



**New Jersey Department of Transportation
Title VI Nondiscrimination Compliance Plan**

Federal Fiscal Year Beginning October 1, 2023

APPENDICES

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Appendix A



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O. Box 600
Trenton, New Jersey 08625-0600

PHILIP D. MURPHY
Governor

DIANE GUTIERREZ-SCACCETTI
Commissioner

TAHESHA L. WAY
Lt. Governor

Title VI Nondiscrimination Policy Statement

It is the policy of the New Jersey Department of Transportation to abide by Title VI of the Civil Rights Act of 1964, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Executive Order 12898 for Environmental Justice, Executive Order 13166 for Limited English Proficiency, 42 U.S.C. 4601, 23 U.S.C. Section 324, Sections 503 and 504 of the Rehabilitation Act of 1973, The Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, The Civil Rights Restoration Act of 1987, Executive Order 11246 for Equal Employment Opportunity, the Vietnam Era Veterans Readjustment Assistance Act of 1972, N.J.S.A. 52:32-31.1 et. seq., New Jersey Law Against Discrimination N.J.S.A. 10:5-1 et. seq. and implementing regulations at N.J.A.C. 17:27 et. seq., and other related nondiscrimination laws, statutes, Executive Orders, or policies.

No person shall, on the grounds of race, creed, color, national origin, age, ancestry, nationality, marital/domestic partnership/civil union status, gender, disability, religion, affectional or sexual orientation, gender identity or expression, family status, pregnancy, atypical cellular or blood trait, genetic information, military service, veterans status, income level or ability to read, write or speak English, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in any New Jersey Department of Transportation program, activity or service.

Any person who believes that, because of his or her race, creed, color, national origin, age, ancestry, nationality, marital/domestic partnership/civil union status, gender, disability, religion, affectional or sexual orientation, gender identity or expression, family status, pregnancy, atypical cellular or blood trait, genetic information, military service, veterans status, income level or ability to read, write or speak English, has been excluded from participation in any program or activity being administered by the New Jersey Department of Transportation, or who believes that he or she has been denied any benefits provided by such program or activity, or believes he or she has been unfairly treated in connection with such program or activity, should contact the following office within 180 days from the date of occurrence of any violation of this policy:

**New Jersey Department of Transportation
Division of Civil Rights and Affirmative Action
Title VI Nondiscrimination Programs Unit
1035 Parkway Avenue
PO Box 600
Trenton, New Jersey 08625
(609) 963-2047**


Diane Gutierrez-Scaccetti, Commissioner

9/26/2023
Date

Appendix B

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

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

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964);
- 23 CFR Part 200 (Title VI Program and Related Statutes – Implementation and Review Procedures)
- USDOT Order 1050.2 (Standard DOT Title VI Assurances)
- 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 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);
- Section 162(a) of the Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -

12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*)

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

General Assurances

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

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

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

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted *Statewide Transportation Improvement Program and other federal-assisted programs*.

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with

all of its federally-assisted programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The New Jersey 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 Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the *New Jersey 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 *U.S. Department of Transportation* 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 *U.S. Department of Transportation*. You must keep records, reports, and submit the material for review upon request to the *U.S. Department of Transportation*, 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 New Jersey 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 U.S. Department of Transportation under the *Statewide Transportation Improvement Program and other federal-assisted programs*. This ASSURANCE is binding on *New Jersey*, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the *Statewide Transportation Improvement Program and other federal-assisted programs*. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.



New Jersey Department of Transportation

by 
Diane Gutierrez Scaccetti, Commissioner

DATED September 25, 2023

APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 2 1.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the *Federal Highway Administration* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the *Federal Highway Administration*, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Federal Highway Administration* may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the *Federal Highway Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the *New Jersey Department of Transportation* will accept title to the lands and maintain the project constructed thereon in accordance with N.J.S.A. 27:7-21(a), the Regulations for the Administration of the *Statewide Transportation Improvement Program and other federal assisted programs* and the policies and procedures prescribed by the *Federal Highway Administration* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *New Jersey Department of Transportation* all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

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

The *New Jersey Department of Transportation*, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the *New Jersey Department of Transportation* will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

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

APPENDIX C

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

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

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, *New Jersey Department of Transportation* 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 *New Jersey Department of Transportation* will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the *New Jersey Department of Transportation* and its assigns.*

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

APPENDIX D

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

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

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, *New Jersey Department of Transportation* 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, the *New Jersey Department of Transportation* will there upon revert to and vest in and become the absolute property of the *New Jersey Department of Transportation* and its assigns.*

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

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

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

- discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*)

Appendix C



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O. Box 600
Trenton, New Jersey 08625-0600

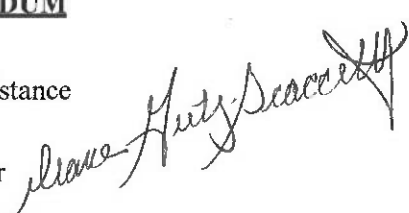
PHILIP D. MURPHY
Governor

DIANE GUTIERREZ-SCACCETTI
Commissioner

TAHESHA L. WAY
Lt. Governor

MEMORANDUM

TO: Sub-Recipients of Federal Financial Assistance

FROM: Diane Gutierrez-Scaccetti, Commissioner 

SUBJECT: Title VI Nondiscrimination Notice to Sub-recipients of Federal Financial Assistance

The New Jersey Department of Transportation's (NJDOT) policy is to abide by Title VI of the Civil Rights Act of 1964, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Executive Order 12898 for Environmental Justice, Executive Order 13166 for Limited English Proficiency, 42 U.S.C. 4601, 23 U.S.C. Section 324, Sections 503 and 504 of the Rehabilitation Act of 1973, The Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, The Civil Rights Restoration Act of 1987, Executive Order 11246 for Equal Employment Opportunity, the Vietnam Era Veterans Readjustment Assistance Act of 1972, N.J.S.A 52:32-31.1 et. seq., New Jersey Law Against Discrimination N.J.S.A. 10:5-1 et. seq. and implementing regulations at N.J.A.C. 17:27 et. seq., and other related nondiscrimination laws, statutes, Executive Orders or policies, all together which require that no person in the United States shall, on the grounds of race, creed, color, national origin, age, ancestry, nationality, marital/domestic partnership/civil union status, gender, disability, religion, affectional or sexual orientation, gender identity or expression, family status, atypical cellular or blood trait, genetic information, military service, veterans status, income level or ability to read, write or speak English, be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity which is administered by the Department, regardless of funding source (i.e. State, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, Federal Railroad Administration, or Federal Motor Carrier Safety Administration).

NJDOT hereby notifies all sub-recipients, including but not limited to, local public agencies, consultants, contractors and subcontractors receiving federal financial assistance through NJDOT from the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA), Federal Railroad Administration (FRA) or Federal Motor Carrier Safety Administration (FMCSA), or other Federal agencies, that sub-recipients must comply with NJDOT's Title VI Program requirements that prohibit discrimination on the basis of race, creed, color, national origin, age, ancestry, nationality, marital/domestic

partnership/civil union status, gender, disability, religion, affectional or sexual orientation, gender identity or expression, family status, atypical cellular or blood trait, genetic information, military service, veterans status, income level or ability to read, write or speak English.

Sub-recipients shall not discriminate in their employment practices in connection with any projects, programs or activities funded by FHWA, FTA, FAA, FRA or FMCSA and such behavior could violate Title VI.

Sub recipients shall notify potential subcontractors or suppliers of the Title VI obligations under the contract for all solicitations by competitive bidding or negotiation for contract work, including the procurement of materials or leases of equipment.

Sub-recipients shall not discriminate on the grounds of race, creed, color, national origin, age, ancestry, nationality, marital/domestic partnership/civil union status, gender, disability, religion, affectional or sexual orientation, gender identity or expression, family status, atypical cellular or blood trait, genetic information, military service, veterans status, income level or ability to read, write or speak English in the their selection and retention of first tier subcontractors, and first tier subcontractors shall not discriminate in their selection and retention of second-tier subcontractors, including those who supply materials, and lease equipment.

Sub-recipients shall include Title VI contract provisions in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Title VI regulations.

