federal Highway Administration, as a condition to receipt of Federal funds.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI of the Civil Rights Act of 1964, as amended, provides that no person shall on the ground of race, color, national origin, sex, age, and handicap/disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Civil Rights Restoration Act of 1987 amended Title VI to specify that entire institutions receiving Federal funds—whether schools and colleges, government entities, or private employers—must comply with Federal civil rights laws, rather than just the particular programs or activities that receive the funds.

Nondiscrimination programs require that Federal-aid recipients, sub-recipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, whether those programs and activities are federally-funded or not. If a unit of a State or local government is extended Federal-aid and distributes such aid to another governmental entity, all of the operations of the recipient and sub-recipient are covered. Corporations, partnerships, or other private organizations or sole proprietors are covered in their entirety if such entity received Federal financial assistance (FHWA Notice No. 4720.6, September 2, 1992).

ASSURANCES
49 CFR PART 21.7

The Montana Department of Transportation HEREBY GIVES ASSURANCES:

That no person shall on the grounds of race, color, national origin, sex, age, and handicap/disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are federally-funded or not. Activities and programs which the recipient hereby agrees to carry out in compliance with Title VI and related statutes include but are not limited to:

LIST ALL MAJOR PROGRAMS AND ACTIVITIES OF THE RECIPIENT

1. That it will promptly take any measures necessary to effectuate this agreement.

2. That each program, activity, and facility as defined at 49 CFR 21.23(b) and (e), and the Civil Rights Restoration Act of 1987 will be (with regard to a program or activity) conducted, or will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this agreement.
3. That these assurances are 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 by the Federal Highway Administration and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, and successors in interest. The person or persons whose signatures appear below are authorized to sign these assurances on behalf of the Recipient.

4. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and in the form in all proposals for negotiated agreements:

The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the 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 as defined at 49 CFR Part 23 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, national origin, sex, age, handicap/disabled in consideration for an award.

5. That the Recipient shall insert the clauses of Appendix A of this agreement in every contract subject to the Act and the Regulations.

6. 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 agreement.

**IMPLEMENTATION PROCEDURES**

**23 CFR PART 200**

This agreement shall serve as the recipient's Title VI plan pursuant to 23 CFR 200 and the Title VI Implementation Guide.

For the purpose of this agreement, "Federal Assistance" shall include:

1. grants and loans of Federal funds;
2. the grant or donation of Federal property and interest in property;
3. the detail of Federal personnel;
4. the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest; to be served by such sale or lease to the recipient; and
5. any Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

The recipient shall:

1. Issue a policy statement, signed by the head of the recipient, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.

2. Take affirmative action to correct any deficiencies found by the Federal Highway Administration within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The head of the recipient shall be held responsible for implementing Title VI requirements.
3. Establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the recipient. This unit shall contain a Title VI Equal Employment Opportunity Coordinator or a Title VI Specialist, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports.

4. Adequately staff the civil rights unit to effectively implement the civil rights requirements.

5. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigations. Identify each complainant by race, color, national origin, sex, age, handicap/disability; the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the recipient's report of investigation, will be forwarded to the Division Office of Civil Rights within 60 days of the date the complaint was received by the recipient.

6. Collect statistical data (race, color, national origin, sex, age, handicap/disability) of participation in, and beneficiaries of the programs and activities conducted by the recipient.

7. Conduct Title VI reviews of the recipient and sub-recipient contractor program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.

8. Conduct training programs on Title VI and related statutes.

9. Prepare a yearly report of Title VI accomplishments for the past year and goals for the next year.

   (a) Accomplishment Report
   List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI Specialist and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews conducted by the Title VI Specialist. List any major problem(s) identified and corrective action taken. Include a summary and status report on any Title VI complaints filed with the recipient.

   (b) Annual Work Plan
   Outline Title VI monitoring and review activities planned for the coming year; state by which each activity will be accomplished and target date for completion.

**DISCRIMINATION COMPLAINT PROCEDURE**

1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, as amended, may file a complaint with the recipient. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the recipient's Title VI Specialist for review and action.

2. In order to have the complaint considered under this procedure, the complainant must file the complaint no later than 180 days after:
   - The date of the alleged act of discrimination; or
   - Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the recipient or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.
3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title VI Specialist. If necessary, the Title VI Specialist will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled in the usual manner.

4. Within 10 days, the Title VI Specialist will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as the Federal Highway Administration and the Department of Transportation.

5. Generally, the following information will be included in every notification to the Office of Civil Rights:

(a) Name, address, and phone number of the complainant.
(b) Names and address(es) of alleged discriminating official(s).
(c) Basis of complaint (i.e., race, color, national origin, sex, age, disability/handicap).
(d) Date of alleged discriminatory act(s).
(e) Date of complaint received by the recipient.
(f) A statement of the complaint.
(g) Other agencies (state, local or Federal) where the complaint has been filed.
(h) An explanation of the actions the recipient has taken or proposed to resolve the issue raised in the complaint.

6. Within 60 days, the Title VI Specialist will conduct and complete an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the head of the recipient. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.

7. Within 90 days of receipt of the complaint, the head of the recipient will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of either appeal rights with the Department of Transportation, or the Federal Highway Administration, if they are dissatisfied with the final decision rendered by the State.

