The State of Montana
DEPARTMENT OF TRANSPORTATION
Motor Carrier Services

FMCSA TITLE VI PROGRAM
COMPLIANCE PLAN

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Introduction to MDT

Mission & Vision
The mission of the Montana Department of Transportation (MDT) is to serve the public by providing a transportation system and services that emphasize quality, safety, cost effectiveness, economic vitality, and sensitivity to the environment.

MDT’s guiding vision is: “Serving you with pride.”

Organization
MDT is responsible for the planning, design, maintenance, operation, and management of Montana’s state-owned roadways, walkways, rest areas, airports, and numerous public-use facilities. The departmental structure helps staff at the state, regional, and local level efficiently deliver transportation improvements, comply with relevant rules and regulations, and maintain and operate transportation infrastructure to enable daily movement of goods and people across the state.
Each division within the department provides a critical function toward meeting MDT’s mission of ensuring Montana’s transportation network continues to remain a quality resource for all users. As transportation funding changes on both the federal and state levels, efficient management of resources to address needs will make all the difference in how Montana’s transportation network continues to support the growth of businesses, communities, and the Big Sky way of life. MDT’s leaders, employees, and partners are focused on the future of our state and finding the best ways to move Montana forward, together.

Montana’s geographic and demographic diversity means regions in Montana face different travel demands and transportation challenges. Larger, metropolitan areas with a need to expand urban roadways or manage congested intersection operations may vary from rural Montana’s need to reduce roadway departure crashes or manage the movement of large trucks through small towns. To address these unique challenges, the state is split into five transportation districts, each managed by district administrators focused on the individual transportation needs within their jurisdiction.

The Motor Carrier Services Division (MCS) protects the Federal and Montana investment in Montana’s highway system and ensures traveling public safety through regulation of the motor carrier industry and enforcement of state and federal commercial and agricultural motor carrier laws, rules, and regulations; licenses and permits commercial vehicles in compliance with state, regional, and federal law and/or agreement and establishes state, national, and international commercial motor carrier regulatory and enforcement rules and policy on behalf of the State of Montana.
FMCSA Title VI Program Policy Statement

MDT, as a recipient of Federal financial assistance and under Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities, ensures that no person shall on the grounds of race, color, national origin, sex, age, disability, low-income, and limited English proficiency (LEP) be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any MDT programs or activities.

MDT is committed to comply with 49 CFR Part 21 and 49 CFR Part 303. I have signed the United States Department of Transportation Standard Title VI/Non-Discrimination Assurances, which are located at Attachment A.

I have designated Office of Civil Rights (OCR), Equal Employment Opportunity (EEO) Specialist Supervisor, Nicole Cosby, to serve as the Agency-wide Title VI Coordinator for the MDT Title VI Program. See Attachment B, for designation of MDT Agency-wide Title VI Program Coordinator.

I have also delegated sufficient responsibility and authority to the MDT Title VI Program Coordinator and to the MCS Division Administrator to effectively implement MDT’s Title VI Program for MCS. See Attachment B, for delegation.

The MDT Title VI Program Coordinator is responsible for the implementation of MDT’s Title VI obligations which involve education, training, and prevention and investigation of claims of discrimination under Title VI. The MDT Title VI Program Coordinator coordinates all complaints filed, conducts investigations, and maintains the files on all Title VI complaints.

Malcolm D. Long, Director
Montana Department of Transportation

7-22-2021

Date
FMCSA Title VI Program Assurances

49 CFR 21.7 requires assurances from MDT that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity for which the recipient receives Federal assistance from the Federal Motor Carrier Safety Administration (FMCSA). MDT’s current Title VI Program Assurances signed by the MDT Director are located at Attachment A.
MDT is a recipient of grants from FMCSA federal aid programs. The Fixing America's Surface Transportation (FAST) Act consolidated several previously stand-alone FMCSA Grant Programs. The FMCSA Motor Carrier Safety Assistance Program (MCSAP) Grant Program now includes Basic and Incentive, New Entrant, Border Enforcement, Safety Data Improvement, Innovative Technology Deployment (ITD), Performance and Registration Information Systems Management (PRISM) and High Priority Grants.

MDT plans to apply for grant funding in FFY2022 for each of the below grants and/or programs listed below:

**MCSAP Basic and Incentive Grant Program** – The MCSAP Basic Grant is the formula grant provided annually to the State’s lead agency. Montana’s Governor has designated MDT as the State lead agency responsible for administering the MCSAP by submitting a Commercial Vehicle Safety Plan (CVSP). Included within the CVSP, is the Border Enforcement Grant (BEG) and New Entrant Safety Audit Program which provides the funding for activities to determine whether a new interstate motor carrier is fit to safely operate commercial vehicles. Montana anticipates it will meet or exceed the criteria to maximize FMCSA MCSAP Incentive funding.

Montana’s MCSAP activities include the ten national program elements established in 49 CFR § 350.203:

1. Driver inspections;
2. Vehicle inspections;
3. Traffic enforcement;
4. Investigations;
5. New entrant safety audits;
6. Commercial Motor Vehicle (CMV) safety programs focusing on international commerce in border States;
7. Enhanced participation in the Performance Registration Information Systems Management (PRISM) program;
8. Accurate, complete, timely, and corrected data;
9. Public education and awareness; and
10. Other prescribed elements.

For example, Montana has implemented strategies into Montana’s CVSP addressing the high incidence of CMV crashes in two corridors.

**New Entrant (NE) Grants** - The purpose of the New Entrant Safety Audit program is to determine whether a new interstate motor carrier is fit to safely operate commercial vehicles. The NE grant program authorized under 49 U.SC. § 31144(g)(5), enables this effort by providing funding to eligible recipients for costs incurred conducting audits on these carriers.

**Border Enforcement Grant (BEG)** - Montana has three international borders with Canada and receives Border Enforcement funding from this grant. Montana will conduct a border CMV safety program focusing on international commerce, including enforcement and related projects.

**Innovative Technology Deployment (ITD) Grant Program** - Pursuant to 49 U.S.C. § 31104(k), MCSAP High Priority funding is available for projects that are national in scope, increase public awareness and education, demonstrate new technologies, and reduce the number of CMV crashes. Montana has updated an ITD Top Level Design and Program Plan which was approved by FMCSA in 2020 to improve the effectiveness and efficiency regarding safety of the transportation system. The updated plan identified 12 projects to be prioritized and implemented as funding, technology and
contract opportunities become available.

Commercial Vehicle Information Systems and Networks (CVISN) Program - The CVISN and Networks grant program provides funding for States to deploy, operate, and maintain core elements of their CVISN programs, including commercial vehicle, commercial driver, and carrier specific information systems and networks. Montana is core CVISN compliant.

The goal of all the above referenced grants and programs is to reduce CMV serious injury and fatal crashes and to provide safety for the traveling public.
Notification to Beneficiaries/Participants

MDT provides information to the public detailing its Title VI Program obligations and notifies the public of the protections against discrimination afforded to them by Title VI Program requirements.

Dissemination of Title VI Program Notification Information

MDT may use different methods to disseminate Title VI Program information, including:

- website postings (e.g., the posting of Title VI policy statements);
- inclusion of Title VI Program language in contracts or other agreements; and
- the availability of an informational brochure/complaint form, which both informs the public of their rights and serves as an official complaint form.

Title VI Program information will be posted at all public access facilities including MCS public access facilities. MDT will ensure public service announcements or notices are posted for MCS public meetings. Public notice will be presented using one or more of the following mediums: newspapers, television, web, and/or radio. MDT will furnish interpreters and written information in languages other than English upon request.

The OCR receives copies of all news releases, and then sends this additional notification to community partners or governmental entities in areas that may have Title VI Program implications.

Contents Of Notification

MDT notifications to the public do the following:

1. Provide a statement that MDT does not discriminate with regard to race, color, national origin, sex, age, disability, income-level, or LEP;
2. Identify procedures to be followed by the public to request additional information regarding the MDT’s Title VI Program obligations (See Complaint Disposition Process, page 15); and
3. Identify procedures to be followed by the public to file a discrimination complaint against MDT, to include the name of a contact representative, address, telephone number, and e-mail address (See Complaint Disposition Process, page 15).

For more information related to MDT’s Title VI Program obligations, please see MDT’s website located at: https://www.mdt.mt.gov/business/contracting/civil/.
Sub-Recipient Compliance Reports

The MDT MCS Division does not currently have any sub-recipients. MDT has two agreements with another state agency that require compliance with Title VI Program responsibilities.

**MDT-MDOJ JITSD**

MDT has a Memorandum of Agreement (MOA) with the Montana Department of Justice (MDOJ), Justice Information Technology Services Division (JITSD) for funding the information technology support position and provision of SmartCOP information technology services using federal funds received by MDT through FMCSA grants.

While MDOJ JITSD does not meet the definition of subrecipient set forth in the FMCSA Applicant Title VI Program Compliance Plan Checklist, MDT nevertheless requires that MDOJ JITSD adhere to Title VI Program requirements as set forth in the MDT-MDOJ JITSD MOA, Attachment C and Attachment A (United States Department of Transportation (USDOT), Standard Title VI/Non-Discrimination Assurances, which is incorporated into the MOA). In addition, MDT monitors MDOJ JITSD compliance with Title VI Program responsibilities.

**MDT-MHP**

MDT has a Memorandum of Understanding (MOU) with the Montana Highway Patrol (MHP) that identifies responsibilities, support functions and funding to support MCSAP and other FMCSA related federal programs. Attachment D. MHP provides enforcement activities required to meet the MCSAP traffic enforcement national program element of Montana’s CVSP. In fact, under Montana’s CVSP and Montana law, MHP:

- is required to cooperate with MDT “to ensure minimum duplication and maximum coordination of enforcement efforts” as set forth in MCA § 61-10-154;
- has the primary authority to provide traffic enforcement of CMVs;
- conducts the MCSAP traffic enforcement activity from the CVSP, which is 100% state funded; and
- may be involved with other state operations such as Operation Safe Driver, which are funded by the Unified Carrier Registration state fund.

While MHP does not meet the definition of subrecipient set forth in the FMCSA Applicant Title VI Program Compliance Plan Checklist, MDT does not consider MHP a subrecipient. MDT nevertheless requires MHP to comply with Title VI Program responsibilities.

MDT and MHP have agreed to address MHP’s Title VI Program responsibilities through:

1) discussions at annual meetings;
2) language in the MCS-MHP MOU;
3) incorporating the USDOT, Standard Title VI/Non-Discrimination Assurances into the MCS-MHP MOU;
4) the MDT Director signing the USDOT, Standard Title VI/Non-Discrimination Assurances for both MCS and MHP;
5) incorporating MDT’s FMCSA approved Title VI Program Compliance Plan into the MOU; and
6) monitoring MHP compliance of Title VI Program responsibilities. Attachment C, MCS Title VI Program Desk Review Short Form, attached to MDT-MHP MOU as Attachment 3.
**MDT’s Title VI Program Monitoring Activities**

For both the MOA and MOU, MDT will actively pursue the prevention of Title VI Program deficiencies and violations and will take necessary steps to ensure compliance with all Title VI Program compliance requirements. When deficiencies are identified in the Title VI Program requirements, corrective action will be taken. MDT will seek cooperation of MDOJ JITSD and MHP in correcting any deficiencies found during review. MDT will also provide technical assistance and guidance needed to aid MDOJ JITSD and MHP to comply voluntarily. In the event MDOJ JITSD or MHP fail or refuse to voluntarily comply with Title VI Program requirements within the time frame allotted, MDT will evaluate the reason for the deficiency. If reasonable concerns or barriers are found in the implementation of the MOA or MOU Title VI Program requirements, MDT will contact FMCSA as soon as possible for assistance and guidance.

