



Title VI Nondiscrimination Plan and Assurances



Implementation Plan WisDOT VISION



Demetri Fisher, Title VI Coordinating Officer
November 2014



U.S. Department
of Transportation
**Federal Highway
Administration**

Wisconsin Division Office

November 25, 2014

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In Reply Refer To:
HDA-WI

Demetri Fisher, Title VI Program Officer
Office of Business Opportunity and Equity Compliance
Hill Farms State Transportation Building, Room 451
P.O. Box 7965
Madison, WI 53707-7965

Subject: 2015 Title VI Implementation Plan

Dear Mr. Fisher,

The Federal Highway Administration, Wisconsin Division Office has received and reviewed the Wisconsin Department of Transportation Title VI Implementation Plan that your State has submitted for 2015, as required by 23 CFR 200.9. Based upon our analysis, it appears that your Title VI Implementation Plan meets the Federal Highway Administration (FHWA) guidelines for the contents of an Implementation Plan.

As part of our oversight responsibilities, the FHWA Wisconsin Division Office will continue to monitor your Title VI activities and ask that you submit an annual accomplishment report for the previous year and goals for the next year as required by 23 CFR 200.9.

If you have questions regarding this response you can contact me by phone at (608) 829-7516 or by email at William.stark@dot.gov.

Thank you.

Sincerely,

William T. Stark
Civil Rights Program Manager
FHWA Wisconsin Division Office

cc: Nichole McWhorter, Division Manager, Coordination and Compliance Division

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WISDOT VISION

Federal reporting guidelines provide that the Wisconsin Department of Transportation (WisDOT) submit a Title VI Implementation Plan to be followed by subsequent updates on an annual basis. The plan and the updates provide a report out on the programmatic activities of the WisDOT in order to assure continued Title VI compliance of the agency and its subrecipients, contractors, consultants and partners. WisDOT performs a combination of desk audits and onsite reviews to ensure that those receiving federal financial assistance through our agency maintain compliance with Title VI provisions and to ensure that all individuals have the opportunity to participate in, and receive the benefits of, any and all programs, services, and activities administered by WisDOT, its subrecipients, contractors, consultants, local governments and other partners.

Such assessments may indicate to the WisDOT whether there are potential compliance issues and whether there are opportunities for improvements. Common issues may include:

- an organization may require Title VI training
- contracts may not contain nondiscrimination assurance language
- the public involvement process may need to be improved
- no method for soliciting Disadvantaged Business Enterprises (DBE's)
- a lack of diversity on decision making boards and/or commissions

The WisDOT Title VI program has various pro-active strategies to head off issues such as these before they become problems in the system. One of our primary strategies is to make clear concise and practical Title VI training readily available for all of our stakeholders. We will schedule this training at anytime it is requested or needed in all five regions of the state. We are also developing a web based online version of the training in an effort to provide a more demand responsive training schedule and to reduce costs in attending training sessions.

The WisDOT Title VI program has expanded our staggered process review and improvement schedule. This staggered approach is used in the monitoring of airports, transit providers, consultants, various contractors and local governments. This method has proven itself to be effective over and over again and is a key strategy in our hands on approach to create a better overall system.

WisDOT has an aggressive outreach program. Outreach, education and information programs abound with such efforts as our quarterly Title VI Advisory Committee meetings. We also fully engage our Trans-AC and our Trans-CAC groups and subcommittees on a monthly basis. WisDOT also maintains an I-94 Milwaukee Business initiative and an I-94 Milwaukee Labor taskforce whose overall goal is for the economic development of DBE's, WBE's and other targeted communities in southeastern Wisconsin. The engagement of Division Liaisons, monitoring of public hearings and involvement in pre-scheduled impactful Title VI Teleconferences further ensures that the message is getting out there as well as contributing to the fine-tuning of our responsiveness.

The WisDOT Title VI Nondiscrimination efforts are consistent with our comprehensive approach to providing a high quality transportation program for all of our members of the public here in the State of Wisconsin. Actions by WisDOT management, staff, consultants, contractors, and local partners that are consistent with our Mission, Vision and Values are almost always going to be consistent with our Title VI Nondiscrimination Plan. There it is important and productive to restate our Mission, Vision, and Values:

MISSION

Provide leadership in the development and operation of a safe and efficient transportation system.

VISION

Dedicated people creating transportation solutions through innovation and exceptional service.

VALUES

Accountability	Being individually and collectively responsible for the impact of our actions on resources, the people we serve, and each other.
Attitude	Being positive, supportive and proactive in our words and actions.
Communication	Creating a culture in which people listen and information is shared openly, clearly, and timely - both internally and externally.
Excellence	Providing quality products and services that exceed our customers' expectations by being professional and the best in all we do.
Improvement	Finding innovative and visionary ways to provide better products and services and measure our success.
Integrity	Building trust and confidence in all our relationships through honesty, commitment and the courage to do what is right.
Respect	Creating a culture where we recognize and value the uniqueness of all our customers and each member of our diverse organization through tolerance, compassion, care and courtesy to all.
Teamwork	Creating lasting partnerships and working together to achieve mutual goals.

These precepts shape our perceptions of what we do in every endeavor of our organization and are posted everywhere for our employees, partners and stakeholders to perceive and understand. Providing leadership with dedicated people...people with values which include positive attitudes toward one another, creating a culture of communication, building integrity, respect for all cultures and all of the richly diverse communities that populate our state and affect the entire world, these are WisDOT's mission, vision and values. These dovetail completely with our Title VI efforts and will ever engage us and push us to be a better service agency and of the highest value to all of the people we serve.

TITLE VI/NONDISCRIMINATION AUTHORITIES

The following are the primary Federal Title VI/Nondiscrimination authorities:

1. 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);
2. Federal-Aid Highway Act of 1973 (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
3. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
5. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. §12101 *et seq.*), (prohibits discrimination on the basis of disability);
6. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §4601;
7. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321;
8. 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
9. 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
10. 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
11. 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
12. 23 C.F.R. Part 200 (FHWA’s Title VI/Nondiscrimination Regulation);
13. 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
14. 28 C.F.R. Part 50.3 (DOJ Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964).