SANCTIONS

In the event the recipient fails or refuses to comply with the terms of this agreement, the Federal Highway Administration may take any or all of the following sanctions:

a. Cancel, terminate, or suspend this agreement in whole or in part;
b. Refrain from extending any further assistance to the recipient under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient.
c. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the recipient.
d. Refer the case to the Department of Justice for appropriate legal proceedings.

SIGNED FOR THE FEDERAL HIGHWAY ADMINISTRATION:

[Signature]
Division Administrator
Date

SIGNED FOR THE MONTANA DEPARTMENT OF TRANSPORTATION:

[Signature]
Authorized Signature
Date

-34-
REAL PROPERTY

The following clauses shall be included in any and all deeds affecting or recording the transfer therein from the United States:

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the State of Montana, 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 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, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the 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 demise, release, quitclaim and convey unto the State of Montana all the right, title and interest of the Department 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 the State of Montana, 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 the State of Montana, its successors and assigns.

The State of Montana, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of sex, race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and]* (2) that the State of Montana 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, Department of Transportation, Subtitle 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, 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 Department of Transportation and its assigns as such interest existed prior to this deed.*

*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.

-35-
The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the State of Montana, pursuant to the provisions of Assurance 6(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, Subtitle 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, 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, the State of Montana, 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, or permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, the State of Montana, 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 State of Montana 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.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the State of Montana, pursuant to the provisions of Assurance 6(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 sex, race, color, or national origin 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 sex, race, color, or national origin 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 promises in compliance with
all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations,
Department of Transportation, Subtitle 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, 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, the State of
Montana, 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, the State of
Montana, 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 the State of Montana, and it’s 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.

**DOT (FTA) TITLE VI ASSURANCE**

*Pursuant to FTA Circular 4702.1B (October 1, 2012), every application for financial
assistance from FTA is accompanied by an assurance that the applicant will carry out the
program in compliance with Title VI of the Civil Rights Act of 1964. This requirement is
fulfilled on an annual basis when the department submits the annual certifications and
assurances. The assurances are submitted electronically under the Administrator of the
Rail, Transit and Planning Division or the Chief of the Grants Bureau’s automated
signature*

**49 CFR 21**

*The most recent version of 49 CFR Part 21, “Nondiscrimination in Federally-Assisted
Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights
1. **PURPOSE.** To provide guidance to Federal Highway Administration (FHWA) field officials, State highway agencies (SHAs), their sub-recipients, and contractors regarding the nondiscrimination requirements of the Civil Rights Restoration Act of 1987.

2. **BACKGROUND**

   a. The Supreme Court’s decision in the case of *Grove City College v. Bell*, 465 U.S. 555 (1984), limited the reach of Federal agency nondiscrimination requirements to those parts of a recipient’s operations which directly benefited from Federal assistance. The Civil Rights Restoration Act of 1987 clarified the intent of Congress to include all programs and activities of Federal-aid recipients, sub-recipients and contractors. This statute clarified the intent of Congress as it relates to the scope of Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes.

   b. Nondiscrimination programs require that Federal-aid recipients, sub-recipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, where those programs and activities are federally funded or not. The factors prohibited from serving as a basis for action or inaction which discriminates include race, color, national origin, sex, age, and handicap/disability. The efforts to prevent discrimination must address, but not be limited to a program’s impact, access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigations of complaints, allocations of funds, prioritization of projects, and the functions of right-of-way, research, planning, and design.

   c. Authorities for nondiscrimination include but are not limited to: Title VI of the Civil Rights Act of 1964, the Age Discrimination Acts of 1967 and 1975, Section 504 of the Rehabilitation Acts of 1973, the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, and Title 23, United States Code, Section 324.

3. **GUIDANCE**

   a. The Civil Rights Restoration Act of 1987 amended each of the affected statutes by adding a section defining the word “program” to make clear
that discrimination is prohibited throughout an entire agency if any part of the agency receives Federal financial assistance.

b. If a unit of a State or local government is extended Federal aid and distributes such aid to another governmental entity, all of the operations of the entity which distributes the funds and all of the operations of the department or agency to which the funds are distributed are covered.

c. Corporations, partnerships, or other private organizations or sole proprietorships are covered in their entirety if such an entity receives Federal financial assistance which is extended to it as a whole or if it is principally engaged in certain types of activities.

**ACTION REQUIRED**

a. FHWA field officials:

   (i) Inform the States of the existence of the Civil Rights Restoration Act of 1987;

   (ii) Provide guidance and technical assistance to SHAs upon request;

   (iii) Inform States of the need to incorporate language in the next scheduled update of their Nondiscrimination (“Title VI”) Plans indicating that they are aware of the scope of the nondiscrimination provisions and that they have incorporated a process to inform persons involved in or affected by all of their programs and activities of their rights under Title VI and related nondiscrimination statutes;

   (iv) Provide and/or coordinate training addressing nondiscrimination program requirements;