If additional Title VI Program monitoring of MDOJ JITSD and/or MHP is deemed necessary to obtain compliant status and ensure ongoing compliance, follow-up reviews will be conducted to ensure corrective action has been taken.

MDT’s determinations from all Title VI Program compliance reviews of MDOJ JITSD and/or MHP will be included in the USDOT Federal Highway Administration (FHWA) Annual Goals and Accomplishments Report (FHWA Report) MDT submits to FHWA and will be provided to FMCSA upon request.

MDT’s Title VI Program Coordinator serves as MDT’s Title VI Program Representative. The MDT Title VI Program Coordinator reviews procedures quarterly to assure proper compliance with the MDT Title VI Program requirements.
Training

New MCS employees will receive Title VI Program training directly from an employee from the OCR in-person or online within three months of their hire date. This training will take place at the new employee orientation and will highlight:

- state and federal nondiscrimination laws;
- the process for filing a complaint with the OCR and the state and federal authorities regulating and investigating complaints of discrimination; and
- internal and external civil rights pages on the MDT website and an explanation of the resources contained therein.

MCS staff will also complete a two-hour Title VI Program training conducted by the MDT Title VI Program Coordinator, another member of the OCR staff, or other training approved by FMCSA. This training will cover the above training requirements and highlight:

- any changes in legislation;
- MDT’s responsibilities to employees and the public;
- the rights and responsibilities of each person employed at MDT; and
- the process of filing complaints with OCR and outside authorities with timelines and an explanation of the processes associated with each.

MCS staff shall also attend annual specialized Title VI Program training and in FFY2022 MDT will utilize the following FMCSA documents for the training:

- “Safety Inspections-Safety Audits: Intersection with the Title VI Program” PowerPoint presentation that addresses the following:
  - Introduces the FMCSA Title VI Program including the Title VI Program Assurances;
  - Emphasizes that safety inspection and safety audits are to be conducted in a nondiscriminatory manner;
  - Highlights the Public Notice of Title VI Program Rights poster; and
  - Highlights the Complaint Disposition Process.
- “English Language Proficiency Testing and Enforcement Policy” (MC-ECE-2016-006).
  - This Memorandum communicated the Commercial Vehicle Safety Alliance’s (CVSA) removal of the English Language Proficiency (ELP) violation from the out-of-service violation list beginning April 1, 2015;
  - This Memorandum discontinued driver interviews to determine ELP; and
  - This Memorandum directs Grantees to provide meaningful participation/reasonable accommodation to drivers (e.g., I-Speak Cards, On-Call Interpretation Service).
- Case Studies Document (which was prepared by the FMCSA National Title VI Program Manager and includes four examples of complaints filed by CMV drivers and one filed by an Interstate motor carrier alleging discrimination based upon the findings of a compliance review/safety audit).

MCS staff will receive other specialized training as follows:

- MCSAP investigator training will address how Title VI Program requirements impact safety investigations of CMV companies (utilizing materials provided by FMCSA).
- MCS will integrate Title VI Program training into the MCS defensive tactics curriculum for MCS Enforcement Officers. MCS training will incorporate scenarios into MCS’s use of force simulator that will include hypothetical nondiscriminatory stops, de-escalation strategies, and proper Complaint Form distribution.
Additionally, each MDT employee is required to complete an annual 1.5-hour Montana Department of Administration online EEO training, but this is subject to change at the direction of the new State of Montana Administration.
Access to Records

All records or documents relating to the effective implementation of Title VI Program requirements are readily available for review by FMCSA at any time. Upon request by FMCSA, the MDT Title VI Program Coordinator will provide the previous years’ complaint logs, training materials, handouts, contract language, the MDT nondiscrimination and disability accommodation notice, the FHWA Report, or any other Title VI Program-related records or document requested by FMCSA. The documents will be electronically delivered (unless paper copies are requested) to FMCSA within seven business days of the request.
Complaint Disposition Process

MCS Complaint Process

Members of the public may contact the MDT Title VI Program Coordinator directly or the OCR in person, by phone, fax, mail, or email to request additional information regarding MDT’s Title VI Program obligations. Additionally, MDT’s website includes copies of the Department’s Title VI policy statements, assurances, and current plans.

Nicole Cosby
Title VI Program Coordinator
2710 Prospect Avenue
Phone: 406.444.6334
TTY: 800.335.7592
Fax: 406.444.7243
Email: nicosby@mt.gov

Should a member of the general public or an MDT staff person have reason to believe he or she has been illegally discriminated against, he or she may file a formal complaint with the OCR in person, by phone, fax, mail, or email. For the convenience of the complainant, the Complaint Form (Attachment E) may be completed and returned to the MDT Title VI Program Coordinator, but complaints can also be received by OCR as set forth above. Should a complainant need assistance producing a written complaint, the Title VI Program Coordinator will take the complaint verbally and produce a written version for the review and signature of the complainant. The full complaint process is described in greater detail in Attachment F.

Complaint Procedures

See Attachments E and F for OCR’s Complaint Form and Procedure. All investigations are conducted by personnel trained in Title VI Program compliance investigations.

OCR tracks Title VI Program complaint information, including the following:

- name of the complainant;
- identification by demography (i.e., race, color, national origin, etc.);
- allegation(s);
- complaint date;
- date of Report of Investigation;
- determination made and date; and
- any other relevant information OCR deems appropriate.

Formal complaints related to FMCSA for alleged Title VI Program violations will be investigated immediately and notification will be given to FMCSA of all steps taken, and if a formal investigation is required, a copy of the final report will be furnished to FMCSA.

Tracking of Complaints

OCR tracks all complaints of Title VI Program discrimination with the MDT Complaint Tracking Data Base and can produce Title VI Program complaint specific reports. MDT will make the Title VI Program Complaint Tracking Data available to FMCSA upon request.
Status of Corrective Actions

FMCSA-MDT

The FMCSA conducted an FMCSA Title VI Program review of MDT in September 2020. FMCSA made four deficiency determinations and MDT has worked to address and remedy each of those determinations. FMCSA has approved MDT’s responses to the FMCSA determinations.

I. FMCSA Determination #1:

A. Complaint Disposition Process Directive/SOP for MCS. FMCSA determined that there was a varied understanding amongst MCS Supervisors and Officers regarding what steps are required to be taken in the event a CMV driver would like to file a complaint of discrimination. FMCSA determined the OCR Complaint Form, along with a minimum number of defined steps, should be provided to MCS Supervisors and the Supervisors should then provide the Complaint Form and Directive/SOP to their Officers.

B. MDT Action Taken. On May 26, 2021, MCS issued the MCS CMV Inspection, Investigation, and Selection Procedure located in Attachment G and the MCS Title VI Program Procedure located in Attachment H. The Procedures set forth specific requirements for the MCS staff’s usage of the OCR Complaint Form.

II. FMCSA Determination #2

A. FMCSA Enforcement Memorandum (MC-ECE-2016-006): Available LEP Resources Directive/SOP. In response to the CVSA removing ELP from the list of Out-Of-Service (OOS) violations starting April 1, 2015, FMCSA issued an enforcement memorandum entitled “English Language Proficiency Testing and Enforcement Policy” on June 15, 2016. FMCSA identified during interviews with Supervisors/Officers that MDT did not have a formal resource available to facilitate identification of the language the LEP driver speaks. FMCSA required MDT to utilize I Speak Cards along with a minimum number of defined steps to include identification of additional resources available to facilitate communication with the drivers. FMCSA also required MCS to replace the previously issued FMCSA memorandum regarding this topic with the updated memorandum on MCS’s intranet.

B. MDT Action Taken. On May 26, 2021, MCS issued the MCS CMV Inspection, Investigation, and Selection Procedure located in Attachment G and the MCS Title VI Program Procedure located in Attachment H. The Procedures include the April 1, 2015, FMCSA LEP memorandum and require usage of the I Speak cards by all MCS staff.

III. FMCSA Determination #3

A. MCSAP Office: Training. During an interview with the MDT MCSAP Office, FMCSA identified the need for training regarding how Title VI Program requirements impact compliance reviews of CMV companies. FMCSA provided training documents to MDT for use by MDT OCR to develop Title VI Program related training for the MCSAP Office specifically and the MCS Enforcement Bureau generally. These training documents are identified specifically in the Training section of this Compliance Plan. See pages 12-13.

B. MDT Action Taken. The OCR partnered with FMCSA to provide Title VI Program related training for MSCAP Office staff on how Title VI Program requirements impact compliance reviews of CMV companies utilizing materials provided by FMCSA. The FMCSA National Title VI Program Manager trained MCS with training provided to the Idaho State police, and the MDT EEO Supervisor trained on specific MDT requirements for utilizing the Complaint Form.
IV. FMCSA Determination #4

A. Title VI Program Policy Statement. The MDT Director signs the Title VI Program Policy Statement annually. This document is a formal declaration of the Director’s support directing the Deputy Director, Chief Operating Officer, and senior managers to ensure the effective implementation of MDT’s Title VI Program. FMCSA also acknowledged the Director’s commitment to ensure that the Title VI Program Policy Statement is annually provided to the Deputy Director and Chief Operating Officer for distribution to senior managers and to ensure that the senior managers effectively communicate the Title VI Program Policy Statement to their personnel.

B. MDT Action Taken. The annual FMCSA Title VI Program Policy Statement signed by the MDT Director will be emailed with an explanatory statement to the MCS Division Administrator by the MDT Director or Deputy Director.

FMCSA-MDOJ

On September 25, 2020, FMCSA identified the following action items to MDOJ:

- Attorney General’s Monthly Brief – Include updates regarding Title VI Program items of interest/matters to be addressed;

- FMCSA Enforcement Memorandum (MC-ECE-2016-006 entitled “English Language Proficiency Testing and Enforcement Policy”) – Provide to the Highway Patrol for distribution to Officers and for periodic refresher training. Also, ensure that the Highway Patrol is provided with I-Speak Cards to provide to Officers for use when conducting safety inspections with limited English proficient drivers. [A sample of recommended] I-Speak Cards may be found [on the State of Ohio’s Public Safety website];

- Ensure MDOJ has a compliant CMV Inspection Selection Policy - Follow-up with Highway Patrol regarding the CMV Inspection Selection policy and ensure that the Highway Patrol has considered CVSA Policy #13 (“Selecting Vehicles For Inspection”) after it has reviewed its’ existing vehicle inspection selection policy;

- Make Formal Title VI Program Delegations - Formal delegation of Title VI Program authority and responsibility from the Attorney General to the Chief of Staff to his direct reports. Distributing the Title VI Program Policy Statement is an effective resource to use to accomplish this formal delegation of authority and responsibility;

- Update DOJ’s Existing Title VI Program Training For Motor Vehicle Division (MVD/) Highway Patrol – I have attached a presentation prepared for the Idaho State Police including a Case Studies document which I developed from actual complaints. I have also attached the FMCSA Enforcement Memorandum. Please feel free to adapt any of these documents for use by DOJ. I will be happy to review and offer feedback regarding draft updated training presentation.