Although not directly applicable to a recipient such as WisDOT, there are also certain Executive Orders and relevant guidance that direct action by Federal agencies such as FHWA regarding their federally assisted programs and activities to which compliance is required by recipients like WisDOT in order to ensure that Federal agencies carry out their responsibilities.

One example in particular is Executive Order 12898, 3 C.F.R. 859 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” which emphasizes that Federal agencies should use existing laws, in particular Title VI, in order to achieve Environmental Justice by ensuring nondiscrimination against EJ and LEP populations.

WisDOT is aware that certain Title VI matters raise Environmental Justice concerns and that the FHWA intention is that recipients of Federal aid such as WisDOT will evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations, consistent with the Executive Order 12898 and the guidance and other information available on the FHWA Environmental Justice website at [http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm.](http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm;)

Additionally, Executive Order 13166, 3 C.F.R. 289 (2001) on Limited-English-Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “*application of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*”

When receiving Federal funds recipients such as WisDOT are expected to conduct a four-factor analysis to prevent discrimination based on National Origin. (See also U.S. DOT’s “*Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,*” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); as the Guidance is a useful resource when performing a Four-Factor Analysis).

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The Wisconsin 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 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*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

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

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.

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 Federal-Aid Highway Program:

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 the Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Wisconsin 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 Wisconsin 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 Federal Highway Administration 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 Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, 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 Wisconsin 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 Federal-Aid Highway Program. This ASSURANCE is binding on the State of Wisconsin Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Wisconsin Department of Transportation
(Name of Recipient)

by 
(Signature of Authorized Official)

DATED 1-9-15

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 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, 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.

A

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 Wisconsin will accept title to the lands and maintain the project constructed thereon in accordance under governing Federal legislative authority, the Regulations for the Administration of the Federal-Aid Highway Program, and the policies and procedures prescribed by the 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 Wisconsin 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 Wisconsin 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 Wisconsin Department of Transportation, its successors and assigns.

The Wisconsin 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 Wisconsin 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.)

B

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 Wisconsin 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, the Wisconsin 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 Wisconsin 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 Wisconsin 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.)

C

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 the Wisconsin 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, the Wisconsin 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 premises will there upon revert to and vest in and become the absolute property of the Wisconsin 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.)

D

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.*).

E

POLICY STATEMENT - DELEGATION OF AUTHORITY AND RESPONSIBILITY

WisDOT Title VI/Nondiscrimination Commitment

The Wisconsin Department of Transportation is committed to providing compliance with Title VI of the Civil Rights Act of 1964; 49 CFR, part 21; and related statutes and regulations so that , no person in the United States shall, on the grounds of race, color, sex, age, national origin, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which WisDOT receives federal financial assistance from the Department of Transportation, including the Federal Highway Administration.

WisDOT Title VI/Nondiscrimination Policy

1. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in all federally assisted programs. The Federal-aid Highway Act of 1973 (23 U.S.C. 324) added sex as a protected status in all Federal Highway Administration activities. The scope of Title VI was clarified by the Civil Rights Restoration Act of 1987 (P.L. 100-259), effective March 22, 1988, which added Section 606, expanding the definition of the terms “programs or activities” to include all of the operations of an educational institution, government entity, or private employer that receives federal funds if any one operation receives federal funds.
2. The Wisconsin Department of Transportation (WisDOT) is a state governmental entity. It is the policy of WisDOT to ensure compliance with Title VI of the Civil Rights Act of 1964 and all related statutes or regulations in all programs and activities.
3. WisDOT will take all steps to ensure that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, disability, including EJ and LEP populations, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by WisDOT, its recipients, subrecipients, and contractors.
4. All administrators, bureau directors and section chiefs, supervisors and other WisDOT employees are hereby delegated the responsibility to implement the WisDOT Title VI policy and plan in their work areas, to include the responsibility to develop and implement procedures and guides to adequately implement and monitor their programs.
5. WisDOT recognizes the need for continuous Title VI training for WisDOT personnel in order to promote and achieve successful implementation of the WisDOT Title VI policy and plan.

6. The WisDOT Title VI Coordinating Officer is granted the authority to monitor, promote, and direct the implementation of the WisDOT Title VI program, policy and plan.
7. Any individual who believes that he or she has been discriminated against, in violations of Title VI, in regards to any WisDOT program or activity should contact the WisDOT Title VI Coordinating Officer at (608) 266-0209.

ORGANIZATION/STAFF RESPONSIBILITIES

A. General Responsibilities

1. The WisDOT Secretary of Transportation is ultimately responsible for assuring full compliance with the provisions of Title VI including the specific requirements in 23 CFR Section 200.9. In order to achieve compliance and promote opportunities the WisDOT Secretary of Transportation has directed that nondiscrimination as set forth in this Plan is required of all WisDOT employees.
2. Consistent with the WisDOT Title VI Policy the Secretary has delegated Title VI responsibilities down the chain of command through WisDOT management and to WisDOT staff in each work unit to implement this Title VI Plan and to maintain compliance with Title VI of the Civil Rights Act of 1964 so that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, disability, including EJ and LEP populations, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by WisDOT, its recipients, sub recipients, partner local governments, and contractors.
3. In addition to implementing the Plan, monitoring the delivery of their program consistent with Title VI expectations is also a chain-of-command responsibility assigned to each WisDOT work unit. Each work unit will conduct adequate monitoring needed to identify potential Title VI issues as well to illustrate opportunities to improve effective public participation and access, and will convey the result through reports to the WisDOT Title VI Coordinating Officer. General focus areas for the different work units should include those areas in which the public provides comments on WisDOT plans and operations, in addition to those situations in which the public participates in WisDOT programs and activities. These focus areas include the following:
 - a. Appropriate Title VI language in WisDOT written documents created by and used in each work unit.
 - b. Public information meetings and other activities designed to obtain public input into WisDOT programs, policies, and activities.