   (v) Provide guidance on how nondiscrimination complaints will be handled; and

   (vi) If a complaint of discrimination is received from a person who believes that he or she has been subjected to discrimination under any program or activity of a recipient, sub-recipient, or contractors, whether Federal-aid funds are involved in a particular program or activity or not, immediately transmit the complaint to the Director, Departmental Office of Civil Rights, and send a copy of the complaint to HCR-20.
b. State transportation agencies:

(i) Incorporate appropriate language in updates of Non-discrimination ("Title VI") Plans to ensure that persons affected by or involved in all of a State’s programs and activities are aware of their rights to not be subjected to discrimination based on race, color, sex, national origin, age, or handicap/disability;

(ii) Ensure that persons who believe they have been subjected to discrimination are made aware of the avenues of redress available to them and that they are provided advice on the process;

(iii) Monitor activities and investigate complaints filed against Federal-aid sub-recipients and contractors. The SHAs are also responsible for preventing discrimination in all of their own programs and activities and attempting to informally resolve complaints filed against them throughout the complaint process;

(iv) Where a complainant lodges a complaint against the SHA, the Federal Highway Administration will conduct or contract for the investigation or, if a class action complaint, a review;

(v) In instances where the complaint is against a contractor, subcontractor, or sub-recipient, the Federal Highway Administration can defer to the appropriate SHA to schedule and conduct an investigation, although, initially, involvement by Federal Highway Administration may be appropriate to ensure the adequacy of the investigation.
APPENDIX A – NONDISCRIMINATION COMPLAINT PROCEDURE

The Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free of discrimination, harassment, and retaliation. In accordance with State and Federal law, MDT prohibits any and all discrimination on the grounds of:

- race, color, national origin, sex, age, physical or mental disability, parental/marital status, pregnancy, sexual orientation, religion/creed/culture, political belief, genetic material, veteran status, or social origin/ancestry (hereafter “protected classes”).

by its employees or anyone with whom MDT chooses to do business. MDT employees, contractors, employees of contractors, and external customers may a file a complaint of discrimination or harassment based on any protected class.

Filing a complaint with the Civil Rights Bureau (“CRB”) does NOT prohibit the complainant from filing a complaint with Montana Human Rights Bureau (“HRB”), Equal Employment Opportunity Commission (“EEOC”), US Department of Transportation (“USDOT”), US Department of Justice (“DOJ”), any other appropriate body or tribunal, or seeking the advice of personal counsel. The remedy available may vary based on the legal authority under which the complaint is brought.

Filing a Complaint

CRB adopts the” Initiating an Internal Complaint” procedures outlined in Administrative Rules of Montana 2.21.4019, with the following modifications:

- All complaints must be filed within 180 days of the alleged discriminatory conduct.

Given the serious nature of allegations alleging civil rights complaints, complaints should be in writing and signed. Complainants are encouraged, but not required, to use CRB’s complaint form. Complaints may be:

 mailed to: MDT Civil Rights Bureau, PO BOX 201001, Helena, MT 59620
 hand delivered to: MDT Civil Rights Bureau, 2701 Prospect Avenue, Helena, MT 59620
 emailed to: CRB Title VI, Title VII, and EEO Specialist at ikurbatava@mt.gov.

CRB investigators will assist complainants in producing written complaints for investigation.

MDT employees may not use working time to prepare or file a civil rights complaint.

All complaints filed with CRB alleging discrimination and/or harassment based on a protected class will be investigated by CRB. MDT internal complaints dealing solely with human resources issues

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2 Sexual orientation is a protected class for MDT employees and is enforced as an internal policy violation pursuant to the Governor’s Executive Order 41-2008 and ARM 2.21.4005.
(i.e. ineffective management, personality conflicts, poor job performance) will be handled by the appropriate MDT Human Resources Division (HR) personnel.

**Investigating a Complaint**

CRB adopts the “Investigating a Complaint” procedures outlined in Administrative Rules of Montana 2.21.4020 with the following modifications:

- If a determination is made that an investigation is warranted, the complainant, the accused, and the relevant MDT administrator\(^3\) will be notified in writing, which will include a case reference number that will be included on all documents pertaining to that case.
- If at any point during the investigation the complainant stops cooperating with the CRB investigator or becomes otherwise unresponsive, the CRB investigator may close the investigation at his/her discretion, provided complainant was given a reasonable opportunity to correct his/her actions.

All investigations consist of interviewing witnesses and collecting and reviewing any relevant documents. Investigatory interviews may be conducted in person or over the phone. The CRB investigator will determine the form of the interview at his/her discretion.

After the interview, the CRB investigator will create an Interview Summary which the interviewee may review for any errors or omissions. Once the interviewee is satisfied that the Interview Summary represents an accurate documentation of the statements they made to the investigator on the day of interview, the CRB investigator will ask the interviewee to sign the Interview Summary. The Interview Summary will become part of the investigative file and will be incorporated into the final report. If the interviewee refuses to sign the Interview Summary, that fact will be noted on the Interview Summary document, which will nonetheless be included in the investigative file. During the course of the investigation, follow up interviews or the production of additional documents might become necessary. CRB asks for prompt response to these requests to assure that all investigations are resolved in a timely manner.