FMCSA Title VI National Program Manager Lester Finkle September 25, 2020, electronic mail to MDOJ Title VI Program Representative June Henderson.

FTA

The Federal Transit Administration (FTA) conducted a 2019 State Management Review (2019 SMR) of MDT Transit Section’s Title VI Program for the period of June 1, 2018 - May 31, 2021. The FTA noted five deficiencies and set forth a corrective action schedule.

MDT has worked to address the deficiencies and received the FTA’s approval/concurrence on April 8, 2021, for the Title VI Program Plan through 2024. Along with the approval/concurrence, FTA
issued a 2021 Title VI Program Review Assessment (2021 Review Assessment), addressing the 2019 SMR deficiency areas, noting two additional areas, and indicating that remaining deficiencies must be resolved and developed before the next FTA State Management Review in 2022.

I. FTA Determination #1.

A. FTA Circular 4702.1B Chapter II 5. Reporting Requirements. In the 2019 SMR, the FTA determined that, “MDT submitted its TVI Program Update to FTA for review on September 27, 2018, and FTA concurred in a letter dated October 3, 2018. However, FTA identified specific areas of concern and requested corrections. During the review it was determined that the requested corrections to the MDT Title VI program were not made.”

The FTA Corrective Action Action(s) and Schedule required that “[b]y March 31, 2020, MDT must revise and submit its Title VI program to TrAMS and notify [FTA] once complete.”

B. MDT Action Item. MDT’s Title VI Program Plan for its Transit Section was ultimately approved again by FTA.

II. FTA Determination #2.

A. FTA C. 4702.1B Chapter III.9.b Developing a Language Assistance Plan. In the 2019 SMR, the FTA determined that, “Language Assistance Plan implementation deficiencies exist related to the MDT 2012 LAP including no description of how MDT trains employees to provide timely and reasonable language assistance to LEP populations, no identification of LEP languages in the State that meet Safe Harbor levels, and no listing of vital documents that will be translated into the languages of frequently encountered LEP groups consistent with the Safe Harbor Provision.” The FTA Corrective Action(s) and Schedule required that MDT provide “[d]ocumentation that MDT is fully implementing its LAP.”

In its 2021 Review Assessment, the FTA further determined that “[t]he LAP was still not fully updated since 2012 and this 2012 LAP document is still what is referenced in the program and on the website. The LAP should be updated every three years with each Title VI program submission to include any activity since the last Title VI program submission. While the subrecipient monitoring and staff training was updated, please fully update the LAP, FTA will verify the LAP has been fully updated at the next State Management Review and failure to produce evidence will result in a finding.”

B. MDT Action Item. MDT has updated the LEP Plan and will update the LEP plan again when new census data becomes available. Currently, the LAP is contained within the LEP Plan, and the LAP will be removed to reflect its status as a separate document, when the LEP is updated and revised.

III. FTA Determination #3.

A. FTA C. 4702.1B Chapter III. 8. Promoting Inclusive Public Participation. FTA’s 2019 SMR determined that “[w]hile the Title VI and LEP requirements were noted in MDT’s Public Participation Plan, there is no evidence that the Title VI considerations have been integrated into the agency’s public participation or outreach activities, other than the Title VI Public Meeting/Hearing Form.

The FTA Corrective Action(s) and Schedule required that MDT provide “a list of public engagement activities anticipated in the next year and a description of how the agency will encourage minority and low-income populations participation for upcoming activities.”

In its 2021 Review Assessment, FTA also stated that specific public outreach and involvement activities were not recorded and included in the Title VI program submission for the three-year period being reviewed.
B. **MDT Action Item**: MDT will record its specific public outreach and involvement activities for the period of June 2021 through September 2024. MDT will include these activities in its next FTA Title VI Program submission as set forth in the 2021 Title VI Program Review Assessment.

IV. **FTA Determination #4.**

A. **FTA C. 4702.1B Chapter III 12. Monitoring Subrecipients.** During its 2019 SMR, FTA determined that “One of the MDT subrecipients reviewed, BSW, did not include Title VI notices on its website.”

The FTA Corrective Action(s) and Schedule required that MDT provide “a procedure for ensuring that all subrecipients are placing the TVI notices on their websites.”

The 2021 Review Assessment noted significant updates with recommendations for including recent monitoring activity.

B. **MDT Action Item.** OCR reviewed subrecipient websites and notified the subrecipients of language that must be included on their websites.

V. **FTA Determination #5.**

A. **FTA C. 4702.1B Chapter III 13 Determination of Site or Location of Facilities.** In its 2019 SMR, FTA determined that “MDT did not conduct a Title VI equity analysis during the planning phase of the Whitehall facility.”

The FTA Corrective Action(s) and Schedule required that “[a] procedure for ensuring that the [OCR] and Transit Section are working together to identify the need for and to conduct Title VI equity analyses during the planning stage for future facility or site location.”

The 2021 Review Assessment states that “[MDT’s] program was updated to include the facility equity analyses where it had not included them in the past. However, alternatives were not considered for the Malta facility and Whitehall facility analysis was not done in the planning stages prior to the facility project. For future projects, please ensure analyses are done in the planning stages and alternative sites are considered and included in the analyses. FTA will verify that any future facility equity analyses demonstrate alternative site locations were considered and these analyses were done prior to the facility project.”

B. **MDT Action Item**: MDT will ensure analyses are done in the planning stages and alternative sites are considered and included in the analyses.

VI. **Additional FTA Determination in 2021 Review Assessment: Form of Board Membership Reporting**

A. **Membership of board members were not in table form.** FTA asked that the program also be updated to add non-elected boards if there are any.

B. **MDT Action Item.** The 2024 FTA Title VI Program submission will include board member data submitted in table format.

VII. **Additional FTA Determination in 2021 Review Assessment: Demographic Maps – Circular Chapter V, State DOT Requirements**

A. **Demographic Maps were not subject to disparate impact analysis.** “The program includes one demographic map as required by Chapter 5 of Title VI circular, but it does not include funding distribution overlaid and does subject it to a disparate impact analysis. MDT has previously been provided an example of what these maps should look like through a copy of Missouri DOT’s Title VI program. Please update the program with all the maps as required by Chapter 5 of the Title VI circular. FTA will verify this has been completed by the next State Management Review.”
B. **MDT Action Item:** Demographic maps for all plan submissions will be subject to new disparate impact analysis.

The 2019 SMR and 2021 Review Assessment have also been provided to FMCSA.
Community Participation Process

This section is not applicable to MDT. The Montana Department of Justice is the commercial driver license (CDL) Program Grantee in the State of Montana.
Commercial Vehicle Inspection Selection & Unbiased Enforcement Procedures

On May 26, 2021, MDT issued the MCS CMV Inspection, Investigation, and Selection Procedure located in Attachment G and the MCS Title VI Program Procedure located in Attachment H.
The United States Department of Transportation

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

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

Statutory/Regulatory Authorities

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

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

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, July 2021
to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice: [http://www.fhwa.dot.gov/environment/environmental_justice/index.cfm](http://www.fhwa.dot.gov/environment/environmental_justice/index.cfm)

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

**General Assurances**

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

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

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

**Specific Assurances**

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

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

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

   "The [Montana Department of Transportation], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the

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Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.”;

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
   a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
   b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
   a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
   b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

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ATTACHMENT A cont.

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

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

______________________________
(Name of Recipient)

by ___________________________
(Signature of Authorized Official)

DATED 7-22-2021
ATTACHMENT A cont.

APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.

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

5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FMCSA may determine to be appropriate, including, but not limited to:
   a. withholding payments to the contractor under the contract until the contractor complies; and/or
   b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FMCSA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to
protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

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CLAUSES FOR DEEDS TRANSFERING UNITED STATES PROPERTY

APPENDIX B

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the [Title of Recipient] will accept title to the lands and maintain the project constructed thereon in accordance with [Name of Appropriate Legislative Authority], the Regulations for the Administration of Federal Motor Carrier Safety Administration (FMCSA) Program, and the policies and procedures prescribed by the FMCSA of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Title of Recipient] all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit “A” attached hereto and made a part hereof.

(HABENDUM CLAUSE)

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

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

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ATTACHMENT A cont.

(*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.)

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

APPENDIX C

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

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, (Title of Recipient) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (Title of Recipient) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will thereupon revert to and vest in and become the absolute property of the (Title of Recipient) and its assigns.*

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

CLauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program

APPENDIX D

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

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, (Title of Recipient) will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, (Title of Recipient) will thereupon revert to and vest in and become the absolute property of (Title of Recipient) and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)
During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d et seq.), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 et seq. and 49 C.F.R. part 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 et seq.) (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794 et seq.) (prohibits discrimination on the basis of disability); and 49 C.F.R. part 27;
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (Pub. L. 97-248 (1982)), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (102 Stat. 28) (“...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.”);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189), as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq).
ATTACHMENT B

Montana Department of Transportation

Greg Gianforte, Governor
2701 Prospect
PO Box 201001
Helena MT 59620-1001

Malcolm “Mack” Long, Director

July 13, 2021

Lester Finkle
FMCSA National Title VI Program Manager
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590
202-366-4474
lester.finkle@dot.gov

Subject: FFY 2022 MDT Title VI Program Compliance Plan for MCS

Dear Mr. Finkle:

Pursuant to FMCSA Applicant Title VI Program Compliance Plan Checklist and effective immediately, I am designating Montana Department of Transportation (MDT) Office of Civil Rights (OCR) Equal Employment Opportunity (EEO) Specialist Supervisor Nicole Cosby as the Agency-wide Title VI Coordinator for the MDT Title VI Program. I am also delegating sufficient responsibility and authority to the Title VI Program Coordinator, Nicole Cosby, and to MDT Motor Carrier Services (MCS) Division Administrator Brad Marten to effectively implement MOT’s Title VI Program for MCS.

The contact information for each is as follows:

Nicole Cosby
EEO Specialist Supervisor
Office of Civil Rights
Montana Department of Transportation
2701 Prospect Avenue
Helena, MT 59620
Office: 406-444-6334
nicosby@mt.gov

Brad Marten
Administrator, Motor Carrier Services Division
Montana Department of Transportation
2701 Prospect Avenue
Helena, MT 59620
Office: 406-444-7312
bmarten@mt.gov
Sincerely,

Malcolm D. Long
Director

copies: Nicole Cosby, MDT EEO Specialist Supervisor
Brad Marten, MDT MCS Division Administrator
Julie Brown, MDT Deputy Director
Patti Schwinden, MDT OCR Operations Chief
Valerie Wilson, MDT Chief Legal Counsel
Memorandum of Agreement

Purpose and scope

This Memorandum of Agreement (MOA) outlines the terms and conditions under which the Montana Department of Justice (DOJ) will provide SmartCop services to the Department of Transportation (MDT). It establishes a management agreement between DOJ and MDT (hereafter referred to as “both parties”) regarding the development, management, operation, and security of connectivity between their respective systems and networks, hereafter referred to as “the systems.” This agreement will govern the relationship between both parties, including designated managerial and technical staff, in the absence of a common management authority.