In the event of a sub-recipient's non-compliance with nondiscrimination provisions of the contract, NJDOT shall impose such contract sanctions as it, FHWA and/or FTA, FAA, FRA or FMCSA may determine to be appropriate, including but not limited to withholding of payments to the sub-recipient under the contract until the contractor complies, and/or; cancellation, termination, or suspension under the contract, in whole or in part.

Any person, sub-recipient, or contractor who believes that they have been subjected to an unlawful discriminatory practice under Title VI and/or another nondiscrimination provision has a right to file a formal complaint within one hundred eighty (180) days following the alleged discriminatory action. Any such complaint must be filed in writing or in person with:

New Jersey Department of Transportation
Division of Civil Rights and Affirmative Action
Title VI Nondiscrimination Programs Unit
1035 Parkway Avenue
PO Box 600
Trenton, NJ 08625
(609) 963-2047



Diane Gutierrez-Scaccetti
Commissioner

09/25/2023

Date

Appendix D

TITLE VI COMPLAINT FORM

SECTION I: GENERAL INFORMATION

Name of Complainant: _____
Address: _____
City: _____ State: _____ Zip code: _____
Contact Person: _____
Phone Number: _____
Fax Number: _____

SECTION II: AGENCY, CONTRACTOR, INSTITUTION

Please provide the name of the agency, contractor or institution that discriminated against you:

Name: _____
Address: _____
City: _____ State: _____ Zip code: _____

How were you discriminated against? Please give specific information and the basis of the discrimination, i.e., status as a minority, low income, etc.

When and where did the discrimination take place? _____

Were there any witnesses? Yes No
Please provide names and addresses.

Name: _____
Address: _____
Phone: _____

Name: _____
Address: _____
Phone: _____

Please provide any additional information on a separate piece of paper.

How do I file a complaint with NJDOT?

Any person or group who believes they have been discriminated against may file a signed, written complaint with the New Jersey Department of Transportation within 180 days of the violation. In addition, a complaint may also be filed within 180 days of the alleged discrimination with an appropriate federal agency.



To file a complaint with NJDOT Division of Civil Rights and Affirmative Action, you may contact them at the following address and number:

**NJDOT/Division of Civil Rights/AA
Title VI Coordinator
Title VI & ADA Unit
P.O. Box 600
Trenton, NJ 08625-0600
(609) 963-2047**

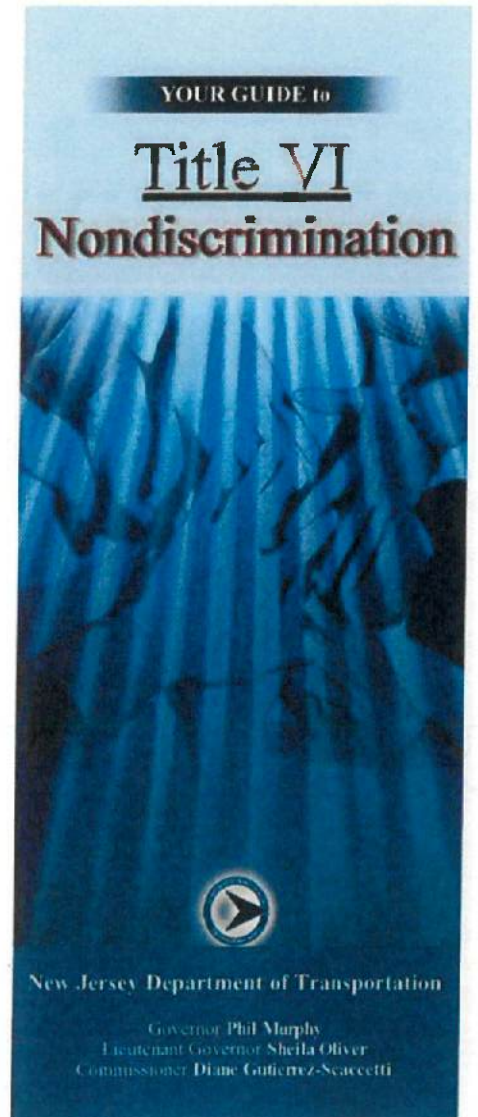
<https://www.state.nj.us/transportation/business/civilrights/titlevi.shtml>



To file a complaint with United States Department of Transportation, please contact them at the following address and number:

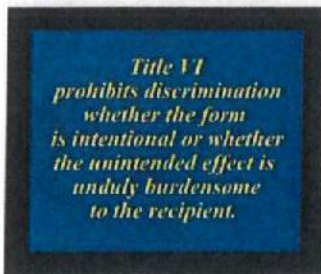
**US Department of Transportation
Federal Highway Administration
Office of Civil Rights
1200 New Jersey Ave., SE
8th Floor, E81-105
Washington, DC 20590
Phone: 1-202-366-0693
Fax: 1-202-366-5132**

<https://www.fhwa.dot.gov/civilrights/>



What is Title VI?

Title VI of the 1964 Civil Rights Act prohibits discrimination on the basis of race, color, or national origin in programs and activities supported by Federal funding. It specifically states: "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 USC §2000d

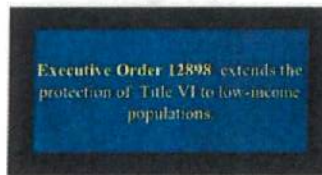


What does Title VI cover?

Title VI of the Civil Rights Act of 1964 and supplemental legislation covers all federal aid except those federally funded contracts of insurance and guaranty. It does not cover employment, except where employment practices result in discrimination against program beneficiaries, or where the purposes of federal assistance is to provide employment. The Act does not apply to discrimination based on age, sex, geographical locale or wealth.

Who is covered under Title VI?

Any person who is discriminated against based on race, color or national origin. Minorities are covered, including Black, Hispanic, Asian American and American Indian or Alaskan Native. Undocumented aliens are also covered. The elderly, children, the disabled and other populations (such as female head of household) may be covered because of concentrations in certain protected communities.



What is Environmental Justice (Executive Order 12898)?

Executive Order 12898, enacted in 1994 by President Clinton, requires each federal agency and its recipients when implementing programs, policies or activities to the greatest extent practicable by law develop a strategy that prevents "disproportionately high and adverse human health or environmental effects" on low-income and minority populations in the United States.



What are examples of "adverse effects" noted in Executive Order 12898?

The denial of, reduction in, or significant delay in the receipt of or benefits of NJDOT programs, policies, or activities

Adverse impact on employment

Air, noise and water pollution or soil contamination

Destruction of natural resources

Destruction of community cohesion or its economic vitality

Destruction or disruption of public and private facilities or services

Displacement of persons, businesses, farms or nonprofit organizations

Increased traffic congestion, isolation, exclusion, or separation of minority or low-income community from the broader community

Bodily impairment, infirmity, illness or death

LEP Resources

In the event that you are in need of LEP services, here is a breakdown of resources available free of charge to LEP persons through NJDOT:

- **"I Speak" Cards—Front Line**
NJDOT staff will have these cards to help them determine what language a walk-in LEP person is speaking and to contact appropriate interpreter support.
- *If an LEP person contacts NJDOT by phone, the staff member will try to obtain the LEP person's telephone number and place them on hold as they contact someone from the NJDOT linguistics pool or a telephonic interpreter service to assist them in securing interpreter support for the LEP person.*
- *Interpreter support can be arranged by contacting the Title VI & ADA Unit at 609-963-2047.*

How to file a complaint?