- c. The means, methods, and documents used to solicit interest in WisDOT contract opportunities, whether construction, consulting, purchases, or other procurement vehicles.
 - d. Appropriate Title VI language in the resulting contracts, subcontracts, and related documentation.
 - e. The location, manner, and method used by WisDOT to deliver services to members of the public.
4. The WisDOT Title VI Coordinating Officer, Title VI Program and Planning Analyst, and administrative support provide technical expertise, coordination, and program control on the implementation of the WisDOT Title VI and Nondiscrimination Plan. Specific duties are described below.

B. Title VI Organization and Staffing

1. Pursuant to 23 CFR 200.9 (b), the Secretary of Transportation has established an adequately staffed Title VI Office to fulfill Title VI statutory and regulatory requirements.

The Title VI Office is located in the central office and is staffed by the Title VI Coordinating Officer, Title VI Program and Planning Analyst and administrative support. The WisDOT Secretary of Transportation has appointed the Title VI Coordinating Officer and has assigned responsibility for the development, implementation, and administration of the Title VI and Nondiscrimination Plan to the same individual.

The Title VI Coordinating Officer is a staff position directly responsible to the Director of the Office of Business Opportunity and Equity Compliance (OBOEC). The OBOEC Director reports to the Office of the Administrator for the Division of Transportation System Development, who in turn works directly for the WisDOT Secretary of Transportation.

2. The Title VI Coordinating Officer is charged with the development, implementation, and administration of the Title VI and Nondiscrimination Plan. The Title VI Program and Planning Analyst and available administrative support staff assist in these activities, which include the following:
 - a. Develop and coordinate the implementation of WisDOT's Title VI and Nondiscrimination Program.
 - b. Process, investigate, and resolve all Title VI complaints in accordance with the TAM 118 Title VI complaint procedure and time limitation.
 - c. Coordinate the Title VI and Nondiscrimination Program with program area managers or designees.

- d. Assist appropriate program area officials in devising and implementing any monitoring activities deemed necessary for contractors, consultants, suppliers, vendors, lessors, universities, colleges, planning agencies, cities, counties, and other sub recipients of all WisDOT's programs and various WisDOT offices.
- e. Assist work units in reviewing their procedures, guides, program directives, manuals, and other documents to determine whether appropriate Title VI clauses and language are contained. The work unit responsible for the document is responsible for making necessary changes
- f. Prepare annual reports to FHWA of Title VI accomplishments for the past year and goals for the next year.
- g. Resolve any deficiencies which may be discovered in WisDOT's Title VI and Nondiscrimination Program.
- h. Collect from the program areas the statistical data necessary to evaluate the effectiveness of compliance with Title VI requirements of any recipient of WisDOT.
- i. Develop Title VI information for dissemination to the public, where appropriate.
- j. Monitor WisDOT procedures and programs for compliance with Title VI requirements in all program areas.
- k. Establish procedures for resolving Title VI issues.
- l. Conduct Title VI training programs and provide technical assistance and advice on Title VI matters to WisDOT program area officials and managers or designees, and to external stakeholders.
- m. In accordance with 23 CFR 200.9 (a) (4) and together with program area officials, conduct annual reviews of selected program areas to determine the effectiveness of program area activities at those levels.

C. Internal and External Monitoring - Process to Identify Issues and Opportunities

1. **General** - Trends and patterns of discrimination will be identified in two ways with respect to this plan and the Title VI program overall. First and foremost within the chain-of-command in each Program Area there will be individuals on the ground both in management and as employees who are responsible for implementing the provisions of the program and who will collect data and spot deficiencies as an ongoing part of their responsibilities. This will include internal and external programs. Secondly the Title VI Office with the assistance of other individuals on an as needed basis will conduct periodic reviews internally and externally.

2. WisDOT Internal Monitoring Program - The Program Area will submit a report that will be referenced in the WisDOT Annual Report to FHWA. On an annual basis, each Federal Program Area identified below will focus on a segment of its process and will conduct a process review. This review called the WisDOT Title VI Program Review will be written on a 2-page form. Page 1 will consist of an issues and complaint section. This section will record any issues or problems or complaints obtained by that Program during the fiscal year. Recorded in that space will be details of issues and all actions taken. The second section of this report will contain an audit of a pre-selected Title VI area with results for the previous year. The third section of the report will detail interactions between the Title VI Administrative Office and the Program Area and any actions taken. Page 2 of the WisDOT Title VI Program Review will detail statistics on public outreach, complaints, LEP studies, ADA Accessibility, Environmental Justice issues, interactions with consultants, contractors, and DBEs. While WisDOT is not required to forward copies of all individual Program Area Process Review Reports to FHWA, FHWA will have the opportunity to review any of the Reports at any time.

3. Trends Or Patterns Identified Through Data Collection/Data Analysis – The Program Area report should also describe any trends or patterns identified through data collection and data analysis separate and apart from the Process Reviews.

4. WisDOT External Monitoring Program – Local Programs, Environment, Planning, Project Development/Construction and Consultant Contracting play a vital role in the monitoring of local government agencies. A document drafted for the purposes of collecting data titled the WisDOT Program Area Report will be used to capture any trends or patterns identified through on-going efforts. Collectively WisDOT, through a combination of reviewing local government reports and by conducting these reviews of specific local governments will ascertain Title VI/Nondiscrimination compliance. This document will describe any issues and identify any corrective actions being taken to address the issues.

5. Region Equal Rights Officers – will be used to provide technical assistance and obtain relevant information through preconstruction meetings; their on-site visits; and other opportunities and actions. This data will be passed on to the Title VI Officer for review and to be recorded for eventual placement in the annual report.

6. A full system of obtaining the above internal and external monitoring is not in place but under the auspices of this plan the WisDOT is taking several measures to construct a mechanism to facilitate the full implementation of this system. These measures include:

7. We have hired an Equal Rights Officer Coordinator who is housed in the Title VI Office for the purposes of creating oversight and coordination of all field ERO activities.

Action Item: We are developing a basic electronic system of data spreadsheets and system logs in conjunction with a mechanism for consistent intervals of reporting to collect Title VI data including public outreach, meetings, ADA issues, applied LEP services, complaint resolution and mitigations, and etc. to assist our office in the coordinated effort to identify resolve and eliminate discrimination.