The term of this agreement is: July 1, 2019 – June 30, 2021.

Any subsequent changes to this MOA will be mutually agreed upon and amended to this MOA or documented and signed in a new MOA. This MOA authorizes DOJ to engage third parties as needed in the course of providing this service, e.g. vendors and other organizations.

DOJ has established technology system interconnections with other agencies to advance common agency and law enforcement missions that improve public safety. These interconnections increase efficiency and functionality, reduce costs, and improve management of information. If not managed properly, information technology (IT) systems and network interconnections can result in unacceptable security risks that, potentially, can compromise all connected IT systems and the data they store, process, or transmit, as well as the networks connected to those systems.

Federal policy requires agencies to develop Interconnection Security Agreements (ISA) or MOAs for system interconnections. DOJ has established a standard that an Interconnection Security Agreement (ISA) is employed when the system interconnection is between separate, but secure networks, while MOAs are used for interconnections within the same secure network. This MOA is based on the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-47 – Security Guide for Interconnecting Information Technology Systems http://csrc.nist.gov/publications/nistpubs/800-47.pdf. The guide establishes security measures that shall be taken to protect the connected systems, networks and shared data.

1 An “IT system” is defined as an interdependent collection of components that process electronically stored information, can be considered as a unified whole, and supports multiple, simultaneous users. The term “system” may also refer to applications or networks.
1. **TIMELINE/EXTENSIONS/CANCELLATIONS**

This agreement may only be terminated by either party in writing no later than August 1, 2020 with an effective cancellation date of June 30, 2021. This would allow sufficient time for budget modifications for FY22-FY23.

2. **AUTHORITY**

   The authority for this MOA is based on the following, but not limited to the:
   - Federal Information Security Management Act (FISMA) of 2002;
   - Privacy Act of 1974, 5 U.S.C. § 552a; and
   - FBI CJIS Security Policy 5.3
   - Montana Information Technology Act of 2002

3. **REQUIREMENTS**

   DOJ's responsibilities under this agreement include:
   - Maintain its own DNS and IP addressing schema for law enforcement access to SmartCop.
   - Assign IP address blocks at DOJ-JITSD's discretion as it pertains to system use.
   - DOJ ISO will review and approve all IP address assignments and firewall requests submitted by MDT on the DOJ Firewall Change Request.
   - Audit Firewall bi-annually and remove unused access without notification.
   - Purchase and maintain sufficient capacity to support up to 100 MDT SmartCop users on the following infrastructure and application components:
     - DOJ data center facility and network components within same
     - Caliber SmartCop server environment
     - NetMotion Mobility XE server environment
   - Support the dedicated VDI (Virtual Desktop Infrastructure) infrastructure that was specifically purchased by MDT to support SmartCop users in the weigh stations state wide:
Montana Department of Justice Page 13
SmartCop Service Agreement for Montana Department of Transportation
Contract# 1508171029
July 1, 2019

- Maintain MDT dedicated VDI on the same schedule as DOJ VDI, patches, updates, etc.
- Notify MDT of significant changes to the physical location or configuration of the MDT VDI environment
- Coordinate licensing and support contracts for the VDI environment

- Identify the minimum notebook computer configuration requirements needed for MDT to execute SmartCop.

- Provide instructions and assistance for performing upgrade and maintenance of SmartCop related client software.

- Provide assistance to MDT with the installation of SmartCop and NetMotion related software upgrades and changes on MDT's devices as needed. DOJ, through the Montana Highway Patrol (MHP), will manage NetMotion and SmartCop user profile setup and maintenance.

- Provide, through MHP, up to 8 hours of training per year for initial user training, training for major updates, and training to refresh skills.

- Provide uniform 7x24x365 coverage as a single point of contact for MDT for routine assistance with SmartCop access and use.

- Target 98% availability of SmartCop with the exception of coordinated downtimes for upgrades and maintenance. DOJ will notify MDT in a timely manner of any outages. In addition, planned outages will be coordinated with MDT seven (7) working days in advance for routine outages, three (3) working days for urgent outages and as soon as possible for critical outages.

- Coordinate licensing and support contracts with the SmartCop contractor.

- As needed, develop a system infrastructure plan and budget by May 1, 2020 so any costs for upgrades can be incorporated into FY22-FY23 budget request.

- If system upgrades are required during the FY20-FY21 biennium in order to maintain adequate system performance, DOJ will coordinate joint system upgrade planning sessions and provide MDT with cost options commensurate with their usage of the system.

- Agree to work together to ensure the joint security of the interconnected systems and the data they store, process, and transmit.

- Both parties agree to maintain a high level of security that is commensurate with the risk and magnitude of the harm that could result from the loss, misuse, disclosure, or modification of the information contained in these systems.
• Provide access to a view of all SmartCop citations issued by MDT so that the data can be downloaded to MDT systems.
• Maintain sufficient accounting records to accurately reflect work performed in support of invoicing Personal Services as required by 2 CFR 200.430.
• Comply with Title VI Assurances of the USDOT Standard Title VI/Non-Discrimination Assurances, listed under Attachment D of this agreement.
• Confirms that the services provided to MDOJ by Caliber were obtained following an acceptable State of Montana procurement process.
• Provide an MDOJ Title VI contact person who will work in cooperation with the MDT Title VI coordinator to meet the benchmarks listed in the MCS Title VI Program Desk Review Short Form, incorporated as Attachment E of this agreement.

MDT’s responsibilities under this agreement include:

• MDT will purchase and maintain the following infrastructure and application components:
  o Computer workstations
  o Credit/Debit card readers
  o Other workstation peripherals, e.g. printers
  o Notebook operating system software
  o Notebook antiviral software
  o Caliber SmartMCT for MDT devices
    - Caliber SmartMCT base package
    - Caliber SmartMCT Mobile Mapping (for Mappoint maps)
    - Caliber Mobile Forms Mobile Reporting
    - Caliber Mobile Forms RMS Query Access
  o NetMotion Mobility XE components for MDT devices
  o NetMotion Policy Module for MDT devices
  o Maintenance on VDI hardware and software
• If MDT needs exceed 100 SmartCop users, MDT and DOJ will negotiate an amendment to this agreement to cover the cost for necessary infrastructure upgrades.
• Perform all necessary software upgrades and maintenance to MDT’s computer workstations peripherals, etc. including software distributed and supported by DOJ under this agreement.
• Designate at least one staff member as the “super user” and ensure that the super user(s) attend the SmartCop-related training provided by DOJ. MDT will utilize this super user(s) as the first contact for support prior to contacting DOJ MHP or DOJ Service Desk personnel. If the super user(s) cannot solve the issue, they will contact the DOJ Service Desk.
Desk. Super user(s) and MDT should not contact the SmartCop contractor as this is done by DOJ as the contract holder.

- Abide by State of Montana confidentiality and security policies and rules.
- Permit authorized DOJ staff to periodically inspect MDT computers with SmartCop to verify security and anti-viral software and features are operating to appropriate standards.
- Agree to work together to ensure the joint security of the interconnected systems and the data they store, process, and transmit.
- Both parties agree to maintain a high level of security that is commensurate with the risk and magnitude of the harm that could result from the loss, misuse, disclosure, or modification of the information contained in these systems.
- Setup and maintain Active Directory accounts in the DOJ directory under an agency specific container and maintain a current outage notification distribution list.
- Contribute to the cost of system upgrades based upon joint system upgrade planning sessions if upgrades are required during the FY20-FY21 biennium in order to maintain system performance.
- MDT will pay for their portion of the annual SmartCop system maintenance, which is invoiced to Montana Highway Patrol. These amounts may fluctuate during the biennium and are based off current license allocation. See attachment B.

It is the intent of both parties to this MOA to interconnect the IT systems described below:

- System A Name: SmartCop
  - Function: Access to Driver and Registration information and allows for dissemination of civil violations
  - Location: DOJ Data Center, Fort Harrison
  - Description of Data: Criminal Justice Information

4. **TOPOLOGICAL DIAGRAM**

Appendix B of this MOA includes a topological drawing that illustrates the interconnectivity between the systems, including all components (e.g., firewalls, routers, switches, hubs, servers, encryption devices, and computer workstations).

5. **COMMUNICATIONS**

Frequent communications, via email or phone, are essential to ensure the successful management and operation of DOJ & MDT system interconnectivity. Both parties agree to maintain open lines of communication between designated staff at both the managerial and technical levels.
Both parties shall agree to designate and provide contact information for technical leads for their respective systems, and to facilitate direct contact between technical leads to support the management and operation of the systems. In the event the technical leads of either party change, the other party shall alert necessary technical staff of the change.

To safeguard the confidentiality, integrity, and availability (CIA) of the connected systems and the data they store, process, and transmit, both parties agree to abide by NIST SP800-33 & FIPS 199, Technology Models for Information Security.

It is imperative that there is immediate communication in the event of the following:

- **Security Incidents**: Technical staff shall immediately notify their designated counterparts when a security incident(s) is detected, so the other party may take steps to determine whether its system or network has been compromised and to take appropriate security precautions.

- **Disasters and Other Contingencies**: Technical staff shall immediately notify their designated counterparts by quickest means available in the event of a disaster or other contingency that disrupts the normal operation of their respective system.

- In the event of a security incident where either party believes their system is at an unacceptable risk the interconnection can be terminated immediately.

## 6. RESPONSIBLE PARTIES

Appendix A lists the responsible parties for each system and will be updated whenever necessary. Updating Appendix A does not require the re-signing of this MOA by either party. It is the responsibility of each respective approving authority to ensure the timely updating of Appendix A and for the notification of such changes to the alternate party.

## 7. COST CONSIDERATIONS

Both parties agree to be responsible for their own systems and interconnection costs. No financial commitments to reimburse the other party shall be made without the written concurrence of both parties. Modifications to either system that are necessary to support the interconnection are the responsibility of the respective system/network owners’ organization. This MOA does not authorize, require, nor preclude any transfer of funds without the agreement of both parties.

In consideration of the above SmartCop services, MDT agrees to reimburse DOJ for 17.04% (38 MDT users of 223 Total users) of total expenditures incurred associated with an equivalent of a modified Band 6 Network Systems Analyst beginning July 1, 2019 per Attachment A – SmartCop Network Systems Analyst Budget.
DOJ will submit an annual invoice to MDT by June 15th of each state fiscal year based upon MDT’s portion of the total expenditures incurred ($18,101 in both FY2020 and FY2021). The total reimbursement as per Attachment A will be due, even if the modified position experiences a vacancy, to offset expenditures for providing SmartCop services. Other participating agencies will be invoiced according to their percentage of total users, as per Attachment A.

This position’s primary responsibility is to support the MDT, FWP and DCI use of SmartCop. Other duties may be assigned as required. Other positions involved in supporting MDT, FWP and DCI include, MHP Business Analysts, JITSD Project Manager, Database Administrators, Systems Support Supervisor, System Support Bureau Chief, and Application Systems Bureau Chief. These positions are funded by Montana General Fund.