**Confidentiality**

CRB conducts all of its investigations in accordance with ARM 2.21.4022. It is CRB’s policy to keep confidential all of its investigations and relevant documents. However, it might be necessary for CRB to reveal the identity of the parties involved to CRB Bureau Chief, MDT Director, MDT legal staff, or persons at the organization or institution under investigation. The complainant does have the right to have their identity withheld during the course of the investigation. If the complainant wishes to have their identity withheld, complainant should inform the investigator of that fact at the outset of the investigation. The complainant should be aware that having the identity withheld may hinder the progress of the investigation.

**Timelines**

3 For complaints filed by external customers, the appropriate employer, contractor, or grant recipient will be notified.
CRB strives to complete all investigation within 120 days of receipt of complaint. This time period may be changed at the discretion of the CRB investigator and the business needs of MDT.

Throughout the course of the investigation, the CRB investigator will provide periodic updates to the CRB Bureau Chief. The CRB Bureau Chief is responsible for monitoring the progress of the investigation to assure it is conducted in compliance with these guidelines and all applicable statutes and regulations.

**Investigation Conclusions and Remedies**

Upon conclusion of an investigation, the CRB investigator will make a “cause” or “no-cause” determination, and will provide recommendations based on the finding as stated in the Final Determination Report. All effected parties will be notified in writing about the outcome of the investigation, however, copies of the Final Determination Report will not be provided. If a “cause” determination is made, the matter will be resolved by informal means whenever possible. However, formal action may be recommended:

- **For MDT internal complaints**: up to and including termination, as outlined in the state discipline policy.
- **For MDT external complaints**: up to the maximum penalty provided by applicable statute or regulation including debarment or withholding of funding.

The final determination report will be reviewed by the CRB Bureau Chief, MDT Director, and MDT legal counsel. What action will be taken will be determined by the CRB Bureau Chief, MDT Director, and MDT legal counsel based upon the information provided by CRB investigator in the final determination report.

**Post Investigation Actions**

CRB adopts the Post-Investigation Actions procedures outline in Administrative Rules of the State of Montana 2.21.4021 with the following modifications:

- A Final Determination Conference may be held at the discretion of the CRB Bureau chief or MDT Director.
- The case will be considered closed once a “no-cause” finding has been made or applicable disciplinary action was taken.
- Copies of the Final Determination will not be provided to the parties. However, parties are welcome to read the report at the CRB office. No electronic copies will be provided.
- If the complainant is not satisfied with the outcome of CRB’s investigation, complainant may pursue any other avenues available to him/her including filing a complaint with HRB, EEOC, applicable federal agency, or federal or state district court. Upon request by the complainant, and in compliance with applicable state and federal law, the CRB investigatory file and accompanying report may be transmitted to such other agency as
will be performing further investigation. It is the responsibility of the complainant to monitor all filing deadlines with all other state or federal agencies.

For questions, comments, or concerns contact CRB Title VI, Title VII, and EEO Specialist, Iryna Kurbatava at:
Phone: (406) 444-6334 TTY: (800) 335-7592; Montana Relay at 711; Email: ikurbatava@mt.gov
For accommodations contact Alice Flesch at: (406) 444 - 9229 or aflesch@mt.gov

THIS DOCUMENT IS AVAILABLE IN ACCESSIBLE FORMATS UPON REQUEST.
APPENDIX B – COMPLAINT FORM

Montana Department of Transportation
Civil Rights Discrimination Complaint Form

Case No. 2014_____

MDT is an Equal Employment Opportunity Employer and does not tolerate discrimination based on protected status. You are NOT required to use this form to file a complaint. Complaints should be in WRITING, signed and contain information requested by this form. Anonymous complaints will NOT be accepted. Accommodations will be provided for people with disabilities. Filing this complaint does not prohibit you from filing a complaint with the Montana Human Rights Bureau or the EEOC. You must file your complaint within 180 days of the last alleged discriminatory incident.

BASIS OF COMPLAINT: (Mark all that apply)

☐ Race ☐ Color ☐ National Origin (__________ )
☐ Age ☐ Physical Disability ☐ Mental Disability
☐ Marital Status ☐ Religion/Creed ☐ Sex
☐ Pregnancy ☐ Sexual Harassment ☐ Sexual Orientation (MDT employees only)
☐ Political Belief ☐ Genetic Material ☐ Veteran Status
☐ Culture/Social Origin/Ancestry ☐ Hostile Work Environment ☐ Retaliation

COMPLAINANT INFORMATION

☐ Male ☐ Female Age: _________ Disability: __________
Name: __________________________ Title: __________________________
Address: __________________________
Phone No.: __________________________ work home cell
Email: __________________________
I am filing a complaint on behalf of: ☐ self ☐ someone else

EMPLOYER/SUPERVISOR INFORMATION

Employer/Supervisor: __________________________
Address: __________________________
Phone No.: __________________________ Email: __________________________

NARRATIVE

Please explain, in as much detail as possible, how you were discriminated against. Include all relevant names and dates. (Use additional sheets of paper if necessary).