Any person or group that believes they have been discriminated against by the New Jersey Department of Transportation may file a signed, written complaint with the New Jersey Department of Transportation within 180 days of violation. In addition, a complaint may also be filed within 180 days of the alleged discrimination with the US Department of Transportation, Federal Highway Administration or any other such agency having authority to investigate Title VI discrimination complaints. To file a complaint with NJDOT Division of Civil Rights and Affirmative Action, you may contact them at the following address and number:


**NJDOT/Division of Civil Rights/AA
Title VI & ADA Unit
P.O. Box 600
Trenton, NJ 08625-0600
(609) 963-2047**

<https://www.state.nj.us/transportation/business/civilrights/titlevi.shtm>


To file a complaint with the United States Department of Transportation, please contact them at the following address and number:

**US Department of Transportation
Federal Highway Administration
Office of Civil Rights
1200 New Jersey Ave., SE
8th Floor, E81-105
Washington, DC 20590
Phone: 1-202-366-0693
Fax: 1-202-366-5132**

**New Jersey Department of Transportation
Division of Civil Rights and Affirmative Action
Title VI & ADA Unit
1035 Parkway Avenue
P.O. Box 600
Trenton, NJ 08625-3009
Phone: 609-530-3009**



YOUR GUIDE to Limited English Proficiency (LEP) Under Title VI



**New Jersey
Department of Transportation**



New Jersey Department of Transportation

**Governor Phil Murphy
Lieutenant Governor Sheila Oliver
Commissioner Diane Gutierrez-Scaccetti**

Limited English Proficiency (LEP)

Legal Authority



The New Jersey Department of Transportation (NJDOT) is committed to compliance with the provisions of Title VI of the Civil Rights Act of 1964:

"No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."
43 USC §2000d

Executive Order 13166 requires Federal agencies and those agencies receiving federal funds to examine the services they provide, identify any need for services to those with Limited English Proficiency (LEP) and develop and implement a system to provide those services so LEP persons can have meaningful access to them. It is expected that agency plans will provide for meaningful access consistent with, and without unduly burdening the fundamental mission of the agency. The Executive Order also requires that the Federal agencies work to ensure that recipients of Federal financial assistance, such as NJDOT, provide meaningful access to their LEP applicants and beneficiaries.

Frequently Asked Questions

Who is a Limited English Proficient (LEP) individual?

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English are considered Low-Literacy or Limited English Proficient "LEP." These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

What is a recipient of federal financial assistance?

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Subrecipients are also covered, when federal funds are passed from one recipient to a subrecipient. Recipients of federal funds range from state and local agencies, to nonprofits and other organizations.

What are recipients of federal funds and federal agencies required to do to meet LEP requirements?

Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. The Four-Factor Analysis is done to provide an individualized assessment that balances the following:

- 1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantees;*
- 2. The frequency with which LEP persons come in contact with the program;*
- 3. The nature and importance of the program, activity, or service provided by the program to people's lives and;*
- 4. The resources available to the grantees/recipient or agency, and costs. As indicated above, the intent of this guidance is to find a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small businesses or small nonprofits.*

Based on the four-factor analysis, LEP persons will be notified of language services that are available, free of charge.

Does LEP apply to all conditions?

Hearing or Visual Impairments

Sign language interpretation and Braille texts are accommodations of disabilities provided under the Americans with Disabilities Act and/or Section 504 of the Rehabilitative Acts of 1973.



Illiteracy

LEP individuals protected by the Executive Order and Title VI are those who not only cannot speak, read, or write English, but primarily speak, read or write a language other than English.

Road Signs

Road signs are optional translation services that NJDOT could provide (already provided in some areas), but is not mandated under LEP guidelines.



Employment Issues

Human Resources issues and employment issues are not covered in the LEP guidelines within Title VI.

Appendix E

New Jersey Department of Transportation Senior Leadership

Senior Leadership		
Title	Race	Gender
Commissioner	Hispanic	Female
Deputy Commissioner	White	Male
Chief of Staff	White	Male
Chief Financial Officer	White	Male
Inspector General	White	Female
Assistant Commissioner- Planning, Multimodal & Grants Administration	White	Male
Assistant Commissioner- Capital Program Management	Asian	Male
Assistant Commissioner- Transportation Operations Systems and Support	White	Male

Appendix F



New Jersey Department of Transportation

Title VI and ADA Nondiscrimination Requirements

Use the following checklist to ensure completion of Title VI and ADA Nondiscrimination requirements

Title VI Policy Statement

- Ensure statement is on official letterhead
- Indicate commitment to nondiscrimination in the LPA's programs and activities administered by the LPA and/or contractors, whether it is federally funded or not that:
"No person shall on the grounds of race, creed, color, national origin, age, ancestry, nationality, gender, disability, religion, affectional or sexual orientation, gender identity or expression, income level or ability to read, write or speak English be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination or retaliation under any program or activity..."
- Designate and ensure document is signed by the appropriate executive authority
- Ensure employees are aware of the LPA's policy to abide by Title VI of the Civil Rights Act of 1964 and its related statutes.
- Post copies of policy statement in conspicuous locations

Title VI Assurances

- Ensure standard Title VI Assurances are on official letterhead
- Review document to confirm all standard Title VI Statutory/Regulatory Authorities are included
- Certify that all areas where it refers to "Local Public Agency" is changed to the name of the LPA
- Attach all appropriate Standard Title VI Assurance Appendices A-E in submission
- Include all appropriate Standard Title VI Assurance Appendices A-E in all of the LPA's contracts
- Ensure document is signed by the appropriate executive authority

Affirmative Action/Equal Employment Opportunity Plan

- Designate appropriate personnel who will be responsible for the implementation of policy; include name and contact information of such person.
- Create a statement of policy which addresses the LPA's EEO policy affecting all employment practices, including recruitment, selection, promotions, terminations, transfers, layoffs, compensation, training, benefits and other terms and conditions of employment
- Ensure commitment to EEO for all persons regardless of race, color, creed, national origin, sex, age and disability
- Conduct a Utilization Analysis to determine whether minorities and women are fully utilized or underutilized
- Establish goals and timetables for any job category for which the Utilization Analysis indicated that minorities or women are underutilized
- Analyze the workforce and include statistical breakdown of workforce by each department, job category, grade/rank of employee
- Workforce analysis must cross reference each category by race/national origin and gender
- Address the right of employees to file a complaint when they believe discrimination has occurred and the compliant process

Minority/Female Business Plan

- Develop a plan for the recruitment and hiring of female and minority contractors, consultants, etc.
- Designate personnel responsibility
- Statement of policy which outlines how the LPA plans to seek out and utilize DBEs as consultants, prime contractors, suppliers, etc. in the procurement of contracts
- Dissemination of policy
- Implementation of the program
- Monitoring and reporting of DBE consultants, prime contractors, suppliers, etc.

Americans with Disabilities (ADA) Transition Plan

- Designate an ADA Coordinator
- Develop an ADA policy statement
- Dissemination of policy
- Develop grievance/complaint procedures
- Complete a self-evaluation of curbs, sidewalks, roads, facilities, etc. This process requires the County Engineer or equivalent to identify barriers in programs and activities that prevent persons with disabilities from access.
- Develop an inventory of facilities where structural modifications are needed in order to make facilities accessible for persons with disabilities
- Incorporate above requirements and goals into an ADA Transition Plan
- Develop a schedule to complete modifications

Appendix G



DEPARTMENT OF TRANSPORTATION POLICY/PROCEDURE

Policy No.

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Title VI Nondiscrimination Programs	Effective Date: 2023	Commissioner Approval: Diane Gutierrez-Scaccetti Sponsor Name Civil Rights and Affirmative Action Approval: Contact Telephone #:
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I. PURPOSE AND SCOPE

As a condition of receiving Federal financial assistance from the United States Department of Transportation, the New Jersey Department of Transportation (NJDOT) is required to comply with Title VI of the Civil Rights Act of 1964 (Title VI) and its related nondiscrimination statutes. Title VI prohibits discrimination on the basis of race, color or national origin in all programs and activities of Federal-aid recipients and contractors regardless of their funding source. Non-compliance may result in loss of Federal funding (**Federal financial assistance**).

This policy provides standards to ensure that the NJDOT's programs, policies and activities are carried out in a nondiscriminatory manner.

This policy applies to all units in the Department.

II. DEFINITIONS

Division – Division of Civil Rights and Affirmative Action (DCRAA); specifically for this policy, the DCRAA, Title VI Nondiscrimination Unit and Title VI Coordinator.

Federal Financial Assistance:

(1) Assistance that non-Federal entities receive or administer in the form of:

- (i) Grants;
- (ii) Cooperative agreements;
- (iii) Non-cash contributions or donations of property (including donated surplus property);
- (iv) Direct appropriations;
- (v) Food commodities; and
- (vi) Other financial assistance (except assistance listed in paragraph (2) of this definition).