Deliverable: A data capturing program to facilitate better data analysis, identification of trends, create a better and more consistent feedback loop and to provide more efficient response in the intervention of issues and problems. Steps to remedy trends and patterns in discrimination as identified would consist of the following;

- 1) Investigate and document problem or problems
- 2) Develop an analysis of all details
- 3) Identify all issues- sort out helping and hindering forces
- 4) Format a detailed plan to stop the problem including creating remedies
- 5) Implement plan
- 6) Monitor results and make adjustments where needed or required

D. General - Program Area Managers or Designees Title VI Responsibilities

1. Regardless of their work area, all WisDOT Administrators, bureau directors and section chiefs, supervisors, other leadership personnel are to:

- a. Maintain current knowledge of and adhere to the WisDOT's Title VI Nondiscrimination Plan and Program.
- b. Understand requirements of prohibited practices and areas of consideration for priorities as they relate to their respective programs and activities.
- c. Ensure and promote compliance with Title VI requirements in their respective program areas.
- d. Review and revise program documents and contracts to ensure that they contain appropriate Title VI language and clauses.
- e. Work closely with the WisDOT Title VI Office when technical guidance is needed to ensure correct, effective, and efficient implementation of the WisDOT Title VI Nondiscrimination Plan.
- f. Conduct active monitoring of their programs and activities in order to identify potential issues and opportunities for improvement.
- g. Assure prompt reporting, processing, and disposition of Title VI issues or complaints in their respective program areas.
- h. Conduct Title VI Program Reviews dealing with complaints, issues and their disposition. Also identify pre-selected Title VI areas for audits and finally provide detailed statistics on such matters as public outreach, LEP, ADA, and Environmental Justice. (*See Page 20, #2*)
- i. Provide data, information, and reports as requested by the Title VI Office, to include but not limited to the results of their once-per-year process review and

any trends or patterns identified through data collection and data analysis that is separate and apart from the process review. This information will be required to be submitted to the Title VI Office by June 30 of each year.

2. Regardless of their work area, all WisDOT staff, consulting contractor personnel, local government personnel, and other WisDOT partners and stakeholders need to also comply with the above requirements as needed to insure effective implementation of the WisDOT Title VI Nondiscrimination Plan as relating to their work area and program.

E. Planning

1. Key Documents:

a. WisDOT Planning Publications

<http://www.dot.wisconsin.gov/library/publications/topic/plans.htm>

b. WisDOT FDM Chapter 6 Public Involvement

c. "Crafting An Effective Plan for Public Participation"

<http://www.dot.wisconsin.gov/localgov/land/comprehensive.htm>

2. Overview

WisDOT Planning & Programming initiatives which are mainly housed in the Division of Transportation Investment Management and the Division of Transportation System Development receives federal highway planning and research funds (SPR funds) to conduct a variety of rural and urban highway planning activities. Other activities performed include mapping and cartography, highway-rail grade crossings, rail freight assistance programs, roadway data gathering (traffic counts and inventories), traffic operations, pavement management, programming, and the production of study reports and statistics. Due to limited staff and time constraints, the division hires planning consultants sporadically to conduct various transportation studies ranging from spot location studies to development of long-range, state-wide transportation plans.

Public information is an important component of transportation projects and studies. The Wisconsin Department of Transportation (WisDOT) has established some rules and best practices to clarify the roles and expectations of WisDOT staff and consultants handling public information activities for projects and studies. Consult this page (<http://www.dot.wisconsin.gov/library/publications/pi-guidelines.htm>) periodically for updates. Additional guidance on public involvement is in Chapter 6 of the Facilities Development Manual (FDM).

Various materials are used to provide information to the public about transportation projects and studies. This includes news releases, project newsletters/reports, public information meetings (PIM), correspondence and advertising. Some common materials are provided as "best practice" examples. Additional examples will be posted as they

become available. In some cases, templates are provided. The templates have been established as the preferred format for certain types of communications.

3. Transportation Planning Process

Leadership responsibility specifically for transportation planning activities rests with WisDOT's Office of Transportation Programs Director. The division engineer has general management responsibility for administering the planning processes. The major planning activity relating to the Title VI requirements is the administration of Transportation Planning Studies and the production of the Statewide Transportation Plan (TransAction).

To comply with the goals and objectives set forth for the transportation planning processes, it is necessary that there be cooperation between WisDOT and various federal, state, and local agencies, as well as the general public, for the planning and development of public facilities. In addition, various corridor transportation planning studies are undertaken to evaluate problems and develop solutions. To assure the satisfactory accomplishment of these studies, it is desirable to establish and work through a committee or a group of committees comprised of people in various endeavors in the local area who show an active interest.

In general, a transportation study is initiated in a rural area or small city for the purpose of studying a particular problem, since a continuing transportation planning process is not required. In this case, if the project is of sufficient size and if any potential negative impacts will be created by the project, WisDOT may establish a local advisory committee. Usually division staff works with the local staff in conducting the study

Further an advisory group made up of state agencies, local government representatives, shippers, freight haulers, business leaders, Tribal representatives, and others has been formed to make recommendations to the WisDOT Director for plan components. The Director ultimately recommends the plan to the Governor for final approval.

TransAction was implemented in December 2002. Since that time, the division has focused its efforts on implementing strategies designed to achieve the plan's 16 initiatives. Most of these implementation efforts include working with the Upper Great Plains Transportation Institute to develop a statewide personal mobility study that identifies trends, gaps, and recommendations and a continuation of the biennial freight study series analyzing truck size, regulations, and permitting in a multi-state/provincial area. TransAction was updated in 2007 to create TransAction II.

4. Statewide Planning: Public Involvement Procedures

WisDOT has procedures that detail how they identify and ensure participation of all Title VI/Nondiscrimination populations (including Environmental Justice and Limited English Proficiency populations) in the development of the Statewide Transportation Improvement Program (STIP) and STIP Amendments, the Long-Range Statewide Transportation Plan, and the Public Involvement Plan/Process. These procedures define

how Public Meetings are noticed and conducted and how comments from members of the Public are addressed. These are located in Chapter 6 of the FDM.