__________________________
__________________________
__________________________
__________________________
__________________________
__________________________
__________________________
__________________________
__________________________

Signature __________________________ Date __________________________

Mail, Email, or Hand Deliver this form to:

MDT Civil Rights Bureau 2701 Prospect Avenue, PO BOX 201001, Helena, MT 59620
For questions, comments or concerns contact Iyana Kurbatava at:
Phone: (406) 444-6334 TTY: (800) 333-7392, Montana Relay at 711; Email: ipconnor@mt.gov
For accommodations contact Alice Fleisch at: Phone: (406) 444 - 9229 or Email: afleisch@mt.gov
APPENDIX C – NONDISCRIMINATION POLICY

EEO, Nondiscrimination, and Harassment Prevention Policy

Resource: Administrative Rules of the State of Montana (ARM)

Human Resources/Employee Benefits

State Human Resources includes policies in administrative rules (ARM) when the policy may affect the public or be used by persons who are not currently employees. The policies that only affect state employees are not included in ARM. This policy is in ARM. This is a reproduction created for your convenience, but it is not the official version. Links to the ARM and Montana Code Annotated (MCA) are embedded throughout the document. You may also find the official ARM website at http://www.mtrules.org.

2.21.4001 SHORT TITLE
(1) This subchapter may be cited as the Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention Policy.


2.21.4002 POLICY AND OBJECTIVES
(1) These rules establish the minimum requirements for implementing and maintaining an equal opportunity program that promotes compliance with:
   (a) federal laws and regulations prohibiting illegal discrimination including the Genetic Information Nondiscrimination Act of 2008 (GINA);
   (b) the Montana Human Rights Act, Title 49, MCA;
   (c) the Governmental Code of Fair Practices, Title 49, chapter 3, MCA; and
   (d) and the Governor’s Executive Order 41-2008, Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention.

(2) These rules establish complaint procedures to promote prompt and equitable resolution of discrimination complaints.

(3) These rules cover all agencies in Montana’s executive branch except:
   (a) the Montana University System;
   (b) the Montana State Fund;
   (c) elected officials;
   (d) personal appointed staff of elected officials; and
   (e) any other position specifically excluded under 2-18-103 and 2-18-104, MCA.


2.21.4005 EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND NONDISCRIMINATION
(1) The executive branch is committed to equal opportunity, nondiscrimination, and harassment prevention in all aspects of employment and in programs, services, and activities offered to the public.
(2) Agency managers, as defined by the agency in policy or rule to promote consistency with internal policies and procedures, may not tolerate discrimination or harassment based on an individual’s race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran’s status, culture, social origin or condition, or ancestry. Likewise, agency management may not tolerate discrimination or harassment because of a person’s marriage to or association with individuals in one of the previously mentioned protected classes.

(3) Agency managers may use a bona fide occupational qualification (BFOQ) where the reasonable demands of a position require a distinction based on age, physical or mental disability, marital status, sex, religion, or national origin. A BFOQ is a legal exception to an otherwise discriminatory hiring practice. Exceptions are strictly construed, as provided in 49-2-303, MCA, and the burden rests with the agency to demonstrate the exemption should be granted. Federal and state laws prohibit BFOQs based on race or color.

(4) To promote a work and customer service environment free from discrimination, agency managers shall:
   (a) base hiring decisions on individual competencies and qualifications;
   (b) promote an inclusive work environment where individuals are afforded every opportunity to reach their fullest potential;
   (c) recognize individual differences as a key element of organizational and team success;
   (d) treat individuals with dignity and respect; and
   (e) value the rights of all Montanans to benefit from equal access to employment and programs, services, and activities offered to the public.

(5) Agency managers who observe behaviors that may be viewed as discriminatory shall stop the behavior and notify their agency’s EEO officer, Americans with Disabilities Act (ADA) coordinator, or human resources manager.


2.21.4008 RESPONSIBILITIES
(1) The Department of Administration shall:
   (a) periodically review and update equal opportunity (EO) standards, guidelines, and administrative processes and procedures;
   (b) assist agencies in maintaining an effective EO program;
   (c) provide annual utilization analysis reports to agencies;
   (d) provide EEO analyses, reports, and technical assistance to agencies;
   (e) recommend strategies to promote diversity and overcome potential barriers to employment; and
   (f) design and develop equal opportunity training.

(2) Executive branch department heads shall:
   (a) appoint an EEO officer responsible for:
   (i) managing the agency’s EEO program;
   (ii) training employees on EO;
(iii) assisting employees and managers with resolving EO issues;
(iv) conducting internal investigations; and
(v) developing written EEO action plans; and
(b) appoint an ADA coordinator responsible for:
(1) training employees on the ADA, disability awareness, and reasonable accommodations;
(2) conducting self-evaluations to assess accessibility of programs, services, and activities; and
(3) assisting with reasonable accommodation requests.
(3) Agency managers shall:
(a) retain electronic records for all jobs recording the sex, race, and ethnic group of employees and applicants as provided in 49-2-102, MCA, and the Uniform Guidelines on Employee Selection Procedures (1978); 43 FR 38295 (August 25, 1978);
(b) provide reasonable accommodations, upon request, for qualified individuals with disabilities and for applicants and employees based on their religious practices, unless doing so would create an undue hardship;
(c) post the state’s EO policy poster and complaint-resolution procedures, including contact information for the agency EEO officer and ADA coordinator, in areas frequented by employees and the public;
(d) provide a copy of these rules to all employees;
(e) provide EO and harassment prevention training to all new employees within 90 days of hire or within [six months of the effective date of these rules] for current employees who have not yet received training;
(f) provide EO and harassment prevention refresher training for all employees every three years or more frequently as needed; and
(g) document all training in the employee’s personnel file.