(2) For § 200.203 and subpart F of this part, *Federal financial assistance* also includes assistance that non-Federal entities receive or administer in the form of:

- (i) Loans;
- (ii) Loan Guarantees;

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Title VI Nondiscrimination Programs	2023	Page 2 of 8

(iii) Interest subsidies; and

(iv) Insurance.

(3) For § 200.216, Federal financial assistance includes assistance that non-Federal entities receive or administer in the form of:

(i) Grants;

(ii) Cooperative agreements;

(iii) Loans; and

(iv) Loan Guarantees.

(4) Federal financial assistance does not include amounts received as reimbursement for services rendered to individuals as described in § 200.502(h) and (i).

FHWA – Federal Highway Administration.

Programmatic Area's Leadership – individual(s) in each unit of the Department, such as Director, Manager and Supervisor, authorized to make personnel and management decisions.

Title VI of the Civil Rights Act of 1964 – states that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Title VI Corrective Action Plan – a collaboratively developed plan and schedule, created as a result of the review process, which will demonstrate steps needed to be taken by the unit to rectify any deficiencies found.

Title VI Review Process – to ensure and demonstrate compliance with Title VI, the Department is required to periodically conduct reviews of its internal programmatic and special emphasis areas. This review process allows the Department to determine the effectiveness of the specified areas and their efforts to carry out activities equitably.

Title VI In-Depth Review Questionnaire – a document specifically tailored to the programmatic area's processes and activities to assist in determining compliance with Title VI and nondiscrimination requirements.

Title VI Liaison – an employee in the programmatic area responsible for gathering and preparing data, providing technical guidance and serving as a subject matter expert on Title VI compliance.

III. RESPONSIBILITY

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The Division of Civil Rights and Affirmative Action (DCRAA), Title VI Nondiscrimination Unit, has been designated by the Commissioner of Transportation with the responsibility to implement and administer the Title VI program to ensure compliance with FHWA requirements. The Unit depends on cooperation and collaboration across the NJDOT to achieve and maintain compliance in all the Department's programs and activities.

The Director of DCR/AA is responsible for the overall administration, implementation, monitoring and enforcement of the department's various Civil Rights programs and activities. The DCR/AA reports directly to the Deputy Commissioner who reports to the Commissioner of Transportation. The DCR/AA director also participates as a member of the department's Senior Leadership Team who meets with the Commissioner on a bi-weekly basis and/or as needed to report goals, accomplishments, issues and concerns which includes matters associated with the department's Title VI Nondiscrimination Program and the department's overall Civil Rights agenda.

The DCR/AA's Title VI Coordinator is responsible for carrying out the day-to-day administration of activities to include initiating and monitoring Title VI activities and completing all reporting requirements. Other units within the DCR/AA including Contractor Compliance, Disadvantaged and Small Business Programs (D&SBP) and Internal Equal Employment Opportunity will assist with these tasks as necessary.

The Title VI Task Force is a committee or group of department employees assembled to provide the necessary support to ensure that Title VI and nondiscrimination is given appropriate consideration. The task force is made up of the department's designated Title VI Liaisons representing various divisions, regions and work units across the department.

Programmatic areas, specifically management and the Title VI Liaisons, are responsible for incorporating recommendations and maintaining Title VI considerations brought about by the In-depth Review in their daily processes. The Liaison is responsible for working with the DCRAA Title VI Coordinator and Nondiscrimination Unit to ensure compliance with Title VI requirements.

IV. POLICY AND PROCEDURE

Policy

It is the policy of the Department to comply with Title VI of the Civil Rights Act of 1964 is mandatory as a condition of receiving Federal financial assistance from the US Department of Transportation.

Procedure

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A. Major functions of the Title VI Nondiscrimination Programs:

1. Oversee and ensure nondiscrimination in NJDOT programs and activities.
2. Develop and implement procedures and processes for preventing discrimination and addressing and resolving complaints of discrimination in NJDOT programs & activities.
3. Provide training on Title VI to NJDOT staff, sub-recipients and the public.
4. Establish and maintain collaborative relationships with internal and external stakeholders.
5. Submit an annual update of the Title VI Implementation Plan to Federal Highway for approval.
6. Conduct In-Depth Title VI/EJ Compliance Reviews of core program areas and external programs.
7. Conduct reviews of Metropolitan Planning Organizations (MPOs), and Local Public Agencies (LPAs) to ensure compliance with the provisions of Title VI, EJ and LEP requirements.
8. Publish Title VI/Nondiscrimination information for dissemination to the public and where appropriate ensure that the information is translated in languages other than English.
9. Investigate and ensure prompt and equitable resolution of complaints filed under Title VI/Nondiscrimination.
10. Provide training and technical assistance on Title VI/Nondiscrimination to NJDOT staff, sub-recipients and the public.
11. Participate in Capital Program Screening Committee, Capital Program Committee, Core Group and Scope Team meetings to ensure communities are not adversely impacted by projects.
12. Review environmental impact statements, categorical exclusions, and environmental assessment of proposed NJDOT projects.

B. Title VI Coordinator Activities:

1. Preparing, completing and submitting the department's annual Title VI Compliance Plan on or before the beginning of each federal fiscal year. The plan details all of NJDOT's Title VI activities, accomplishments, complaints and future plans;
2. Conducting Comprehensive Title VI Programmatic Reviews on special emphasis program areas and activities when necessary to cover aspects not addressed through the day-to-day approach;
3. Providing technical assistance and advice on Title VI and related policy matters to department program officials;
4. Monitoring department programs and activities for Title VI compliance;
5. Investigating Title VI complaints and preparing reports of findings, conclusions and recommendations;
6. Providing technical guidance to project managers and units on a project-by-project basis;
7. Attending project scoping and core group meetings;
8. Collaborating with NJDOT program managers in developing Title VI information for dissemination to the public;
9. Coordinating with other Civil Rights program personnel in the reviewing of Title VI activities and issues;
10. Working with program managers to resolve problems identified as discriminatory practices and policies pursuant to Title VI and related statutes;

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11. Monitoring NJDOT's sub-recipients for compliance and implementation of Title VI activities.
12. Establishing procedures to resolve noncompliance determinations.
13. Coordinating Title VI training programs.
14. Updating the Title VI Program as necessary to reflect changes in organization, policy or implementation.
15. Increasing public/community awareness of the department's activities.
16. Developing and updating Title VI information for dissemination to the public and where appropriate, in languages other than English; and
17. Communicating with FHWA officials on a regular basis regarding areas needing to be addressed and/or improved as relating to the department's Title VI Program.

C. Title VI/Nondiscrimination Task Force Liaisons:

Each liaison is charged with monitoring programs and activities in their respective program area and reporting related data and accomplishments to the Title VI Coordinator. The responsibilities of liaisons include, but are not limited to the following:

1. Participate in all available Title VI Nondiscrimination training or information sessions.
2. Serving as subject matter expert.
3. Providing technical guidance during the analysis of requested material.
4. Maintain all relevant statistical nondiscrimination data for the respective program areas.
5. Prepare and submit quarterly data to the Title VI Coordinator.
6. Work with respective division's managers or programmatic area administrators to implement Title VI Nondiscrimination policies in all programs and activities.
7. Ensure Title VI Nondiscrimination information and/or material is available to division staff.
8. Disseminate Title VI Nondiscrimination material to the public when encountered in the implementation of programs or activities.
9. Advise the Title VI Coordinator of any potential Title VI or Environmental concerns and seek guidance for methods of addressing such instance.
10. Refer all Title VI Nondiscrimination complaints to the Title VI Coordinator; and
11. Assist the Title VI Coordinator in conducting reviews of respective programmatic areas, programs or activities.