Additionally WisDOT has procedures that detail how it monitors Metropolitan Planning Organizations (MPOs) and Transportation Management Areas (TMAs) to ensure compliance with Title VI/Nondiscrimination requirements. These are in part accomplished through the Metropolitan Planning Agreement but primarily consist of a separate Title VI/Nondiscrimination Assurances and Plan. The WisDOT TMA Certification Process does address Title VI/Nondiscrimination requirements. WisDOT will periodically evaluate these procedures to determine if the processes and how they are being implemented are Title VI/Nondiscrimination compliant.

5. Metropolitan Planning: Public Participation Plan

MPOs identify and ensure participation of all Title VI/Nondiscrimination populations (including Environmental Justice and Limited English Proficiency populations) in the development of the Transportation Improvement Program (TIP) and TIP Amendments, Unified Planning Work Programs (UPWPs), Long-Range Transportation Plan, and the Public Participation Plan. The procedures define how the Public Meetings are noticed and conducted and how comments from members of the Public are addressed. Additionally, at a minimum, the Metropolitan Planning Agreement details the MPO's Title VI/Nondiscrimination responsibilities. Finally, the MPO is responsible for periodically evaluating these procedures to determine if the processes and how they are being implemented are Title VI/Nondiscrimination compliant.

6. WisDOT maintains responsibility for ensuring that all Local Public Agencies (LPAs), MPOs, and Colleges/Universities receiving FHWA funds from this agency are compliant with the Title VI/Nondiscrimination requirements.

7. Pursuant to this responsibility, in regards to MPOs, WisDOT requires:

a. That MPOs have signed the WisDOT developed standard *FHWA Title VI/Nondiscrimination Agreement and Recipient Assurances* document, or have a satisfactory internally produced substitute. New sub-recipients' CEOs may re-sign and resubmit the standard *FHWA Title VI/Nondiscrimination Agreement and Recipient Assurances* document and forward them to WisDOT within 30 days of accession. Incumbent CEOs will re-sign and re-submit such documents every five years.

b. Per the Agreement MPOs shall be responsible for including the Title VI/Nondiscrimination Assurance Paragraph (Page #3 of the document) in all solicitations for bid/Requests For Proposals, the Title VI/Nondiscrimination Assurance Insert in all prime contracts and the prime contractor insert into all sub-contracts regardless of tier (Appendix A of the document), and the FHWA-funded Project Agreement paragraph. WisDOT shall be responsible for monitoring the sub-recipient's compliance.

c. Per the Agreement MPOs shall appoint a Title VI/Nondiscrimination Coordinator;

d. Per the Agreement MPOs shall implement the Title VI/Nondiscrimination-related process detailing how the sub-recipient maintains compliance with the Title VI/Nondiscrimination requirements. These written processes may be in the form of a Title VI/Nondiscrimination Plan either developed independently by the sub-recipient or implemented from the WisDOT's Title VI/Nondiscrimination Plan. The MPO shall be responsible for implementing the described Title VI/Nondiscrimination Complaint Disposition Process.

e. The Title VI Office intakes documents and compiles information and reports for FHWA and also monitors agreements for accuracy and consistency. In the resolution approving their annual work program, MPOs include self certification language that they are in accordance with Title VI of the Civil Rights Act of 1964. In the resolution approving their annual or biennial transportation improvement program (TIP), MPOs include self certification language that they are in accordance with Title VI of the Civil Rights Act of 1964. In their work program, MPOs include a Title VI Non-Discrimination Agreement between the MPO and WisDOT. In their Long Range Transportation Plan, MPOs describe the means by which they engage EJ and LEP populations in the planning process. In their Public Participation Plan (PPP), MPOs address the means by which they engage EJ and LEP populations in the public participation process. In their TIP, MPOs include an environmental justice analysis of the impacts of projects on EJ and LEP populations. WisDOT approves these documents (along with FHWA and FTA) and in that regard, monitors the MPOs' continual certification that they are in compliance with Title VI.

F. Environment

1. Key documents:

a. WisDOT FDM, Chapter 20: Federal and State Environmental Laws, Policies, Regulations and Agreements

b. WisDOT FDM, Chapter 21: Environmental Documents, Reports and Permit

c. WisDOT FDM, Chapter 6: Public Involvement

d. WisDOT Guidance Indirect and Cumulative Effects of Transportation Projects
<http://www.dot.wisconsin.gov/localgov/land/effects.htm>

2. Today, because of the evolution of the transportation planning process, Environmental Justice is receiving greater emphasis. Effective transportation decision making depends upon understanding and properly addressing the unique needs of different socioeconomic

groups. This is more than a desktop exercise; it requires involving the public. WisDOT is committed to this more comprehensive, inclusive approach. These changes make sure that every transportation project nationwide considers the human environment.

3. Greater Environmental Justice guidance is set forth separately later in this document.

4. Concern for environmental justice should be integrated into every transportation decision - from the first thought about a transportation plan to post-construction operations and maintenance. The *U.S. DOT Order* applies to all policies, programs, and other activities that are undertaken, funded, or approved by the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), or other U.S. DOT components:

- Policy Decisions.
- Systems Planning.
- Metropolitan and Statewide Planning.
- Project Development and Environmental Review under NEPA.
- Preliminary Design.
- Final Design Engineering.
- Right-of-Way.
- Construction.
- Operations and Maintenance.

5. WisDOT, Metropolitan Planning Organizations (MPOs), and transit providers will advance Title VI and environmental justice by involving the public in transportation decisions. Effective public involvement programs enable transportation professionals to develop systems, services, and solutions that meet the needs of the public, including EJ and LEP communities. There are many excellent examples of transportation initiatives that successfully integrate environmental justice principles. Partners and stakeholders can use these successes to champion the opportunities and responsibilities that Title VI and environmental justice present.

6. WisDOT - as the primary sources of planning, design, construction, and operations and maintenance projects across all travel modes, and based on our role of allocating resources from various Federal-aid programs, ensure that State Transportation Improvement Program (STIP) findings of statewide planning compliance and NEPA activities satisfy the letter and intent of Title VI requirements and environmental justice principles.

- Enhance our public-involvement activities to ensure the meaningful participation of EJ and LEP populations.
- Work with Federal, State, local, and transit planning partners to create and enhance intermodal systems, and support projects that can improve the natural and human environments for EJ and LEP communities.