2.21.4009 COMPLIANCE WITH THE FEDERAL GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA)
(1) To comply with GINA, which prohibits discrimination based on genetic information with respect to employment or state-sponsored group health plans, agency managers may not:
(a) request, require, or purchase genetic information about employees or their family members; or
(b) use genetic information to:
(i) discriminate against an individual in hiring, discharge, compensation, terms, conditions, or privileges of employment;
(ii) make decisions about admission to apprenticeship and training programs, including on-the-job training;
(iii) limit, segregate, or classify an individual;
(iv) fail or refuse to refer an individual for employment;
(v) deprive an individual of employment opportunities; or
(vi) acquire health insurance or set premiums under the group health plan.
(2) Requests for genetic information include, but are not limited to:
(a) conducting Internet searches on individuals in a way that is likely to result in obtaining genetic information;
(b) knowingly or purposefully listening to third-party conversations or searching an individual’s personal effects for the purpose of obtaining genetic information; and
(c) requesting information about an individual’s current health status in a way that is likely to result in obtaining genetic information.
(3) To avoid inadvertently receiving genetic information, agency representatives who request medical information as part of an employment-related medical exam or a medical certification in response to a request for sick leave, leave qualifying under the Family Medical Leave Act, or a reasonable accommodation request under the Americans with Disabilities Act, shall include the following statements verbatim in their written request for medical information:
(a) “The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of employees or their family members. To comply with this law, we ask you not to provide any genetic information when responding to this request for medical information.”
(b) “Genetic information, as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.”
(c) “Genetic test means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes.”
(4) Agency managers may not ask probing questions of an individual if they inadvertently learn of a health condition of an applicant, employee, or the health condition of a family member.
(a) Probing questions include, but are not limited to, asking the individual whether other family members have the condition or whether the individual has been tested for the condition. These questions are likely to result in the acquisition of genetic information.
(5) Agency representatives possessing genetic information about an employee shall maintain the information as confidential in compliance with ARM Title 2, chapter 21, subchapter 66, Employee Records Management Policy.


2.21.4013 HARASSMENT
(1) Harassment, including sexual harassment, consists of, but is not limited to, oral, written, or electronic communications (for example, voice mails, e-mails, text messages, or other social networking tools) in the form of repeated and
unwelcomed jokes, slurs, comments, visual images, or innuendos based on a protected class. Even mutually agreeable behavior, or behavior accepted between two or more people, can be offensive to others; for this reason it is prohibited in the workplace.

(2) Sexual harassment is a form of discrimination that includes unwelcome verbal or physical conduct of a sexual nature when:
   (a) submission to the conduct is implicitly or explicitly made a term or condition of employment;
   (b) submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual; or
   (c) the conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

(3) Agency managers may not tolerate any behavior that negatively focuses on a protected class. Although a behavior or pattern of behavior might not constitute illegal discrimination, it might still violate this rule.

(4) Agency managers who observe behaviors that could be viewed as discrimination or harassment shall stop the behavior and notify their agency’s EEO officer, ADA coordinator, or human resources manager.


2.21.4014 RETALIATION
(1) Agency managers may not retaliate or allow, condone, or encourage others to retaliate against any customer, applicant, or current or former employee for opposing unlawful discriminatory practices, filing a discrimination complaint or participating in a discrimination proceeding, including testifying in court.

(2) Agency managers who become aware of retaliation shall inform the agency’s human resource manager, human resource staff, EEO officer, or ADA coordinator. The human resource manager, human resource staff, EEO officer, or ADA coordinator shall advise management on the appropriate course of action.


2.21.4019 INITIATING AN INTERNAL COMPLAINT
(1) Agency managers shall encourage employees, applicants, clients, and customers who believe they have been discriminated against or harassed to contact their supervisor, another manager, or the agency’s EEO officer, ADA coordinator, or human resources staff.

(2) Complaints may be oral or in writing; however, complainants are encouraged to use the Department of Administration’s complaint form found at http://hr.mt.gov/hrpp/policies.mcpx.

(3) For complaints not submitted on a complaint form, the agency representative receiving the complaint shall obtain and document the following information:

EEO, Nondiscrimination, and Harassment Prevention Policy
(a) name, address, and phone number(s) of the complainant(s);
(b) date(s), time(s), and location(s) of the alleged discriminatory behavior or conduct;
(c) name(s), if known, of the accused(s);
(d) description of the behavior or conduct that resulted in an alleged violation;
(e) whether the alleged discrimination was based on a protected class; and
(f) names of potential witnesses who may have heard or observed the alleged discriminatory conduct or behavior.

4. Agency representatives who receive a complaint or become aware of allegations of discrimination or harassment shall promptly notify the human resource manager, EEO officer, or ADA coordinator, regardless of their perception of the validity of the complaint.