D. Title VI Compliance Reviews

1. Annually, at the start of each Federal Fiscal Year (FFY), the Title VI Nondiscrimination Unit selects a programmatic area(s) or specific activity for an in-depth review. Selection is based on the nature of the programmatic area's programs and activities including public interface. In addition, formal and/or informal complaints and concerns relating to a specific program or activity will also be considered in the selection process. The Title VI In-depth Review process, schedule and selection of programmatic areas are intended to be flexible and may be altered due to, but not limited to, the following factors:

- Urgent Title VI matter
- Title VI Complaint(s) investigation

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- Staffing changes
 - New programs or activities
 - Changes in policies, protocol or rollout of projects
 - Patterns indicating noncompliance
2. The Title VI Coordinator will develop a Title VI In-depth Review Questionnaire specifically tailored to the programmatic area's processes and activities. The Commissioner and Chief of Staff will be notified of the selected programmatic area and the intent to conduct a Title VI In-depth Review. Notification of the upcoming review via cover letter and the Title VI Questionnaire instructions and package are sent to the Assistant Commissioner of the programmatic area to be reviewed. Copies of the package are also distributed to the Division Director of the programmatic area being reviewed.
 3. The Questionnaire must be completed and returned to the Title VI Nondiscrimination Unit within two (2) weeks. The completed Questionnaire and supplemental material provided will be reviewed by the Title VI Coordinator prior to scheduling the onsite portion of the review.
 4. The Onsite Review will be conducted in a span of approximately two to five days and will consist of interviews and examination of maintained data records and documents. The review process consists of the following methods:
 - Desk Audit – centers around the Title VI In-depth Questionnaire and provides a preliminary determination on whether the programmatic area is in compliance with Title VI and its nondiscrimination requirements.
 - Interview – Title VI staff will interview managerial and front-line staff in the programmatic area to better understand the day-to-day operations and to determine if these operations incorporate necessary Title VI obligations.
 - Examination of Documents and Data – allows Title VI staff to review documents and specific data maintained by the programmatic area to determine whether the data collection efforts capture the required Title VI information.
 - Field Visit/Shadowing – if deemed necessary by Title VI staff, this process allows Title VI staff to experience the day-to-day operations of projects, programs and activities.
 5. The Title VI Coordinator will prepare a report of findings within 30 days from the last day of the Onsite review. A copy of the report will be provided to the Chief of Staff, Assistant Commissioner, and the programmatic area's leadership. If deficiencies are identified and corrective action is required, the Title VI Coordinator will work closely with the programmatic area's leadership to develop a corrective action plan with a schedule to achieve full compliance status. He/she will also provide technical guidance throughout the corrective action process. Guidance can range from assistance in incorporating Title VI language in contracts, official documents, and public engagement material; procuring translation services; training staff in Title VI; developing data collection material, etc.

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*If the programmatic area is not cited for deficiencies and does not require corrective action, the Title VI Coordinator may provide recommendations to enhance Title VI considerations within programs and activities.

6. The Title VI Coordinator will continue to monitor the programmatic area to ensure adherence to the corrective action plan and ongoing compliance with Title VI and its nondiscrimination requirements.
7. FHWA will be provided a copy of the report of findings and corrective action plan, if deemed necessary. Title VI In-depth Review findings will also be detailed annually in the Title VI Accomplishments Report for FHWA

V. AUTHORITY

23 CFR 200 Title VI Program and Related Statutes

23 CFR 200.9 (b) (5) (6) State Highway Agency Responsibilities

23 CFR 230.301 Appendix A (C) State Highway Agency Equal Employment Opportunity Programs

49 CFR 21 Non-Discrimination in Federally Assisted Programs of the DOT Effectuation of Title VI of the Civil Rights Act of 1964

49 CFR 21.5 Discrimination Prohibited in 49 CFR 21

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) and 49 CFR § 21;

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601);

Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 et seq.);

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.) and 49 CFR § 27;

The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.);

Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, Section 47123), as amended;

The Civil Rights Restoration Act of 1987 (PL 100-209);

Title II and III of the Americans with Disabilities Act (42 U.S.C. § 12131-12189); 49 C.F.R. § 37 and § 38;

The Federal Aviation Administration's Nondiscrimination Statute (49 U.S.C. § 47123)

FMCSA Title VI/Nondiscrimination Regulation 49 C.F.R. § 303;

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Executive Order 12898;

Executive Order 13166;

Title IX of the Education Amendments of 1972 (20 U.S.C. 1987 et seq.)

Civil Rights Division | Title VI Of The Civil Rights Act Of 1964 42 U.S.C. § 2000d Et Seq. (justice.gov)

Appendix H



DEPARTMENT OF TRANSPORTATION POLICY/PROCEDURE

Policy No.

Supersedes:
Dated:

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Limited English Proficiency Policy and Procedure

Effective Date:

Commissioner Approval: signature on file

Sponsor
Approval: signature on file

Contact Telephone #:

I. PURPOSE AND SCOPE

The purpose of this policy and procedure is to ensure that New Jersey Department of Transportation's (NJDOT) provides reasonable access to services for individuals with Limited English Proficiency (LEP), including a limited ability to read, speak, write or understand English have meaningful access to information that affects their lives.

It is NJDOT's policy to actively ensure nondiscrimination in federally funded activities and to identify and prevent discriminatory effects by actively administering its programs, policies, and activities to ensure that social impacts to communities and people are recognized early and continually throughout the transportation decision-making process--from early planning through implementation. Should the potential for discrimination be discovered, action to eliminate the potential shall be taken.

II. DEFINITIONS

Effective Communication - Communication sufficient to provide the individual with limited English proficiency with substantially the same level of services received by individuals who are not limited in English proficiency.

Interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.

Language Assistance Services - Oral and written language services needed to assist individuals with LEP to communicate effectively with staff and to provide individuals with LEP meaningful access and equal opportunity to participate fully in the services, activities, or other programs.

Limited English Proficient (LEP) Individuals - the acronym for both "limited English proficiency" and "limited English proficient"

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The U.S. Census Bureau's operational definition for LEP is a patient's self-assessed ability to speak English less than "very well." Individuals who do not speak English as the primary (or preferred) language and who have limited ability to read, write, speak, or understand English. Individuals with LEP may be competent in English for certain types of communication (like speaking) but still be with LEP for other purposes (like reading or writing).

Meaningful Access - Language assistance that results in accurate, timely, and effective communication at no cost to the individual with LEP. Meaningful access denotes access that is not significantly restricted, delayed or inferior as compared to programs or services provided to persons who are proficient in the English language.

Multilingual staff or employee – A staff person or employee who has demonstrated proficiency in English and in reading, writing, speaking, or understanding at least one other language, as authorized by his or her component.

NJDOT – New Jersey Department of Transportation

Policy – a guiding principle put in place to inform decision making and to give direction to employees regarding activities within the Department.

Primary Language - An individual's primary language is the language in which the individual most effectively communicates.

Procedure – specific actions that need to be taken by specific entities in order to implement a policy.

Qualified Interpreter or Translator - A qualified interpreter (or translator) is an interpreter who has had their specialized vocabulary (medical or legal terminology) proficiency assessed.

Translation - The replacement of written text from one language (source language) to an equivalent written text in another language (target language).

Vital Document - A document will be considered vital if it contains information that is

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III. BACKGROUND

Title VI of the Civil Rights Act of 1964 provides that no person shall “on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” National Origin Discrimination includes discrimination on the basis of LEP.

Executive Order No. 13166 “Improving Access to Services for Persons with Limited English Proficiency,” is intended to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP).

NJDOT receives Federal funding as part of its overall budget and is therefore subject to Title VI of the Civil Rights Act of 1964 and Executive Order No. 13166 “Improving Access to Services for Persons with Limited English Proficiency.”

IV. RESPONSIBILITY

1. Departmental Implementation / General Oversight

- a. The Division of Civil Rights will serve as oversight for this policy and will ensure the implementation of the Limited English Proficiency Policy and its procedures by achieving the program’s goals and objectives, as well as holding the respective staff accountable to adhere to this and the State Policy.

V. POLICY AND PROCEDURE

Policy:

NJDOT will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. The policy of NJDOT is to ensure meaningful communication with LEP individuals. The policy also provides for communication of information contained in vital documents. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, the LEP individuals, and their families will be informed of the availability of such assistance free of charge.

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Language assistance will be provided through use of competent bilingual staff, staff interpreters, contracts or formal arrangements with local organizations providing interpretation or translation services, or technology and telephonic interpretation services. All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter.