7. MPOs - serve as the primary forum where State DOTs, transit providers, local agencies, and the public develop local transportation plans and programs that address a metropolitan area's needs. MPOs can help local public officials understand how Title VI and environmental justice requirements improve planning and decision making. To certify compliance with Title VI and address environmental justice, MPOs need to:

- Enhance their analytical capabilities to ensure that the long-range transportation plan and the transportation improvement program (TIP) comply with Title VI.
- Identify residential, employment, and transportation patterns of EJ and LEP populations so that their needs can be identified and addressed, and the benefits and burdens of transportation investments can be fairly distributed.
- Evaluate and - where necessary - improve their public involvement processes to eliminate participation barriers and engage EJ and LEP populations in transportation decision making.

8. Transit Providers- offer mobility for all members of the public whether they own a vehicle or not. They provide an essential service for many EJ and LEP populations who have no other way to get to work, shopping, child care, medical appointments, recreation, or other destinations. Transit agencies support Title VI and environmental justice principles when they:

- Ensure that new investments and changes in transit facilities, services, maintenance, and vehicle replacement deliver equitable levels of service and benefits to EJ and LEP populations.
- Avoid, minimize or mitigate disproportionately high and adverse effects on EJ and LEP populations.
- Enhance public involvement activities to identify and address the needs of EJ and LEP populations in making transportation decisions.

9. The Public - Transportation agencies cannot fully meet community needs without the active participation of well-informed, empowered individuals, community groups, and other nongovernmental organizations such as businesses and academic institutions. These individuals and groups advance the letter, spirit, and intent of Title VI and environmental justice in transportation when they:

- Participate in public involvement activities (meetings, hearings, advisory groups, and task forces) to help responsible State and local agencies understand community needs, perceptions, and goals.
- Get involved with State and local agencies to link TEA-21 programs with other Federal, State, and local resources to fund projects that support community goals.

10. EJ Monitoring- WisDOT will successfully integrate Title VI and Environmental Justice into all planning and construction activities. Our goal remains to develop the technical capability to assess the benefits and adverse effects of transportation activities among different population groups and use that capability to develop appropriate procedures, goals, and performance measures in all aspects of our mission. We propose to measure our effectiveness and collect data on project activities in an effort to become more proactive in our approaches to environmental justice project issues, mitigate on

ground situations, create more responsive feedback and develop a clearing house to foster best practices. Actions we are taking for the purposes of this plan to further accomplish this are:

11. An essential element of decision-making for transportation projects is the consideration and analysis of the potential environmental impacts or effects (ecological, aesthetic, historic, cultural, economic, social, or health) of projects and actions under the National Environmental Policy Act (NEPA) and the Wisconsin Environmental Policy Act (WEPA). Under these acts, WisDOT has the responsibility to address and consider all project related impacts or effects. The examination of these impacts includes not only the project's direct impacts, but also the potential indirect and cumulative effects. While direct impacts are generally easier to recognize, WisDOT must also examine project related effects that could occur sometime in the future, which may be more difficult to identify or see.

12. Federal regulations define direct, indirect and cumulate impacts/effects in 40 CFR Sections 1508.7 and 1508.8. Direct impacts are caused by the project and occur at the same time and place as the project itself. An example is damage to a wetland due to the reconstruction of a bridge. Indirect effects are caused by the project but can be later in time or farther removed in distance from the project. An example of indirect effects of a new interchange project could include potential changes in land use such as a new gas station that would not have occurred without the interchange. A cumulative effect includes the compilation of all direct and indirect effects on a particular natural cultural, historic resource or population due to past, present, and future activities or actions from any governmental and/or private entity.

13. The guidance found in Key document (WisDOT Guidance Indirect and Cumulative Effects of Transportation Projects) is primarily for practitioners in the development of analyses for indirect and cumulative effects of WisDOT's proposed transportation projects. Additional resources are listed to provide more in depth information about indirect and cumulative effects.

14. Compliance with Title VI in the consultant selection process for development of Environmental Impact Statements (EISs) and Environmental Assessments (EAs), and for other WisDOT contracts, is set forth in the Consultant Program Area.

15. WisDOT has public involvement procedures in the FDM that detail how the Department identifies and ensures participation of all Title VI/Nondiscrimination populations (including Environmental Justice and Limited English Proficiency populations) in the development of draft and final EISs, EAs, and Categorical Exclusions. The procedures define how Public Hearings and Public Meetings are noticed and conducted and how comments from members of the Public are addressed.

16. These procedures also require that, at a minimum, identification of Title VI/Nondiscrimination populations needs to occur during the scoping phase of an EIS/EA and the Request For Proposal (RFP) needs to include the task of collecting socio-

economic statistical data sufficient for analysis (by Rights-Of-Way and Civil Rights) to determine impacts (if any) to Title VI/Nondiscrimination populations. These analyses need to be included in all Draft and Final EISs/EAs;

17. The Program Area and/or the WisDOT Title VI Office will periodically evaluating these procedures to determine if the processes and how they are being implemented are Title VI/Nondiscrimination compliant.

18. WisDOT has a process for monitoring of subrecipients that details how WisDOT monitors all local public agencies that receive Federal funds and implement the Environment Program. This monitoring generally does not occur by the Environment Program Area. Instead the monitoring generally occurs through the local program Program Area.

Action Item: Erect an electronic system to track environmental justice commitments as ascertained through EIS and EA preparations identified through a pre-developed screening process on a project by project basis by reviewing summary information listed on project factor sheets. Every project where environmental justice activity is identified through the Office of Environmental Analysis will be added to an electronic database for tracking and analysis. Activity in the field and any related data will be collected by the five Regional Design Environmental Coordinators. This information will be forwarded to the Title VI Office for evaluation and review.

Deliverable: This system will allow us to proactively spot and deal with any disproportionate impact issues, track outreach activities and provide technical assistance in real time. Data will also be rolled up and sent to the FHWA for our annual reports.