8. FEDERAL TERMS AND CONDITIONS
DURING THE PERFORMANCE OF THIS AGREEMENT, THE DOJ, FOR ITSELF, ITS ASSIGNEES AND SUCCESSORS IN INTEREST, AGREES AS FOLLOWS:

A) Compliance with Title VI of the Civil Rights Act of 1964 for Federal-Aid Contracts

(1) Compliance with Regulations: The DOJ shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation. 49 Code of Federal Regulations, Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.

(2) Nondiscrimination: The DOJ, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The DOJ shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the DOJ for work to be performed under a subcontract, including procurements of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the DOJ of the DOJ’s obligations under this Agreement and the Regulations relative to nondiscrimination.

(4) Information and Reports: DOJ will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Department or the Federal Motor Carrier Safety Administration (FMCSA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the DOJ is in the exclusive possession of another who fails or refuses to furnish this information, the DOJ shall so certify to the Department or the FMCSA as requested, setting forth what efforts it has made to obtain the information.
(5) Sanctions for Noncompliance: In the event of the DOJ's noncompliance with the nondiscrimination provisions of this Agreement, Department may impose sanctions as it or the FMCSA determines appropriate, including, but not limited to:

(a) Withholding payments to the DOJ under the Agreement until the DOJ complies, and/or

(b) Cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: DOJ will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. DOJ will take such action with respect to any subcontract or procurement as the Department or the FMCSA may direct to enforce such provisions including sanctions for noncompliance. Provided, however, that in the event DOJ is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the DOJ may request the Department to enter into the litigation to protect the interests of the State, and, in addition, the DOJ or the State may request the United States to enter into such litigation to protect the interests of the United States.

B) Compliance with the Montana Governmental Code of Fair Practices, §49-3-207, MCA

In accordance with §49-3-207, MCA, DOJ agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

C) Compliance with Americans with Disabilities Act (ADA)

(1) DOJ will comply with all regulations relative to implementation of the Americans with Disabilities Act.

(2) DOJ will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "DOJ will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the DOJ. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the DOJ."

(3) All video recordings produced and created under contract and/or agreement will be closed-captioned.

D) Compliance with Participation By Disadvantaged Business Enterprises In Department Of
Each Agreement the Department signs with a DOJ (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

“The DOJ, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The DOJ shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of MDT-assisted contracts. Failure by the DOJ 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.”
9. SIGNATURE OF AGREEMENT

Both parties shall agree to work together to ensure the joint security of the connected networks and the data they store, process, and transmit, as specified in this MOA. Each party certifies that its respective network is designed, managed, and operated in compliance with all relevant federal laws, regulations, and DOJ policies. Each party also certifies that its respective system has been certified and accredited in accordance with NIST SP 800-37, Guide for the Security Certification and Accreditation of Federal Information Systems.

SIGNATURE PAGE

MONTANA DEPARTMENT OF JUSTICE, MONTANA DEPARTMENT OF

Montana Highway Patrol TRANSPORTATION

2550 Prospect Ave., PO Box 201419 2701 Prospect Ave., PO Box 201001

Helena, MT 59620 Helena MT 59620

BY: Col. Tom Butler, Chief Administrator BY: Duane Williams, Administrator Motor

Carrier Services Division

(Name/Title) (Name/Title)

BY: (Signature) (Signature)

DATE: June 5, 2019 DATE: 5-24-19

MONTANA DEPARTMENT OF JUSTICE, MONTANA DEPARTMENT OF

Information Technology Services Division TRANSPORTATION

302 N. Roberts St., PO Box 201405 2701 Prospect Ave., PO Box 201001

Helena, MT 59620 Helena MT 59620

BY: Butch Huseby, Administrator BY: Mike Bousliman, Administrator Motor

Carrier Services Division

(Name/Title) (Name/Title)

BY: (Signature) (Signature)

DATE: June 5, 2019 DATE: 5-24-19
MONTANA DEPARTMENT OF JUSTICE,  
Office of the Attorney General  
302 N. Roberts St., PO Box 201405  
Helena, MT 59620  
BY: Jeff Hindolen, Attorney  
(Name/Title)  
(Signature)  
DATE: 07/01/19

MONTANA DEPARTMENT OF  
TRANSPORTATION  
2701 Prospect Ave., PO Box 201001  
Helena, MT 59620  
BY: Carol Grell Morris, Attorney  
(Name/Title)  
(Signature)  
DATE: 05/23/19

MONTANA DEPARTMENT OF JUSTICE,  
Office of the Attorney General  
215 N. Sanders, 3rd Floor, PO Box 201401  
Helena, MT 59620  
BY: Mike Milburn, Chief of Staff  
(Name/Title)  
(Signature)  
DATE: 06/21/19

MONTANA DEPARTMENT OF TRANSPORTATION  
2701 Prospect Ave., PO Box 201001  
Helena, MT 59620  
BY: Patricia Schwinden, Operations Chief, Civil Rights  
(Name/Title)  
(Signature)  
DATE: 05/23/19
APPENDIX A – RESPONSIBLE PARTIES

Montana Department of Justice:

Project Manager (PM): Clarissa Kennedy
- Organization: DOJ - JITSD
- Work Phone: 406-444-3757
- Emergency Contact: 406-444-3757
- E-Mail: Clarissa.Kennedy@mt.gov
- Supervisor: Mike Cochrane

Information System Security Officer (ISSO): Dawn Temple
- Organization: DOJ - JITSD
- Work Phone: 406-444-2412
- Emergency Contact: 406-444-2412
- E-Mail: datemple@mt.gov
- Supervisor: Butch Huseby

Technical Point of Contact (POC): James Thomas
- Organization: DOJ - JITSD
- Work Phone: 406-444-0553
- E-Mail: jathomas@mt.gov
- Supervisor: Butch Huseby

Business Owner: Major Robert Armstrong, Montana Highway Patrol Operations Commander
- Organization: DOJ - MHP
- Work Phone: 406-750-6472
- E-Mail: rarmstrong2@mt.gov
- Supervisor: Colonel Tom Butler, Montana Highway Patrol

DOJ Title VI Coordinator: June Henderson
- MT DOJ HR Bureau Chief
- Work Phone: 406-444-4229
- E-Mail: jhenderson@mt.gov
- Supervisor: Liz Bangerter, Central Services Administrator
Montana Department of Transportation

ISSO: Robert Cash
- Organization: MDT - ISD
- Address: 2701 Prospect Ave PO Box 201001
- Work Phone: 406-444-7267
- E-Mail: rcash@mt.gov
- Supervisor: John Levick

Technical POC: Pat Lane
- Organization: Montana Department of Transportation
- Address: 2701 Prospect Ave PO Box 201001
- Work Phone: 406 444-2906
- E-Mail: plane@mt.gov
- Supervisor: Mike Bousliman

MDT Project Manager: Eric Belford
- Organization: Montana Department of Transportation
- Address: 2701 Prospect Ave PO Box 201001
- Work Phone: 406 444-6139
- E-Mail: ebelford@mt.gov
- Supervisor: Duane Williams

MDT Project Manager: Dan Bisom
- Organization: Montana Department of Transportation
- Address: 2701 Prospect Ave PO Box 201001
- Work Phone: 406 444-7607
- E-Mail: DBisom@mt.gov
- Supervisor: Eric Belford

Business Owner: Duane Williams, Administrator Motor Carrier Services Administration
- Organization: Montana Department of Transportation
- Address: 2701 Prospect Ave PO Box 201001
- Work Phone: 406 444-7312
- E-Mail: duwilliams@mt.gov
- Supervisor: Mike Tooley - Director

MDT Title VI Coordinator: Nicole Cosby
- Organization: Montana Department of Transportation
- Address: 2701 Prospect Ave PO Box 201001
- Work Phone: 406 444-6334
- E-Mail: Nicosby@mt.gov
- Supervisor: Patti Schwinden – Office of Civil Rights – Operations Chief
APPENDIX B - TOPOLOGICAL DRAWING

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VMware uses Advanced Encryption Standard (AES) 128-bit encryption.
Netmotion uses FIPS 140-2 validated AES encryption.
Path from Internet to DOI Domain Network.

Unencrypted network traffic: Email, file shares, etc.
Netmotion uses FIPS 140-2 validated AES encryption.
Traffic for DOI Domain Network: Email, file shares, etc.
### Attachment A

#### Montana Department of Justice

**Preparer's Name:** Judy Gloy, 446-5541  
**Create Date:** May 20, 2019

#### NARRATIVE/JUSTIFICATION/ASSUMPTIONS:

Department of Justice (DOJ) and MDT have comprehensive policies in place to ensure the security of the CTS America system for their Workday, Motor Carrier, and Motor Carrier, respectively, without sharing sensitive data and/or data in a manner that enhances public safety and is administered by ITS staff. Funding for both TE and CTS America systems is necessary to ensure reliable service delivery of the CTS America systems to all users. The cost of this service is split proportionately between the three entities based upon the number of license users during FY20 and FY21.

<table>
<thead>
<tr>
<th>Account</th>
<th>FY2020</th>
<th>FY2021</th>
</tr>
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<tbody>
<tr>
<td>Personnel Services 5 (FTE)</td>
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<td></td>
</tr>
<tr>
<td>611X</td>
<td>$70,000</td>
<td>$70,000</td>
</tr>
<tr>
<td>614X</td>
<td>$26,270</td>
<td>$26,270</td>
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<td><strong>Personnel Services Totals 6:</strong></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>$96,270</td>
<td>$96,270</td>
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**Operating Expenses**

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<tr>
<th>Description</th>
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<th>FY2021</th>
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</thead>
<tbody>
<tr>
<td>General Liability (4.5% of FTE* FTE)</td>
<td>$317</td>
<td>$317</td>
</tr>
<tr>
<td>HRIS payroll processing (2.4% of FTE* FTE)</td>
<td>$212</td>
<td>$212</td>
</tr>
<tr>
<td>Office Supplies</td>
<td>$100</td>
<td>$100</td>
</tr>
<tr>
<td>Utilities (4% of FTE* FTE)</td>
<td>$480</td>
<td>$480</td>
</tr>
<tr>
<td>Work Comp Management (1.9% of FTE* FTE)</td>
<td>$25</td>
<td>$25</td>
</tr>
<tr>
<td>Rent (1.6% of FTE* FTE)</td>
<td>$2,645</td>
<td>$2,645</td>
</tr>
<tr>
<td>Enterprise Software (0.13% of FTE)</td>
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<td>$952</td>
</tr>
<tr>
<td>Telephone (4.2% of FTE)</td>
<td>$48</td>
<td>$48</td>
</tr>
<tr>
<td>Computer (5% of FTE)</td>
<td>$600</td>
<td>$600</td>
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<tr>
<td>In-State Travel (2.5% of FTE)</td>
<td>$230</td>
<td>$230</td>
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<tr>
<td>In-State Laundries (0.9% of FTE)</td>
<td>$310</td>
<td>$310</td>
</tr>
<tr>
<td>In-State Overnights (2.9% of FTE)</td>
<td>$230</td>
<td>$230</td>
</tr>
<tr>
<td>Mail/Shipping</td>
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<td>$100</td>
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<tr>
<td><strong>Operating Expenses Totals:</strong></td>
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<td>$9,952</td>
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**Total Costs**

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<th>FY2020</th>
<th>FY2021</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$106,222</td>
<td>$106,222</td>
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</tbody>
</table>