NJDOT will conduct a regular review of the language access needs of our LEP population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

Procedures:

1. IDENTIFYING LEP PERSONS AND THEIR LANGUAGE

NJDOT will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or "I speak cards," available online at www.lep.gov) or posters to determine the language. In addition, when records are kept of past interactions with the public, the language used to communicate with the LEP person will be included as part of the record.

2. OBTAINING A QUALIFIED INTEPRETER

(a) Maintain an accurate and current list showing the name, language, phone number and hours of availability of bilingual staff (provide the list);

(b) Contact the appropriate bilingual staff member to interpret, in the event that an interpreter is needed, if an employee who speaks the needed language is available and is qualified to interpret.

(c) Obtain an outside interpreter if a bilingual staff or staff interpreter is not available or does not speak the needed language.

(Identify the agency(s) name(s) with whom you have contracted or made arrangements) have/has agreed to provide qualified interpreter services. The agency's (or agencies') telephone number(s) is/are (insert number (s)), and the hours of availability are (insert hours).

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However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person.

Children and other clients/patients/residents will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

3. PROVIDING WRITTEN TRANSLATIONS

- (a) When translation of vital documents is needed, each unit in NJDOT will submit documents for translation into frequently encountered languages. Divisions/units are responsible for the costs of written translation services.
- (b) NJDOT will set benchmarks for translation of vital documents into additional languages over time.

4. PROVIDING NOTICE TO LEP PERSONS

NJDOT will inform LEP persons of the availability of language assistance by providing written notice in languages LEP persons will understand. At a minimum, notices and signs will be posted and provided, (include those areas applicable to NJDOT). Notification will also be provided through one or more of the following: e.g., outreach documents, telephone voice mail menus, local newspapers, and/or community-based organizations (include areas applicable to NJDOT).

5. MONITORING LANGUAGE NEEDS AND IMPLEMENTATION

On an ongoing basis, NJDOT will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, NJDOT will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from the public and community organizations, etc. (include those areas applicable to NJDOT).

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VI. AUTHORITY

Executive Order No. 13166 - "Improving Access to Services for Persons with Limited English Proficiency"

VII. OTHER RESOURCES

<https://www.transportation.gov/civil-rights/civil-rights-awareness-enforcement/dots-lep-guidance>

<https://www.hhs.gov/civil-rights/for-providers/clearance-medicare-providers/example-policy-procedure-persons-limited-english-proficiency/index.html>

Appendix I



New Jersey
Department of Transportation
Division of Civil Rights and Affirmative Action
Title VI Nondiscrimination Programs Unit

Limited English Proficiency (LEP) Guidelines/Plan

USDOT Limited English Proficiency (LEP) Definition:

Individuals with a primary or home language other than English who must, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in or benefit from any aid, service or benefit provided by the transportation provider or other DOT recipient.

Background and Authority:

Title VI of the Civil Rights Act of 1964 and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance.

The purpose of this limited English proficiency guideline is to clarify the responsibilities of the New Jersey Department of Transportation (NJDOT), a recipient of Federal financial assistance from the U.S. Department of Transportation (DOT), in fulfilling its responsibilities to limited English proficient (LEP) persons, in accordance with Title VI of the Civil Rights Act of 1964 and implementing regulations.

On August 11, 2000, Executive Order 13166, “*Improving Access to Service for Persons With Limited English Proficiency*,” was signed by President Bill Clinton. It directs federal agencies to ensure people who are LEP have meaningful access to services.

Who is a LEP Person?

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or “LEP.” These individuals may be entitled language assistance with respect to a particular type or service, benefit, or encounter.

Linguistically Isolated

A person in households in which no one over the age of 14 speaks English well is used as a direct measure of those persons with a severe language barrier.

LEP and the New Jersey Department of Transportation

The below matrix illustrates legal and policy considerations that require NJDOT to provide LEP persons with meaningful access to programs, activities, and services.

Title VI of the Civil Rights Act of 1964	Executive Order 13166 Limited English Proficiency
<ul style="list-style-type: none"> • Federal Law 	<ul style="list-style-type: none"> • Federal Policy
<ul style="list-style-type: none"> • Enacted July 2, 1964 	<ul style="list-style-type: none"> • Signed August 11, 2000
<ul style="list-style-type: none"> • Considers all persons 	<ul style="list-style-type: none"> • Considers eligible populations
<ul style="list-style-type: none"> • Contains monitoring and oversight compliance review requirements 	<ul style="list-style-type: none"> • Contains monitoring and oversight requirements
<ul style="list-style-type: none"> • Provides protection on the basis of race, color, and national origin 	<ul style="list-style-type: none"> • Provides protection on the basis of national origin
<ul style="list-style-type: none"> • Focuses on eliminating discrimination in federally funded programs 	<ul style="list-style-type: none"> • Focuses on providing LEP persons with meaningful access to services using Four- Factor criteria
<ul style="list-style-type: none"> • Annual Accomplishment and Upcoming Goals Report to FHWA 	<ul style="list-style-type: none"> • Annual Accomplishment and Upcoming Goals Report to FHWA

Division of Civil Rights and Affirmative Action Title VI Responsibility

The Title VI Coordinator is responsible for monitoring NJDOT's divisions' activities to ensure meaningful access for LEP persons. This includes advising divisions of LEP requirements, implementing and assisting in developing individual program plans.

Compliance and Enforcement

NJDOT Division Directors are responsible for ensuring that meaningful services to LEP persons are provided in their respective divisions. The Title VI Coordinator will continuously monitor their respective divisions to ensure LEP requirements are fulfilled and report annually on the

accomplishments and upcoming goals relating to LEP activities to the NJDOT Civil Rights and Affirmative Action Division.

OBJECTIVES:

- To ensure that reasonable access to services are provided to those who do not read, speak, write or understand English or who are low-literacy
- To provide Limited English Proficiency Guidelines to divisions throughout NJDOT to assist them in completing individual LEP Plans based on their unique interactions with the public.
- Divisions are asked to address five elements in the plans: Identification of LEP persons; Development of language assistance measures; training; provide outreach & notices in LEP languages and monitor& evaluate efforts.
- As a department, NJDOT is required to translate vital documents: Applications, Consent & Compliance forms, Notice of Rights, Written tests, Letter/Notices that require response, and Websites.

SERVICES:

- LEP site on NJDOT Internet under Title VI/EJ
- Limited English Proficiency Under Title VI Brochure
- Employee Linguistics Pool (Interpreters). Employees can either contact the LEP Coordinator directly to participate or log on to MYDOT, then under Employee Information, click on Language Skills for Linguistics Pool. Highlight language(s) they are proficient and hit save. They will then be contacted, as needed, as an interpreter.
- “I Speak Cards”- laminated cards in English/Spanish asking the need of customers, with pictures. Cards are frequently used by Safety Service Patrol (SSP).
- Language ID Flash Cards- lists various languages; persons can point to language they speak to receive assistance.

TASKS/ACTIONS:

Identification of LEP Individuals

- Determine the number or proportion of LEP persons served or likely to be encountered on NJDOT Projects.
- Determine the frequency with which LEP individuals come in contact with services offered by NJDOT through interviews and attending staff meetings.
- Develop and distribute “I Speak” Cards to key personnel, departments and divisions that come in contact with LEP individuals.
- Develop and distribute LEP posters and notices on a regional basis. These marketing materials will provide LEP individuals language assistance available to encourage self-identification.
- Hold public meetings and conduct outreach efforts in LEP communities to collect information on LEP persons staff provide services to through normal business operations.
- Track all languages encountered on projects and in the field. Develop an access database to compile all information collected. Information collected could include

county, district, race, language spoken, literacy level, income, and employment status.