Staff: Title VI Coordinating Officer, Title VI Program and Planning Analyst, Five Regional Design and Environmental Project Managers, Dan Scudder- Environmental Technical Services, Pat Trainer- Environmental Impacts

G. Design

1. Key Documents:

a. WisDOT FDM Chapter 11 Design

b. WisDOT Roadway Design Files

<http://www.dot.wisconsin.gov/business/engrserv/roadway-design-files.htm>

2. Compliance with Title VI in the consultant selection process for development of project plans, and for other WisDOT contracts, is set forth in the Consultant Program Area.

3. WisDOT has public involvement procedures that detail how the Department identifies and ensures participation of all Title VI/Nondiscrimination populations (including Environmental Justice and Limited English Proficiency populations) in the development of project plans. The procedures define how Public Meetings are noticed and conducted and how comments from members of the Public are addressed. The procedures are in the FDM.

4. The Bureau of Project Development Design Section is responsible for periodically evaluating these procedures to determine if the processes and how they are being implemented are Title VI/Nondiscrimination compliant.

5. WisDOT has a process for monitoring of subrecipients that details how WisDOT monitors all local public agencies that receive Federal funds and implement the Design Program. This monitoring generally does not occur by the Design Program Area. Instead the monitoring generally occurs through the local program Program Area.

H. Right-of-Way/Real Estate

1. Key Documents:

a. WisDOT FDM, Chapter 12: Right-of-Way Plat Development

b. WisDOT Real Estate Program Manual
http://dotnet/dtid_real_estate/repm/repm.htm

2. Property Valuation Process (includes Appraisal and Review Appraisal processes), including providing opportunity to Property Owner to accompany Appraiser during property inspection; Before the initiation of negotiations, the real property to be acquired shall be appraised and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property. State law requires that the owner be given the right to accompany the appraiser on an inspection of the property. The appraiser must make all reasonable attempts to contact the owner, including sending a certified letter if necessary. Appraisals performed for federal and federally assisted real property acquisition must follow the requirements in REPM, which conform to 49 CFR 24.

3. Negotiation Process (Bona Fide Negotiations) – Includes the written offers, consideration of counteroffers, etc.; An appraiser cannot act as the negotiator on a parcel that they have appraised unless the approved offering price is \$10,000 or less. In these low value situations, the appraiser may, at the discretion of the regional Real Estate management, become the negotiator for that parcel acquisition. Under the nominal process, when an owner has the option to waive their right to an appraisal, the agent may turn the negotiation call into an appraisal inspection, if necessary. Consultant negotiators can appraise only if they are a state licensed/certified appraiser. Otherwise, the dual roles of negotiator and appraiser are not allowed. See 49 CFR, part 24, s. 24.103(d)(2). Agents

who intentionally make false statements to property owners or fail to provide them with information required under s. 32.26(6), Wis. Stats. may be fined not less than \$50 nor more than \$1,000 or imprisoned for not more than one year in the county jail or both, s. 32.29, Wis. Stats.

4. Relocation Process – Includes the development of Relocation Housing Payments, Mortgage Differential Payments, Appeals Process. WisDOT assures that:

a. All displaced persons are treated fairly, consistently and equitably under laws of the United States and State of Wisconsin.

b. Persons will not suffer disproportionate injuries as a result of projects designed for benefit of the public as a whole.

c. Authorization to proceed with any phase of a project, which will cause relocation of any displaced person or to proceed with any construction project concerning any right of way acquired by WisDOT will not be given until there has been a specific plan submitted to provide orderly, timely and efficient relocation of displaced persons as provided, and has had such plan approved by the Department of Commerce. Authority to approve acquisition stage plans may be delegated to relocation assistance facilitator in WisDOT Bureau of Technical Services – Real Estate by Department of Commerce.

d. No person to be displaced shall be required to move permanently from his or her dwelling unless at least one comparable replacement dwelling as defined by this chapter has been made available. A comparable replacement dwelling will be considered to have been made available to a person when person:

- Has sufficient time to negotiate and enter into a purchase agreement or lease for a property.
- Is assured of receiving relocation assistance and acquisition compensation, subject to reasonable safeguards, to which entitled.
- Is informed of its location.

e. No person lawfully occupying real property will be required to move from acquired dwelling, business or farm operation without at least ninety(90) days written notice from WisDOT.

f. WisDOT will not proceed with any construction project within right of way acquired by the agency, unless relocation payments and services are provided as set forth.

5. Property Management Process – Defines how the STA prioritizes the physical maintenance of residential structures still occupied by the former owners; When consistent with the immediate, on-demand availability for highway uses, real estate acquired for highway purposes shall be placed under a temporary rental agreement. Such agreements allow continued use of such lands by the former owners or tenants pending intended use for highway purposes. Rental agreements shall be executed in all cases where continued occupancy by the owner or tenant is contemplated.

6. Identification of Persons Not Lawfully Present In The United States (not eligible for Relocation Benefits due to Illegal Aliens Act of 1997) indicating any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child as defined in 24.208(i) CFR.

7. WisDOT is responsible for periodically evaluating these procedures to determine if the processes and how they are being implemented are Title VI/Nondiscrimination compliant. *(See page 20, #2)*

8. WisDOT's Monitoring Of Sub-Recipients – WisDOT has a process that details how we monitor all Local Public Agencies (LPAs) that receive Federal funds and implement the Rights-of-Way Program. *(See page 20, #4)*

I. Proposal Development/Bid Letting

1. Key Documents:

a. WisDOT Standard Specifications for Highway and Structure Construction.

b. WisDOT Construction bid letting – Advertisements (posted on below website)

<http://www.dot.wisconsin.gov/business/engrserv/bid-advertisements.htm>

2. The Construction Section of the Division of Transportation System Development is responsible for all highway construction bid opening activities, including prequalification of contractors bidding on projects. They review the constructability of project plans, establish contract completion dates and perform field reviews of federal-aid projects. This section also reviews and approves contractor estimates, provides technical support and assists region offices with the resolution of contract disputes and arbitrations. Bidding contractors must be prequalified to bid on WisDOT projects. Bidding requirements and conditions are outlined in Section 102 of the Standard Specifications, adopted September 1992 under Category III, subject 1-1. Contracts are awarded to prequalified contractors with the lowest and best bids. Contracts are awarded non-discriminatorily and are based on a review of the numbers according to Section 103 of the Standard Specifications.