2. Hours are estimated at 29.44/29.64 for FY20 and FY21 or 2020.  
3. Benefits estimated at 9.6% of job code base salary ($2,648).  
4. Select the appropriate rate from the DOJ/TEC.  
5. Basin agency historical cost

#### Cost Share

<table>
<thead>
<tr>
<th></th>
<th>Users</th>
<th>FY2020</th>
<th>FY2021</th>
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<tbody>
<tr>
<td>PWP</td>
<td>53.41%</td>
<td>120</td>
<td>$57,160</td>
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<tr>
<td>MDT</td>
<td>46.59%</td>
<td>120</td>
<td>$57,160</td>
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<tr>
<td>DoT</td>
<td>17.04%</td>
<td>38</td>
<td>$10,101</td>
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<tr>
<td><strong>Total</strong></td>
<td>100.00%</td>
<td>228</td>
<td>$106,222</td>
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**NOTE:** This spreadsheet represents an estimated amount for sharing the cost of a Network System Analyst, band 6.  
Agencies will be billed equally per year for the portion indicated above.
## Attachment B

### FY2018

<table>
<thead>
<tr>
<th>Based on SmartCop Licenses</th>
<th>Total Cost</th>
<th>MHP</th>
<th>FWP</th>
<th>MDT</th>
<th>DCI</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Current Agreement Per License</td>
<td>300</td>
<td>108</td>
<td>100</td>
<td>50</td>
<td>558</td>
<td></td>
</tr>
<tr>
<td>For Modules Used</td>
<td>54%</td>
<td>19%</td>
<td>18%</td>
<td>9%</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>CAD/RMS Proj Mgmt</td>
<td>$92,412.45</td>
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<td>$16,561.37</td>
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### FY2019

<table>
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<tr>
<th>Based on SmartCop Licenses</th>
<th>Total Cost</th>
<th>MHP</th>
<th>FWP</th>
<th>MDT</th>
<th>DCI</th>
<th>TOTAL</th>
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<td></td>
</tr>
<tr>
<td>For Modules Used</td>
<td>54%</td>
<td>19%</td>
<td>18%</td>
<td>9%</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>CAD/RMS Proj Mgmt</td>
<td>$94,584.95</td>
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<td>$16,950.71</td>
<td>$8,475.35</td>
<td>$94,584.95</td>
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</tbody>
</table>

The above is a sample breakdown only. FY2020 and FY2021 amounts will not be received until after July 1, 2019. An updated table will be sent out at a later date.
MDT-DOJ JITSD MOA

Attachment C: MDT Nondiscrimination and Disability Accommodation Notice (January, 2019)

Attachment D: USDOT Assurances

Attachment E: MCS Title VI Program Desk Review Short Form (June 01, 2019)

(Available upon request)
MEMORANDUM OF UNDERSTANDING

Purpose and Scope
This memorandum of Understanding (MOU) outlines the terms and conditions under which the Montana Highway Patrol (MHP) and Department of Transportation Motor Carrier Services (MCS) agree to operate.

The term of this agreement is: July 1, 2019 – June 30, 2026.

MHP and MCS agree that this MOU may be modified at any time with the signature approval of both parties. Both parties agree that this MOU may be terminated by either party at any time with ninety (90) calendar days advance written notice to the other party.

MHP agrees that it will:

- Allow MHP Officers to participate in formal CVSA training specific to Level 3 Commercial Vehicle Safety Alliance (CVSA) Safety Inspections to ensure that CVSA Safety Inspections conducted by MHP Officers are performed and reported in compliance with CVSA, Federal Motor Carrier Safety Administration (FMCSA) and MCS guidelines and requirements.
- Provide electronic or “hard copy” commercial vehicle related crash reports, including required supplements to MCS within ten (10) working days of being received at MHP Headquarters.
- Contact the FMCSA Montana Division Administrator and report incidents of commercial motor vehicle crashes when 1) any vehicle involved in a crash was transporting placarded quantities or types of hazardous materials, as defined in 49 CFR 172.504, 2) the crash involves a commercial motor coach or bus, or 3) the crash results in three or more fatalities.
- When requested by MCS and subject to MHP Officer availability, support MCS civilian inspectors with respect to enforcement of Federal Safety Regulations and state safety laws.
- Authorize MCS Enforcement Officers to issue engine brake muffler citations to violators who fail to comply with 61-9-321 Montana Code Annotated (MCA), in accordance 61-9-501 MCA.
- Provide MHP Officers to participate in mutually agreed upon “Special Enforcement Operations.”
- Submit to MCS invoices and supporting documentation for MHP officer salaries at the rate of time-and-one-half on an hourly basis upon exceeding a regular 40 hour week, plus the related benefits excluding health benefits, per diem, lodging and other operating expenses associated with “Operation Safe Driver,” “Border Enforcement Grant” and other mutually agreed upon “Special Enforcement Operations.”
- Submit claims to the MCS accountant within 30 days of the end of the pay period during which the expenses were incurred. In addition, any amount owing due as of June 30th will be submitted to MCS by July 10th for payment within the current fiscal year.
- Agrees with and will comply with all conditions listed in the FMCSA Title VI Program Assurance requirements, attached hereto and incorporated as part of this MOU as Attachment 1.
- Agrees with and will comply with all requirements listed in the MDT Title VI Program Compliance Plan, attached hereto and incorporated as part of this MOU as Attachment 2.
- Provide a Title VI contact person who will work in cooperation with the MDT Title VI coordinator to meet the benchmarks listed in the MDT Title VI Program Desk Review Short Form, attached hereto and incorporated as Attachment 3 of this agreement.
MCS agrees that it will:

- Investigate engine compression brake complaints on commercial motor vehicles, conduct necessary inspections and issue notices of deficiencies in accordance with 61-9-321 MCA and 61-9-501, MCA.

- When requested by MHP and subject to inspector availability, conduct CVSA post-crash investigations and inspections in accordance with 61-10-154, MCA.

- Conduct all CVSA qualified vehicle tow truck inspections.

- Offer MHP Officers to attend CVSA Safety Inspection classes scheduled yearly for MCS Officers. In accordance with FMCSA and State of Montana requirements, MCS agrees to reimburse the MHP for all lodging and per-diem expenses incurred by MHP Officers who attend CVSA Safety Inspection training.

- Reimburse MHP via Inter-Unit Journal for participating MHP Officer overtime plus the related benefits excluding health benefits, per-diem, lodging and other operating expenses associated with “Operation Safe Driver,” “BEG” and other mutually agreed upon “Special Enforcement Operation” activities.

- Submit the Title VI Program Assurances to the FMCSA on behalf of MHP.

MHP and MCS agree to:

- Meet formally at least once per year to review and discuss this MOU and/or other topics of common interest.

- Follow the “Post-Crash Inspection Policy” approved by both parties on June 11, 2019.
ATTACHMENT D cont.

MDT-MHP MOU

Attachment 1: Signed USDOT Assurances (May 20, 2019)

Attachment 2: MDT Title VI Program Compliance Plan (July 2018)

(Available upon request)
**MDT Title VI Program Desk Review Short Form**

**Technical Assistance Tool**

The checklist below represents the information being examined for the purposes of a Title VI Program Review by the Montana Department of Transportation Office of Civil Rights. Documentation is necessary wherever possible. Please contact Nicole Cosby at nicosby@mt.gov or 406.444.6334 for any further information.

<table>
<thead>
<tr>
<th>Organization Being Reviewed:</th>
<th>Date:</th>
<th>Individual(s) Conducting the Review:</th>
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<table>
<thead>
<tr>
<th>All Personnel Present &amp; Participating in Review (Including Position):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
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</table>

**Benchmarks of Review**

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<th>Policy Statement</th>
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<th>No</th>
<th>Required or Requested</th>
<th>Details</th>
<th>Actions Requested</th>
<th>Actions Taken</th>
<th>Media Requirements</th>
<th>Information location &amp; other details</th>
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<tr>
<td>1.3</td>
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<th>Notification to Beneficiaries/Participants</th>
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**Contractor/Consultant Agreement Process**

| 2.7 | Does MOU Participant insert the Title VI Program paragraph from the Title VI Program Assurance in RFPs/Solicitations for Bids? |   |
| 2.11 | How does MOU Participant periodically review contractor/consultant sub-contracts/sub-consults? |   |

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<tr>
<td>3.2</td>
<td>How does MOU Participant ensure that Title VI Program Coordinator and other FMCSA activities-responsible personnel receive periodic Title VI Program training?</td>
</tr>
<tr>
<td>3.6</td>
<td>What documents are used to conduct the training? Policy Statement?Powerpoint presentation?Title VI Program Compliance Plan?Title VI Program Assurance?Other?</td>
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<tr>
<td>3.7</td>
<td>Who conducts the training? To whom? How often? How does MOU Participant determine the effectiveness of the training?</td>
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<th>Complaint Disposition Process</th>
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<td>2.8</td>
<td>How does MOU Participant process a Title VI Program complaint?</td>
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<td>3.1</td>
<td>How does MOU Participant ensure that all affected personnel understand what to do if in receipt of a Title VI Program complaint?</td>
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<tr>
<td>3.5</td>
<td>Does MOU Participant maintain a Complaints Log?</td>
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</table>

The checklist below represents the information being examined for the purposes of a Title VI Program Review by the Montana Department of Transportation Office of Civil Rights. Documentation is necessary wherever possible. Please contact Nicole Cosby at nicosby@mt.gov or 406.444.6334 for any further information.
Civil Rights Discrimination
Complaint Form

COMPLAINANT INFORMATION

Name: ____________________________________________
Address: __________________________________________
Phone No.: _________________________________________
Email: _____________________________________________

I am filing a complaint on behalf of:
☐ self  ☐ someone else

NARRATIVE
You MUST file your complaint within 180 calendar
days of incident. You are not required to use this form to file a complaint. In your complaint, explain in as much detail as possible, how you were discriminated against. Include all relevant names and dates. Attach any additional documentation, as necessary, to your complaint. Someone from the Office of Civil Rights will be in contact with you within 7 business days of receiving the complaint.

_________________________________________________________________________________________
_________________________________________________________________________________________
_________________________________________________________________________________________
_________________________________________________________________________________________
_________________________________________________________________________________________
_________________________________________________________________________________________

If you believe discrimination is occurring in any of MDT’s programs or services, please contact:

MDT Office of Civil Rights
2701 Prospect Avenue, PO BOX 201001
Helena, MT 59620-1001
Voice: (406) 444-6334
TTY (800) 335-7592
Fax (406) 444-7243

Alternative accessible formats of this document will be provided on request. Persons who need an alternative format should contact the Office of Civil Rights, Department of Transportation, 2701 Prospect Avenue, PO Box 201001, Helena, MT 59620. Telephone 406-444-5416 or Montana Relay Service at 711.

Mail, fax or hand deliver complaints to:
Montana Department of Transportation
Office of Civil Rights
2701 Prospect Avenue
PO BOX 201001
Helena, MT 59620-1001

Fax: (406) 444-7243

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### Non-Discrimination Authorities

- **Title VI of the Civil Rights Act** of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; which also includes FMCSA-only programs or activities (49 CFR Part 303);

- **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);

### Authorities (continued)

- **Titles II and III of the Americans 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);

- **Title IX of the Education Amendments** of 1972, as amended, which prohibits discrimination because of sex in education programs or activities (20 U.S.C. § 1681 et seq.).