Preparation of a Language Assistance Plan

- NJDOT Division Directors are responsible for ensuring that meaningful services to LEP persons are provided in their respective divisions.
- The LEP Coordinator will monitor the program to ensure that LEP requirements are fulfilled and report results, accomplishments, and problems quarterly to the Title VI/ EJ Coordinator. Specific tasks include:
 - Preparing written guidelines (Implementation Plan) to assist the Division' Directors develop their regional plans to meet the needs of LEP individuals in New Jersey.
 - Assessing NJDOT's interpretation, translation, and other language resources to serve LEP individuals.
 - Addressing the various types of contact that NJDOT might have with LEP individuals including the Safety Service Patrol, at reception desks and when contacted by telephone.
 - Prioritizing first-response units and other services involving access to important benefits, services, information and rights that an LEP person may have.
 - Identifying language resources (LEP.gov, employee linguistics pool, "I Speak Cards") to ensure NJDOT staff can access and effectively utilize LEP tools available.

Conduct Staff Training

- Ensure NJDOT staff knows LEP policies and procedures through a series of training courses. These training courses will include individual and group activities, exercises and an overview of NJDOT LEP Guidelines.
- Cultural sensitivity and communication skills – Train staff on the importance of Title VI and Environmental Justice to ensure that they are aware of the impacts that the lack of an effective LEP program can have on a community.
- Staff will be trained to effectively communicate with LEP communities.

Provide Notice to LEP Persons

- It is very important to let LEPs know services are available and free of charge.
- Notices in languages LEPs will understand. Identify areas through data and maps and prepare outreach materials and notices in appropriate languages.
- Notices and outreach materials will be written at the 4th-6th grade reading level.
- Signs will be posted in the most common places visited.
- NJDOT will work with our Office of Communications to provide Telephone Voice Mail services in common languages.
- Provide marketing materials and notices in local newspapers.
- Conduct presentations and provide notices at schools, universities and churches.
- Provide written translation of all vital documents including but not limited to Job Applications, Consent & Complaint forms. Notices of Rights advertise notices of free language services, written tests, documents that require timely response, publications (newsletters, posters, videos and websites).

- Partner with media outlets (NJ Television, radio stations, and ethnic and foreign language media) to develop additional materials for non-English speakers in New Jersey.

Monitor and update the LEP Plan

- The Department will include quality control measures in its guidelines to ensure that it is communicating accurately and effectively with LEP community members.

Assessment: The Four-Factor Analysis to Meaningful Access

Failure to provide access to anyone that is a LEP individual in federally assisted programs and activities is national origin discrimination under Title VI of the Civil Rights Act of 1964. Title VI and its regulations require that the NJDOT take reasonable steps to ensure “meaningful” access to the information and services it provides. The following is the four-factor analysis guiding the implementation of the LEP access requirement:

1. *The number or proportion of LEP persons served or likely to be encountered on NJDOT projects:*

The greater the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population, the more likely language services are needed.

Divisions within NJDOT should first examine prior experience with LEP individual and determine the breadth and scope of language services that are needed. In conducting this analysis, it is important to include language minority populations that are eligible beneficiaries of NJDOT programs, activities, or services but may be underserved because of existing language barriers; and consult additional data, for example, from the census, school systems, and community organizations, and data from state and local governments, community agencies, school systems, religious organizations and legal aid entities.

2. *The frequency with which LEP individuals come in contact with the program, activity or service:*

NJDOT Divisions should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance, as the more frequent the contact, the more likely enhanced language services will be needed. The steps that are reasonable for servicing a LEP person on a one-time basis will be very different than those expected for servicing LEP persons daily.

3. *The nature and importance of the program, activity, or service provided by the program:*

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. The department needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implication for the LEP individual.

4. *Costs must be factored into this balancing test as part of the consideration of “resources available”:*

“Reasonable steps” may cease to be reasonable where the costs imposed substantially exceed the benefits in light of the factors outlined the US Department of Justice (DOJ) Guidance. A suggestion might be to prioritize so that the language services are targeted where most needed because of the nature and importance of activity involved.

This four-factor analysis necessarily implicates the “mix” of LEP services required. NJDOT has two main ways to provide language services: Oral interpretation either in person or via telephone interpretation service and written translation. Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons to access through commercially available telephonic interpretation services. Written translation, likewise, can range from translation of an entire document to translation of a short description of the document. In some cases, language services should be made available on an expedited basis.

The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, a construction project occurring in a largely Hispanic neighborhood may need immediate oral interpreters available and should give serious consideration to hiring some bilingual staff. In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be low and the costs and resources needed to provide language services may be high. Regardless of the type of language service provided, quality and accuracy of those services can be critical in order to avoid serious consequences to the LEP person (s) and to the department.

NJDOT Division Responsibility

The key to providing meaningful access to benefits and services for LEP persons is to ensure that the language assistance provided results in accurate and effective communication between the department and LEP person about the types of services and/or benefits available. To accomplish effective communication, the following five elements should be considered at a division level:

Five Elements of a LEP Plan

1. Identification of LEP persons
2. Develop language assistance measure
3. Ensure staff is trained
4. Provide outreach and notices in LEP languages
5. Monitor and evaluation of efforts

1. Identification of LEP persons

Use the first two Four-Factors:

- The number or proportion of LEP persons served or likely to encountered on NJDOT projects
- The frequency with which LEP individuals come in contact with the program, activity or service
- Use language identification cards or “I speak” cards
- Post notices in LEP languages of assistance available to encourage self-identification
- Perform language census data analysis at statewide, county and municipal levels

2. *Develop language assistance measures*

- DOT Headquarters and regional offices to provide LEP persons with oral language assistance at reception desks and when contacted by telephone. Assistance may come through bilingual staff or voluntary community interpreters who are experienced and competent in interpreting.

3. *Ensure staff is trained*

- Ensure staff knows LEP policies and procedures
- Linguistic diversity and sophistication
- Cultural sensitivity and communication skills
- Staff trained to effectively communicate with LEP and telephone interpreters

4. *Provide outreach and notices in LEP languages*

- Important to let LEPs know services are available and free of charge
- Notices in languages LEPs will understand
 - Written at the 4th – 6th grade reading level
- Website in multiple languages
- Ways to accomplish:
 - Post signs in most common places visited
 - Work with community organizations
 - Telephone Voice Mail in common languages
 - Notices in local newspapers in other languages
 - Presentations/notices at schools and churches

5. *Monitor and Evaluation of Efforts*

- Regular oversight and Plan modification of:
 - Current LEPs in service area encountered or affected
 - Current communication needs of LEP communities
 - Frequency LEP groups are encountered
 - Nature and importance of activities of LEPs
 - Whether existing assistance meets the needs of LEPs
 - Whether staff is knowledgeable of policy, procedures and plan implementation
 - Whether identified sources of assistance are still current and viable
 - Number and type of grievances/complaints received

What Languages Should NJDOT Translate Documents?

The following charts show a.) The top ten (10) languages listed per rank as of 2017 – 2021 census based on the *2021 5-Year American Community Survey* spoken at home by persons five years old and over in New Jersey; and b.) The top ten (10) languages spoken throughout the three NJDOT regions compared to the overall State. NJDOT has broken New Jersey's 21 counties into three regions in order to do business effectively across the State. The three regions are North, Central and South. North region includes eight (8) counties: Bergen, Essex, Hudson, Morris, Passaic, Sussex, Union and Warren counties. Central region (6) counties: Hunterdon, Mercer, Middlesex, Monmouth, Ocean, and Somerset. Region South (7) counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem.

a.) NJ Population by Language Spoken: Top Ten Languages

Languages Spoken	Number of Speakers
English	5,923,901
Spanish	1,440,046
Chinese (incl. Mandarin, Cantonese)	124,963
Portuguese	90,904
Hindi	86,262
Gujarati	83,973
Tagalog (incl. Filipino)	78,343
Korean	77,578
Arabic	75,696
Polish	61,841

Source: Languages Spoken at Home by Ability to Speak English for the Population 5 Years and Above. 2021 5-Year American Community Survey. Table B16001.