5. The human resource manager, EEO officer or ADA coordinator, legal counsel, and appropriate manager shall meet to discuss the appropriate course of action. If the complaint is against any of these individuals, that individual is excluded from the meeting. The discussion must focus on measures to stop the alleged behavior, a review of the investigative process, and management’s role in the process.

6. If management determines an internal investigation would not be appropriate because of a potential conflict, they may request assistance from the State Human Resources Division or other outside source.

7. The human resource manager or human resource staff, as appropriate, shall coordinate with the investigator and advise management throughout the course of the investigation.


2.21.4020 INVESTIGATING A COMPLAINT

1. The EEO officer, ADA coordinator, or another representative chosen by management shall begin an investigation upon receiving a complaint.

2. Before the investigation begins, the appropriate manager shall separately explain to the complainant and accused:
   (a) the investigation process and anticipated timelines;
   (b) what retaliation is and that it is unacceptable behavior; and
   (c) expectations and consequences of discussing the complaint with anyone other than the investigator, management, union representative, or legal counsel.

3. Agency managers shall provide:
   (a) periodic updates to the complainant and the accused; and
   (b) documentation of their initial meeting and all subsequent follow-up action to the investigator.

4. The investigator shall:
   (a) gather evidence to determine a "cause" or "no-cause" finding;
   (b) coordinate with the agency’s legal counsel before conducting interviews and throughout the investigation; and
   (c) provide periodic updates to the agency’s human resource manager.
2.21.4021 POST-INVESTIGATION ACTIONS

(1) After receiving the final report, the appropriate manager shall promptly inform the complainant and accused of the outcome of the investigation in writing.

(2) In the case of a cause finding, the appropriate agency manager shall:
   (a) take appropriate disciplinary action, if necessary, according to the ARM Title 2, chapter 21, subchapter 65, Discipline Policy;
   (b) advise the complainant corrective action to stop the behavior has been taken, but not disclose the details or nature of disciplinary action;
   (c) reemphasize that retaliation is unacceptable behavior; and
   (d) contact the complainant within 30 days to ensure the behavior has stopped and no retaliation has occurred.

(3) In the case of a no-cause finding, the appropriate agency manager shall contact the complainant within 30 days to ensure the complainant has not experienced retaliation.


2.21.4022 CONFIDENTIALITY REQUIREMENTS

(1) Agency managers shall make every attempt to protect the privacy of individuals involved in the complaint process; however, individual privacy cannot be guaranteed.

(2) Agency managers may not prohibit employees from discussing a complaint or ongoing investigation with coworkers unless management conducts an individualized assessment and demonstrates that one of the following factors exists:
   (a) there are witnesses in need of protection;
   (b) evidence is in danger of being destroyed;
   (c) testimony is in danger of being fabricated; or
   (d) there is a need to prevent a cover-up.

(3) Agency managers shall document their rationale for requiring that employees refrain from discussing a complaint or ongoing investigation.

(4) The human resource staff shall maintain the investigative report and supporting documents in a secure, confidential case file separate from the regular employee file.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2011 MAR p. 1672, Eff. 8/26/11; AMD, MAR p. 110, Eff. 2/1/13.)

2.21.4027 TRACKING AND REPORTING INTERNAL COMPLAINTS

(1) Agency EEO officers shall track internal complaints using the Complaint Tracking Sheet located on the State Human Resources Division website: http://hr.mt.gov/hrpp/policies.mcppx. EEO officers shall provide quarterly summaries
of internal complaints to the State Human Resources Division no later than the fifteenth day of each quarter.

(2) The report must include:
   (a) the total number of complaints;
   (b) whether the complainant and accused was an employee, customer, or client;
   (c) the protected class or basis of the complaint;
   (d) the reason for complaint (for example, employment-related, denied access to a program or service, or inappropriate comment); and
   (e) the outcome of the complaint.

(3) The report is for tracking purposes only and may not include confidential information such as names of individuals involved.

(4) The State Human Resources Division shall collect and analyze the data to:
   (a) assess program effectiveness;
   (b) develop or modify existing policies, procedures, and guides; and
   (c) promote compliance with applicable laws, regulations, and policies.


2.21.4028 INITIATING AN EXTERNAL COMPLAINT

(1) In addition to the internal complaint process, complaints may be filed with the following agencies:

   (a) Montana Human Rights Bureau, 1625 11th Avenue, P.O. Box 1728, Helena, MT 59624-1728, (406) 444-2884, (800) 542-0807, TTY (406) 444-0532; or


(2) Jurisdiction may vary based on the nature of the complaint. For example, neither the Human Rights Bureau nor the EEOC considers complaints based on sexual orientation, culture, social origin or condition, or ancestry.

(3) The Human Rights Bureau must receive the complaint within 180 days of when the alleged discriminatory practice occurred or was discovered unless the person has filed an internal complaint. A person who files an internal complaint under these rules has 180 days from the conclusion of the internal investigation to file a complaint with the Human Rights Bureau if management completes the investigation within 120 days of when the alleged discriminatory practice occurred or was discovered. If management does not complete the investigation within 120 days, the person must file a complaint with the Human Rights Bureau within 300 days of when the alleged discriminatory practice occurred or was discovered.