- **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);

- **Executive Order 13672** extends protection against discrimination in hiring and employment in the civilian federal workforce by federal contractors on the basis of both sexual orientation and gender identity.

- **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.

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*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 basis of protected classes by its employees or anyone with whom MDT chooses to do business.*
STATE OF MONTANA
PROFESSIONAL SERVICES DIVISION
DEPARTMENT OF TRANSPORTATION

Subject: EQUAL EMPLOYMENT OPPORTUNITY,
NONDISCRIMINATION AND HARASSMENT
PREVENTION POLICY ADDENDUM - Addendum
to Department of Administration’s Human Resources
Division’s EEO, Nondiscrimination, and Harassment
Prevention Procedure

Reference: MDT Policy No. POL 1.02.003 | Effective Date: October 28, 2020

1 PURPOSE

1.1 Montana Department of Transportation (MDT) employees have a right to work in an
environment free from all forms of discrimination, harassment, including sexual harassment,
and retaliation. MDT is committed to affirmative action to equalize employment opportunities
of minorities and females in all job categories.

2 PROCEDURES

2.1 MDT Equal Employment Opportunity

2.1.1 The MDT Office of Civil Rights (OCR) Operations Chief or designee serves as the
MDT Equal Employment Opportunity (EEO) officer and is responsible for:

2.1.1.1 managing the MDT EEO program;

2.1.1.2 training employees on EEO;

2.1.1.3 assisting employees and managers with resolving EEO issues;

2.1.1.4 conducting internal complaint investigations;

2.1.1.5 updating the annual MDT Title VI Implementation Plan and the Affirmative
Action Plan (AAP);

2.1.1.6 developing strategies, goals, and objectives for evaluating the effectiveness of
the MDT Title VI Implementation Plan and the MDT AAP;

2.1.1.7 reporting to the MDT Director and the Federal Highway Administration
(FHWA) MDT’s progress towards minimizing the underutilization of women
and minorities;

2.1.1.8 maintaining internal procedures for providing meaningful access to MDT’s
programs, services, and activities for customers with Limited English
Proficiency (LEP);

2.1.1.9 reporting annually to the Department of Administration the number of diversity and inclusion trainings, EEO and harassment prevention trainings, the number of employees trained, new employee and refresher trainings; and

2.1.1.10 tracking and reporting internal complaints pursuant to ARM 2.21.4027.

2.2 MDT External ADA Coordinator

2.2.1 MDT’S OCR Operations Chief or designee serves as the MDT External ADA and Transition Plan Coordinator.

2.2.2 The MDT External ADA Coordinator is responsible for:

2.2.2.1 training employees on reasonable accommodations and equal access for the public;

2.2.2.2 conducting self-evaluations to assess accessibility of programs, services, and activities;

2.2.2.3 assisting with reasonable accommodation requests from and for the public;

2.2.2.4 training employees and the public and or private entities on external ADA protections and

2.2.2.5 responsibilities, and disability awareness.

2.3 Reporting Discrimination, Retaliation and/or Harassment

2.3.1 Agency employees, job applicants, clients, and customers who believe they have been subject to discrimination, harassment, and or retaliation may contact their supervisor, another manager, or the OCR Operations Chief or designee.

2.3.2 Agency representatives who receive a complaint or become aware of allegations of discrimination, harassment, and or retaliation must promptly notify the OCR Operations Chief or designee of the complaint or allegations regardless of the representative’s perception of the validity of the complaint.

2.3.3 Agency managers shall not tolerate any behaviors which focus on a protected class. Agency managers who observe behaviors which could be viewed as discrimination or harassment shall immediately address and stop the behavior and notify the OCR Operations Chief or designee.

2.4 Filing and Processing Civil Rights Complaints

2.4.1 MDT OCR through FHWA has the duty and authority to investigate complaints of discrimination, harassment, and or retaliation on behalf of the agency.
2.4.2 Complaints may be oral or written. Complainants are encouraged to use the complaint form found at http://mdtinfo.mdt.mt.gov/other/webdata/external/civilrights/forms/civil-rights-discrimination-complaint-form.pdf.

2.4.3 Complaints shall include the following information:

2.4.3.1 the date the complaint was filed;

2.4.3.2 the name, address, and contact number of the complainant;

2.4.3.3 the date(s), time(s), and location(s) of the alleged discriminating behavior or conduct;

2.4.3.4 the name of the person against whom the complaint is made;

2.4.3.5 nature of complaint and description of the behavior or conduct that resulted in the alleged violation;

2.4.3.6 if applicable the identity of protected class (e.g. race, color, national origin, sex, age, disability) and

2.4.3.7 the names and contact information of potential witnesses.

2.4.4 Upon receiving a complaint, the MDT OCR Operations Chief or designee shall screen the complaint and determine whether the alleged conduct may be in violation of state and or federal laws prohibiting discrimination.

2.4.5 If the allegations of the complaint involve discrimination, the OCR Operations Officer shall authorize a formal investigation.

2.4.6 If a potential conflict exists, the OCR Operations Chief may request assistance from an outside investigator or agency.

2.4.7 The OCR Operations Chief shall notify the MDT Director of the complaint and advise the Director throughout the course of the investigation.

2.5 Investigating Internal Complaints

2.5.1 Before an investigation begins, the OCR Operations Chief or designee shall:

2.5.1.1 provide a written statement of the facts stating the basis of the complaint to the person against whom a complaint is made and their administrator which includes elements listed in Section 5.3 (a-e); and

2.5.1.2 advise the complainant of the complainant’s right to file with outside agencies including the Equal Employment Opportunity Commission, the Montana Human Rights Bureau, and the U.S. Department of Justice; and
2.5.1.3 provide both complainant and person against whom a complaint is made an explanation of the investigation process, opportunity for Conflict Dispute Resolution (CDR) if appropriate, anticipated timelines, and information on illegal retaliation.

2.5.2 If the parties agree to engage in CDR, OCR Operations Chief or designee will suspend the investigation for not more than 60 days and provide the parties a process to resolve the complaint and repair working relationships. If CDR does not resolve the complaint, a formal investigation will begin.

2.5.3 The OCR investigator shall conduct interviews, review documents, and shall determine whether the evidence supports a finding of “reasonable cause” to believe that discrimination occurred or if the evidence supports a finding of “no reasonable cause” to believe that discrimination occurred.

2.5.4 The OCR investigator shall present a final investigative report to the OCR Operations Chief.

2.5.5 Investigations must be completed within 120-180 days depending on if the complaint is Title VI (120) or Title VII (180).

2.5.6 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.

2.6 Post Investigative Actions

2.6.1 Upon conclusion of the investigation, the OCR Operations Chief shall present the Director with the final investigative report and OCR’s findings.

2.6.2 If a “reasonable cause” finding is made, OCR may recommend the Director take appropriate disciplinary action, including disciplinary action up to termination pursuant to ARM Title 2 chapter 21, subchapter 65, Discipline Policy.

2.6.3 The Director shall notify OCR of the agency’s intent to address and remedy “reasonable cause” findings of discrimination, including a final corrective action or disciplinary action taken.

2.6.4 After presenting the final investigative report, findings and recommendations to the Director, the OCR Operations Chief shall promptly inform the complainant and the person against whom the complaint is made of the outcome of the investigation in writing and provide both parties an opportunity to review the final investigative report.

2.6.5 If a “reasonable cause finding” was made the complainant shall be advised of corrective action taken to stop the behavior, without disclosure of the details or nature of the disciplinary action.

2.7 Confidentiality
2.7.1 Investigative reports, case files, and all contents are confidential and must be maintained in a secure, locked location within the MDT Office of Civil Rights. Investigative reports, case files, and all contents are not subject to release except as provided by law.

2.7.2 Members of management are bound by rules of confidentiality regarding complaints.

3 ADDITIONAL INFORMATION

3.1 MDT Complaint Form

4 KEYWORDS

4.1 Not Applicable.

REVISION HISTORY

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<tr>
<th>DATE OF REVISION</th>
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<th>REASON FOR MODIFICATION</th>
<th>AUTHOR OF REVISION</th>
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I. Purpose
Motor Carrier Services (MCS) Enforcement Officers and Motor Carrier Safety Assistance Program (MCSAP) Investigators of the Montana Department of Transportation (MDT) are committed to enhancing public safety through the consistent and objective enforcement of laws, rules, and regulations relating to commercial motor vehicles (CMV) and motor carriers. The purpose of this procedure is to establish uniform and nondiscriminatory standards for the selection of CMVs for safety inspections and motor carriers for safety investigations.

The MCS Division shall concentrate safety inspection and investigation efforts on those CMVs and carriers that have a negative impact on traffic safety. Safety inspections and carrier investigations will only be conducted by MCS employees that have been trained or certified by the Federal Motor Carrier Safety Administration’s (FMCSA) National Training Center (NTC).

II. Applicability

Intrastate Commerce
Any motor vehicle used in Intrastate Commerce and that is not a farm vehicle operating solely in Montana, meets the definition of a CMV found in MCA § 61-10-154(2)(c), and clarified in ARM 18.8.1501 is subject to the safety regulations and is inspectable.

1. “CMV” for intrastate commerce means any self-propelled or towed motor vehicle used on a way of this state open to the public to transport passengers or property when the vehicle:
   a. has a gross vehicle weight rating, or gross combination weight rating, or gross vehicle weight, or gross combination weight of 26,001 pounds or more, whichever is greater; or
   b. is designed or used to transport more than 15 passengers, including the driver, not for compensation; or
   c. is designed or used to transport more than eight passengers, including the driver, for compensation; or
   d. is of any size and is used in the transportation of Hazardous Materials and which require the motor vehicle to be marked or placarded under the Hazardous Materials Regulations (49 CFR chapter I, supchapter C) and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR subtitle B, chapter I, subchapter C.

2. "Motor carrier" for intrastate commerce means a person, corporation, or firm transporting goods or passengers by operation of a commercial motor vehicle upon a way of the state open to the public. The term includes duly authorized agents, officers, and representatives, as well as employees of the motor carrier who are responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment or accessories.

Interstate Commerce
Any motor vehicle used in Interstate Commerce that meets the definition of a CMV found in 49 CFR 390.5 is subject to the safety regulations and is inspectable.

1. “CMV” for interstate commerce means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle:
   a. has a gross vehicle weight rating, or gross combination weight rating, or gross vehicle weight, or gross combination weight of 10,001 pounds or more, whichever is greater; or
b. is designed or used to transport more than 8 passengers, including the driver, for compensation; or

c. is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

d. is used in transporting material found by the Secretary of Transportation to be hazardous under 49 USC 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR subtitle B, chapter I, subchapter C.

2. “Motor carrier” for interstate commerce means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B, this definition includes the terms employer, and exempt motor carrier.

III. Procedures

General

MCS consulted the Commercial Vehicle Safety Alliance (CVSA) Operational Policy #13 during the development of this procedure.

The relevant provisions of MCS Section 12 Manual regarding safety inspections and investigations are still in effect unless inconsistent with this procedure in which case the provisions of this procedure govern.

MDT shall work with the highway patrol in the enforcement of safety standards adopted pursuant to MCA § 61-10-154. The highway patrol and MDT shall cooperate to ensure minimum duplication and maximum coordination of CMV enforcement efforts.