b.) NJ Populations by Language Spoken: Top 10 Languages Spoken by NJDOT Region

North Region		State Totals	Central Region		State Totals	South Region		State Totals
Speak only English	2,428,604	5,923,901	Speak only English	2,036,646	5,923,901	Speak only English	1,458,651	5,923,901
Spanish	941,891	1,440,046	Spanish	318,906	1,440,046	Spanish	179,249	1,440,046
Other Indo-European languages	241,488	470,947	Other Indo-European languages	185,394	470,947	Other Indo-European languages	44,065	470,947
Russian, Polish, or other Slavic languages	87,424	145,337	Other Asian and Pacific Island languages	61,951	130,213	Other Asian and Pacific Island languages	13,288	130,213
French, Haitian, or Cajun	66,005	97,034	Chinese (incl. Mandarin, Cantonese)	52,564	124,963	Russian, Polish, or other Slavic languages	12,143	145,337
Korean	61,859	77,578	Russian, Polish, or other Slavic languages	45,770	145,337	Chinese (incl. Mandarin, Cantonese)	11,637	124,963
Chinese (incl. Mandarin, Cantonese)	60,762	124,963	Other and unspecified languages	26,330	92,190	French, Haitian, or Cajun	10,102	97,034
Other and unspecified languages	56,770	92,190	Arabic	21,365	75,969	Tagalog (incl. Filipino)	9,354	78,343
Other Asian and Pacific Island languages	54,974	130,213	Tagalog (incl. Filipino)	21,300	78,343	Other and unspecified languages	9,090	92,190
Arabic	49,824	75,969	French, Haitian, or Cajun	20,927	97,034	Vietnamese	7,179	17,765

Source: Language Spoken at Home for the Population 5 Years and Over. 2021 American Community Survey. Table C16001.

Note: NJDOT Region boundaries encompass the following counties: **North** (Bergen, Essex, Hudson, Passaic, Union, and Warren), **Central** (Hunterdon, Mercer, Middlesex, Monmouth, Ocean, and Somerset), and **South** (Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem).

The above charts indicate languages of LEP individuals department personnel in the three regions may encounter when conducting business. They may prove helpful in determining what languages vital documents should be translated. A distinction should be made, however, between languages that are frequently encountered by the department and less commonly encountered languages.

NJDOT encounters many communities on a daily basis through numerous activities (i.e. construction projects, Safety Service Patrol (SSP), etc.). They regularly serve persons residing in New Jersey alone who speak over 100 different languages. To translate all written materials into all those languages is unrealistic. Although recent technological advances have made it easier to store and share translated documents, such an undertaking would incur substantial costs and require substantial resources.

Nevertheless, well-substantiated claims of lack of resources to translate all vital documents into dozens of languages do not necessarily relieve NJDOT of the obligation to translate those documents into at least several of the more frequently-encountered languages and to set benchmarks for continued translations into the remaining languages over time. As a result, the extent of the department's obligation to provide written translations of documents should be determined by the department on a case-by-case basis, looking at the totality of the circumstances considering the four-factor analysis. Because translation is a one-time expense, consideration should be given to whether the upfront cost of translating a document (as opposed to oral interpretation) should be amortized over the likely lifespan of the document when applying this four-factor analysis.

Vital Documents

Definition: considered vital if it contains information that is critical for obtaining federal services and/or is required by law.

Examples:

- Applications
- Consent & Compliant forms
- Notices of rights
- Advertisement Notices of free language services
- Written test
- Letter/Notices that require response
- Publication (newsletters, posters, videos, etc.)
- Website

Translation vs. Interpretation

Translation: The process of transferring ideas expressed in writing from one language to another language.

Interpretation: The process by which the spoken word is used when transferring meaning between languages.

Language Assistance Services

The Division of Civil Rights and Affirmative Action Title VI Program plans to work with other state agencies to acquire a contract to provide translation services which may include the following:

- Translation
- Vital documents
- Multilingual Voiceover Work
- Desktop Publishing
- Web Information- text translation, downloadable PDF files in targeted languages
- Oral Language interpretation:
 - On-site
 - Telephonic (where needed)
- Alternative Communication Methods & Devices
 - Symbol signs, diagrams, color-coded warnings, illustration, graphics, pictures, etc.
- Linguistics Pool and Database of Languages spoken at NJDOT
 - A departmental employee linguistics pool maintained by the LEP Coordinator will assist with public outreach activities.
 - A database will assist the department in tracking LEP persons.

LEP Frequently Asked Questions

Q. Who is a Limited English Proficient (LEP) individual?

A. Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP." These individuals may be entitled language assistance with respect to a particular type or service, benefit, or encounter.

Q. What are the relevant laws concerning language access for LEP individuals?

A. Federal laws particularly applicable to language access include Title VI of the Civil Rights Act of 1964, and the Title VI regulations, prohibiting discrimination based on national origin, and Executive Order 13166 issued in 2000. Many individual federal programs, states, and localities also have provisions requiring language services for LEP individuals.

Q. What is Executive Order 13166?

A. An Executive Order is an order given by the President to federal agencies. The LEP Executive Order (Executive Order 13166) says that people who are LEP should have meaningful access to federally conducted and federally funded programs and activities.

Executive Order 13166 requires all agencies that provide federal financial assistance to issue guidance on how recipients of that assistance can take reasonable steps to provide meaningful access consistent with Title VI and the Title VI regulations. The Order also requires that federal

agencies create plans for ensuring that their own activities also provide meaningful access for persons who are LEP.

More information on Executive Order 13166 can be found at [Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency](#).

Q. What is a recipient of federal financial assistance?

A. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Subrecipients are also covered, when federal funds are passed from one recipient to a subrecipient. Recipients of federal funds range from state and local agencies, to nonprofits and other organizations. A list of the types of recipients and the agencies funding them can be found at [Executive Order 12250 Coordination of Grant-Related Civil Rights Statutes](#).

Title VI covers a recipient's entire program or activity. This means all parts of a recipient's operations are covered. This is true even if only one part of the recipient receives the federal assistance.

Example: DOJ provides assistance to a state department of corrections to improve a particular prison facility. All of the operations of the entire state department of corrections--not just the particular prison--are covered.

More information on Title VI, generally, can be found at [Title VI of the Civil Rights Act of 1964 42 U.S.C. § 2000d et seq.](#) .

Q. What is a federally conducted activity?

A. All federal agencies subject to Executive Order 13166 must design and implement a federally conducted plan to ensure access for LEP individuals to all of its federally conducted programs and activities (basically, everything that it does). For instance, the Civil Rights Division of the U.S. Department of Justice has a plan for ensuring meaningful access to its programs and activities for LEP persons. Other agencies and parts of agencies must do the same.

Q. Who will enforce the LEP rules?

A. Most federal agencies have an office that is responsible for enforcing Title VI of the Civil Rights Act. To the extent that a recipient's actions are inconsistent with their obligations under Title VI, then such agencies will take the necessary corrective steps. For DOTs the federal agency responsible for enforcing Title VI is the Federal Highway Administration.

[The Coordination and Review Section of the Civil Rights Division of DOJ](#) has taken the lead in coordinating and implementing this Executive Order.

Q. What are recipients of federal funds and federal agencies required to do to meet LEP requirements?

A. Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-

dependent standard, the starting point is an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. the frequency with which LEP individuals come in contact with the program;
3. the nature and importance of the program, activity, or service provided by the program to people's lives; and
4. the resources available to the grantee/recipient or agency, and costs. As indicated above, the intent of this guidance is to find a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, or small nonprofits.

Q. Do recipients of federal funds have to submit written language access plans to the Department of Justice or to their federal funding agency each year?

A. No. While planning is an important part of ensuring that reasonable steps are taken to provide meaningful access to LEP individuals seeking services, benefits, information, or assertion of rights, there is no blanket requirement that the plans themselves be submitted to federal agencies providing federal financial assistance. In certain circumstances, such as in complaint investigations or compliance reviews, recipients may be required to provide to federal agencies a copy of any plan created by the recipient.

EXECUTIVE ORDER 13166

THE WHITE HOUSE

Office of the Press Secretary
(Aboard Air Force One)

For Immediate Release

August 11, 2000

EXECUTIVE ORDER

13166

IMPROVING ACCESS TO SERVICES FOR
PERSONS WITH LIMITED ENGLISH PROFICIENCY

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. Goals.

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. Federally Conducted Programs and Activities.

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance.

Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order, each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the Federal Register for public comment.

Sec. 4. Consultations.

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. Judicial Review.

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

WILLIAM J. CLINTON

THE WHITE HOUSE,
August 11, 2000.

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