(4) The EEOC must receive the complaint within 300 calendar days from the date the discrimination took place if the Human Rights Bureau enforces a law prohibiting employment discrimination against the same protected class. Otherwise, the complaint must be filed with the EEOC in 180 days.

2.21.4029 RULE VIOLATIONS

(1) Employees who violate these rules are subject to discipline, up to and including discharge under ARM Title 2, chapter 21, subchapter 65, Discipline Policy. A rule violation includes managers who allow discrimination to occur or fail to take appropriate action to correct inappropriate behavior, including discrimination or harassment.

(2) Failure to conduct an investigation in a proper and timely manner, interference with an investigation, failure to cooperate with an investigator, or making a false statement to an investigator may result in disciplinary action, up to and including discharge.


Other Resources:

- [Complaint Form](#)
- [Governor's Executive Order 41-2008 (Equal Employment Opportunity, Non-Discrimination, and Harassment Prevention)](#)
- [Harassment is Against the Law Brochure](#)
- [Model EEO Policy Statement Poster](#)
- [Tracking and Reporting Internal Complaints Form](#) (Excel)
# MPO Title VI Review Short Form

## Technical Assistance Tool

The checklist below represents the information being examined for the purposes of a Title VI Review by the Civil Rights Bureau of MDT. A detailed manual is provided for your reference. Documentation is necessary wherever possible. Please contact the MDT Civil Rights Bureau Office for any further clarification.

<table>
<thead>
<tr>
<th>Entity Being Reviewed:</th>
<th>Date:</th>
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## Review Criteria

### Organizational

1.1 MPO has appropriate contacts/liaisons with local, state, and federal entities for information sharing.

1.2 MPO possesses accessible, public, and up-to-date Census data including: demographic base, languages spoken, youth-specific, age, & income

1.3 MPO has accessible, public, and up-to-date copies of any Memorandum of Agreements or Memorandum of Understandings.

1.4 MPO’s Contact information, schedule, agendas, minutes, publications, Organizational Chart, and proposals exist both on the internet and in physical copies.

### Title VI Specific

2.1 MPO possesses the most up-to-date Title VI PowerPoint Presentation & Literature.

2.2 MPO has an assigned Title VI Liaison.

2.3 MPO office displays current Title IV information publicly.

2.4 MPO has procedures in place to determine that the effect of the planning process is not discriminatory; and appropriate procedures in place to avoid projects having a “disproportionate adverse impact on minorities or low income” community members.

2.5 MPO has a Title VI Plan that satisfies all regulations and has been approved by its governing body and the CRB.

If applicable, MPO’s Title VI Plan was submitted timely and approved by FTA (City of Billings: April 1, 2013; Great Falls Transit District: October 1, 2013; Missoula Urban Transportation District: October 1, 2013.) See at [http://www.fta.dot.gov/documents/Title_VI_Program_Due_Dates_4-1-2013.pdf](http://www.fta.dot.gov/documents/Title_VI_Program_Due_Dates_4-1-2013.pdf).

2.6 MPO has confidential and appropriate procedures for investigating, documenting, and resolving discrimination complaints.

2.7 MPO puts forth a ‘Good Faith Effort’ to consistently hold accessible (ADA&LEP) and appropriately advertised (Timely & Reasonable Notice) public meetings, where public input is encouraged and documented.

MPO incorporates the analysis of potential relocatees, impacted citizens, and affected communities in all project plans.

MPO projects have resulted in relocations, which were handled and documented appropriately.

2.8 MPO has fair and documented procedures for BOTH a ‘Public Selection’ process, and a ‘Consultant Selection’ process.

2.9 MPO attaches Title VI Language to all contracts, and requires the same of its contractors.

2.10 MPO Utilizes appropriate procedures when receiving assistance from MDT.

### DBE/ADA/LEP/EJ SPECIFIC

3.1 MPO provides reasonable accommodations, and includes a reasonable accommodations statement in all announcements.

3.2 MPO puts forth a ‘Good Faith Effort’ to keep an up-to-date list of DBE’s, and to locate, notify, and promote the use of DBE’s in both the planning and commencement of projects.

3.3 MPO has appropriate procedures for: researching & understanding local LEP situation, accommodating local LEP situation, and handling LEP issues as they arise.

3.4 MPO has an effective documentation process for the consideration of ADA issues in planning, ADA complaints, and appropriate procedures for dealing with ADA and the planning process.

### Event Tracking

4.1 MPO has received discrimination complaints.

4.2 MPO has had ADA complaints.

4.3 MPO includes a DBE participation rate in it’s projects, and reports their participation to CRB.

4.4 MPO has had LEP complaints.

4.5 MPO has submitted most recently produced mapping to CRB.

4.6 Title VI Liaison from MPO has attended, or is currently scheduled to attend, a Title VI Training.

4.7 Title VI Pamphlets available
The Montana Department of Transportation (MDT) attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the department. Alternative accessible formats of this information will be provided upon request. For further information, please contact:

Civil Rights Bureau  
Department of Transportation  
2701 Prospect Avenue  
PO Box 201001  
Helena, MT 59620-1001  
(406) 444-6331 Phone  
(406) 444-7243 Fax  
Montana Relay 711  
Website  
www.mdt.mt.gov/business/contracting/civil/titlevi.shtml