In order to enforce compliance with safety standards adopted pursuant to MCA § 61-10-154, MDT shall designate employees as peace officers pursuant to MCA § 61-12-201. The designated employees must be employed in the administration of the MCS functions of MDT. Pursuant to MCA § 61-10-154, each employee designated as a peace officer may:

a. issue citations and make arrests in connection with violations of safety standards adopted under MCA § 61-10-154;

b. issue summonses;

c. accept bail;

d. serve warrants for arrest;

e. make reasonable inspections of cargo carried by commercial motor vehicles;

f. enforce the provisions of Title 49 of the United States Code and regulations that have been adopted under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

g. require production of documents relating to the cargo, driver, routing, or ownership of commercial motor vehicles.

Upon initial hire, MCS Officers execute an Oath of Office commitment to “support, protect and defend the constitution of the United States, and the constitution of the State of Montana” to the best of the officer’s ability. The Officer further attests that he or she “will discharge the duties of an [MCS Enforcement Officer] . . . with fidelity and in compliance with the MCS Enforcement Code of Ethics . . .”

MCS Officers are required to be certified by the Montana Peace Officers Standards and Training (POST) and must abide by the code of ethics contained in ARM 23.13.203. MCS Officers are required as part of the MCS Division job responsibilities to adhere to the MCS Core Values of PRIDE, which are Professionalism, Respect, Integrity, Dedication, and Empathy.

MCA § 61-10-141 and ARM 18.8.1301 provide the authority for MCS to require CMVs exceeding 26,000 gross vehicle weight to stop at a weigh station for the purpose of weighing and inspection for compliance
I. Purpose
The purpose of this Procedure is to emphasize the Motor Carrier Services (MCS) Division’s commitment to the equitable and unbiased treatment of all persons. MCS employees with law enforcement, regulatory, and public service responsibilities shall adhere to the Montana Department of Transportation (MDT) MCS Title VI Program Compliance Plan which ensures that all programs, benefits, and services offered to the general public by MDT are free from discrimination. MDT MCS Title VI Plan.

Additional MDT Civil Rights information may be accessed using the following external or internal MDT websites.

http://mdtinfo.mdt.mt.gov/civilrights/

II. Authorities
MDT requires full compliance with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964 (Title VI) and related non-discrimination authorities as set forth in the United States Department of Transportation (USDOT) Federal Motor Carrier Safety Administration (FMCSA) Title VI Program Assurance (Title VI Program Assurance), which is signed by the Montana Department of Transportation Director annually. MCS Management will provide the Title VI Program Assurance to all MCS employees annually after it is signed by MDT’s Director.

MDT is committed to conducting business in an environment free from 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, disability, income-level, or limited English proficiency.

MDT also adheres to MDT’s Equal Employment Opportunity (EEO), Nondiscrimination and Harassment Prevention Policy and Procedure.

• EEO, Nondiscrimination, and Harassment Prevention Policy
• MDT Equal Employment Opportunity, Nondiscrimination and Harassment Prevention Policy Addendum POL 1.02.003
• MDT Equal Employment Opportunity, Nondiscrimination and Harassment Prevention Policy Addendum PRO 1.02.003

Violations of this procedure may be the basis for corrective measures, including verbal coaching, remedial training, or discipline up to and including termination.

III. Responsibilities
MDT will ensure that all programs and activities are conducted and facilitated in a nondiscriminatory manner. In order to monitor Title VI compliance, the MDT Director has established the Office of Civil Rights (OCR) and delegated the authority to administer the Title VI Program to the OCR Chief and a coordinator who is responsible for initiating and monitoring Title VI Program activities, equal employment opportunity and preparing required reports. MCS’s point of contact as the designated OCR, EEO Specialist Supervisor is Nicole Cosby. (nicosby@mt.gov 406-444-6334).

The OCR delegates Title VI responsibilities in writing to the appropriate District/Division program managers. The OCR charges program managers to develop and implement procedures and guides to fully implement and monitor their programs. In turn, the OCR conducts periodic compliance reviews to ensure proper implementation and monitoring. The required OCR oversight documentation consists of annual reviews of
special emphasis program areas, quarterly reviews for sub-recipients (Montana Highway Patrol MOU), training, and development of the annual MDT MCS Title VI Plan. Additionally, OCR’s designee is responsible to track MCS complaints and to prepare a yearly accounting of discrimination complaint logs, training materials, handouts, contract language, and MDT’s nondiscrimination and disability accommodation notice for submittal to either FMCSA or the MCS Administrator upon request.

IV. Public Notice
The MCS Division ensures Title VI Program compliance in all MCS activities including, but not limited to, commercial vehicle licensing, registration, permit issuance, enforcement, commercial vehicle safety, and motor carrier compliance. MCS shall ensure that current civil rights discrimination complaint forms (Complaint Form) also referred to as the Title VI Pamphlet are available at all public meetings, weigh stations, MCS headquarters and district offices, and Motor Carrier Safety Assistance Program (MCSAP) offices.

All public meetings will also include completing the Title VI Public Meeting Form.

V. Training
Civil Rights Training is prepared and conducted by the EEOC Specialist Supervisor. The maintenance of training records will be a combined responsibility of MCS and OCR. Minimum training requires the following:

- All new employees receive Civil Rights training as part of the New Employee Orientation.
- Each MDT Employee is required to complete an additional yearly 1.5-hour Department of Administration online EEO training.
- MCS employees will complete an additional 2-hour Title VI Program Training regarding:
  - Legislative changes
  - MDT responsibilities to employees and the public
  - The rights and responsibilities of each person employed at MDT
  - How state and federal discrimination laws apply to employees and their public service
  - How to file a discrimination complaint with the OCR and outside authorities with timelines and a detailed explanation of the jurisdiction and processes associated with each jurisdiction.
- MCSAP investigator training will address how Title VI Program requirements impact safety investigations of CMV companies (utilizing materials provided by FMCSA).
- MCS will integrate nondiscrimination training into the MCS defensive tactics curriculum for MCS Enforcement Officers. MCS training will incorporate scenarios into MCS’s use of force simulator that will include hypothetical nondiscriminatory stops, de-escalation strategies, and proper Complaint Form distribution.

VI. Complaint Process
The OCR will train all MCS Division Management Staff on the proper use of the MDT Title VI, Title VII and Complaint Form (Complaint Form). Each MCS District Captain or MCSAP Manager must ensure that each MCS Officer is initially provided with 10 printed copies of the Complaint Form to be kept in his or her possession when operating a vehicle for official business. Each MCS District Captain or MCSAP Manager must ensure each weigh station or MCS location has 20 printed copies of the Complaint Form available for use by the general public and employees. The Licensing and Permit Supervisor must ensure the headquarters MCS location has 20 printed copies of the Complaint Form readily available for use by the general public and employees. Each responsible manager must also ensure that his or her direct reports continue to replenish the Complaint Form stock as it is utilized.

MCS staff shall provide the Complaint Form if a person states that he or she:

1) Is being treated differently based on a protected class;
2) Feels like he or she is being profiled or discriminated against; or
3) Would like to file a complaint.
An MCS employee should also provide a Complaint Form in any other instance where the employee believes it may be appropriate. MCS employees shall also provide the complainant with information on how to file the complaint. If any MCS employee observes or is made aware of an individual from a protected class being discriminated against, the employee shall contact the EEO Specialist Supervisor or the OCR directly by phone, email, or in person. Any MCS supervisor directly observing such circumstances must ensure the complainant receives the complaint filing information and information on how to file the complaint.

Should a member of the general public or an MCS employee have reason to believe they have been discriminated against, they may file a formal complaint. Complaints may be filed with OCR:

- In person or by phone
- By filling out and mailing the Complaint Form
- Emailing the Complaint Form
- By utilizing resources within the MDT Civil Rights website

The OCR is responsible for investigating complaints as outlined in the “Investigating a Complaint” procedures in Administrative Rules of Montana. MCS employees will support and aid in any investigatory interviews and collection of relevant documents or video footage.

Members of the general public may directly contact the EEO Specialist Supervisor or the OCR by phone, fax, email, or in person to request additional information regarding MDT’s nondiscrimination obligations.

Additionally, MDT’s website includes copies of the MDT’s Title VI Program policy statements, assurances, and completed plans. [https://www.mdt.mt.gov/business/contracting/civil/eeo.shtml](https://www.mdt.mt.gov/business/contracting/civil/eeo.shtml)

VII. **Limited English Proficiency**

Executive Order 13166 implements Title VI of the Civil Rights Act of 1964 by requiring meaningful access to all federal financially assisted programs and activities by persons with Limited English Proficiency (LEP) as directed by USDOT. The USDOT guidance can be read in its entirety at: [USDOT Guidance](https://www.mdt.mt.gov/business/contracting/civil/eeo.shtml).

The USDOT Guidance provides that: [i]f individuals have “a limited ability to read, write, speak, or understand English, they are limited English proficient, or ‘LEP.” MCS shall ensure that LEP individuals are entitled to language assistance with respect to a particular type of service, benefit, or encounter.

FMCSA issued its English Language Proficiency Testing and Enforcement Policy, [MC-ECE-2016-006](https://www.mdt.mt.gov/business/contracting/civil/eeo.shtml), on June 15, 2016. MCS Officers and MCSAP Investigators may not issue an Out-Of-Service violation for English Language Proficiency (ELP) or conduct interviews to determine if a CMV driver is ELP. MCS Officers may only cite drivers for ELP if the driver formally acknowledges that he or she is not able to communicate. MCS must make resources available to ensure that MCS Officers and MCSAP Investigators are able to effectively communicate with LEP drivers.

LEP Resources for MCS include:

- Language Identification Guides (e.g., I Speak Cards) which MCS may use to identify an individual’s language.

In addition to the above resources, MCS employees may choose to utilize applications such as Google Translate when verbally communicating. MCS employees shall not use Google Translate or similar applications for document translation because such applications have been identified as unreliable for word-for-word use.

OCR staff will train MCS Management employees on the location and usage of the interpreter list. MCS Managers will distribute I Speak Cards to each MCS Officer and MCSAP Investigator for use with the
general public. OCR will distribute a how-to contact immediate interpreters pamphlet for usage by MCS Officers and MCSAP Investigators while performing their enforcement and regulatory functions. New MCS Officers will receive I Speak Cards and video training during onboarding.

VIII. CMV Safety Inspections and Carrier Investigations
The MCS Division is committed to the equitable and unbiased treatment of all persons in the administration of its law enforcement, regulatory, and public service responsibilities. MCS Officers and MCSAP Investigators engaging in CMV safety inspections and carrier investigations are prohibited from discriminating against a driver or carrier when selecting CMVs or motor carriers for a safety inspection or carrier investigation. MCS CMV Inspection and Investigation Procedure 2021-D02 establishes uniform and nondiscriminatory guidelines for the selection of CMVs and motor carriers for safety inspections and carrier investigations.
MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program, or activity of MDT. Alternative accessible formats of this information will be provided upon request. For further information, please contact:

Office of Civil Rights
Montana Department of Transportation
2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001
(406) 444-6331 Phone
(406) 444-7243 Fax
Montana Relay 711

https://www.mdt.mt.gov/business/contracting/civil/