3. The Project Management Unit of the Construction Section bears the primary responsibility of ensuring that the Title VI/Nondiscrimination Assurance paragraphs are inserted into all Solicitations for Bids and all Requests For Proposals. As projects are scheduled contracts receive either a hard copy paper insert or website link reference to a website of required federal provisions.

4. The Project Management Unit of the Construction Section bears the primary responsibility of ensuring that the Title VI/Nondiscrimination Assurance insert is inserted into all prime contracts and to ensure that all prime contractors include the insert in all sub-contracts regardless of tier. Federal guidelines are strictly adhered to that prime contractors must insert hard copy paper inserts into all subcontracting documents concerning Title VI/Nondiscrimination matters as opposed to website links
5. The Project Management Unit of the Construction Section will periodically review the implementation of the actual process to ensure the Title VI/Nondiscrimination Assurance is actually being inserted into all Solicitations For Bids, Requests For Proposals, and contracts.
6. WisDOT has a process to monitoring subrecipients that receive Federal funds and advertise/award Federally-funded contracts. This monitoring generally does not occur under this Program Area. Instead the monitoring is conducted under, and described under, the local program Program Area. *(See Page 20, #4)*

J. Project Development/Construction Project Leader

1. Key Documents:
 - a. WisDOT Construction and Materials Manual (CMM)
 - b. WisDOT Standard Specifications
 - c. WisDOT Additional Standard Specifications
 - d. Each individual construction contract
2. WisDOT has procedures to monitor subrecipients that details how the Department monitors all local public agencies that receive Federal funds and advertise/award Federally-funded construction contracts. This monitoring generally does not occur under this Program Area. Instead the monitoring is conducted under, and described under, the local program Program Area. *(See page 20, #4)*
3. While the specific duties and responsibilities may vary somewhat depending on the type of contract and the Region organization, the WisDOT policy is that the Project Leader is the primary WisDOT on-the-ground project level representative with the authority and responsibility for enforcement of the terms and conditions of the construction contract, to include but not limited to the FHWA 1273 and other contract requirements.
4. While the servicing Region Equal Rights Officer and other WisDOT technical specialist provide support to the Project Leader, and while WisDOT central offices may have program responsibility, the Project Leader for each individual WisDOT construction

contract maintains the primary authority and responsibility for enforcement of that construction contract.

5. Therefore the Project Leader has primary authority and responsibility to monitor the contractor so that the contract is administered and performed in a manner consistent with the contract terms and conditions, to include but not limited to providing that no person in the United States is, on the grounds of race, color, sex, age, national origin, disability, including EJ and LEP populations, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Federally funded.

K. Consultant Contracting

1. Key Documents:

a. WisDOT FDM Chapter 8 Consultant Services

b. WisDOT Consultant Administration Services Manual

2. The Bureau of State Highway Programs in the Division of Transportation Investment Management bears the responsibility of ensuring that the Title VI/Nondiscrimination Assurance language is included in requests for consultant services. As projects are scheduled, each contract will reference a link to a website of federal Title VI required provisions.

3. The Bureau of State Highway Programs in the Division of Transportation Investment Management bears the responsibility of ensuring that the Title VI/Nondiscrimination Assurance Insert is inserted into all consultant contracts. As projects are scheduled, each contract will reference a link to a website of federal Title VI required provisions.

4. The Program Area will periodically review the implementation of the actual process to ensure the appropriate language is actually being inserted into all consultant requests and consultant contracts.

5. WisDOT has a process to monitor subrecipients that receive Federal funds and advertise/award Federally-funded consultant contracts. This monitoring generally does not occur under this Program Area. Instead the monitoring is conducted under, and described under, the local program Program Area.

6. The designated Department Representative identified on each consultant contract has the primary authority and responsibility to monitor the contractor so that the contract is administered and performed in a manner consistent with the contract terms and conditions, to include but not limited to providing that no person in the United States is, on the grounds of race, color, sex, age, national origin, disability, including EJ and LEP populations, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Federally funded.

7. WisDOT utilizes a consultant selection policy and/or procedure for the procurement of consultant services which covers Title VI Assurances. In all consultant contracts, there are included Title VI assurances and a requirement for the consultant to search for and identify minority, female, and socially-economically disadvantaged consultants to be considered for selection as appropriate. WisDOT requires that all consultant agreements contain provisions and stipulations calling for compliance with Title VI. If one of the consultants engages the services of a subcontractor, the subcontractor is obligated to the same Title VI compliance provisions. New contracts provide for the consultants' compliance with Title VI provisions and are documented in the project files. Personal visits and inquiries are made by WisDOT employees to the consultants periodically to monitor Title VI compliance.

8. WisDOT maintains a list of consultants who are providing, or who might provide in the future, planning studies and services for WisDOT. The Title VI Coordinating Officer attempts to identify minority, female, and socially-economically disadvantaged-owned firms, and firms with significant minority and female employment, for inclusion on that list. Procedures for selecting consultants have been established and are set forth in WisDOT's "Consultant Administration Services Manual."

9. The Consultant Administration Services (CAS) Section of WisDOT maintains an up-to-date list of all active consultant agreements. Through existing trade and/or professional associations and other avenues, project managers make efforts to encourage participation by minority, female, and socially-economically disadvantaged-owned firms in planning projects.

10. The Title VI program does not currently have a system for monitoring Title VI and related program activities for all contracts which flow through the consultant contract system. There are upwards of 2000 consultant contracts each year which come through Bureau of State Highways Programs. For the purposes of this Title VI plan we propose a system to capture and report out on the quality and quantity of Title VI, EJ, LEP and ADA activities ongoing throughout our expansive consultant contracting system. Activities towards this end that we propose are:

Action Item: In every contract where Title VI activities are indicated the Title VI Office will obtain through the Bureau of State Highway Programs in the Division of Transportation Investment Management, key information sheets from such contracts. Each contract where appropriate has delineated a "Scope of Services" page which spells out the Title VI and EJ obligations the contractor has and the costs associated with such activities. The Title VI Office will collect this data by compiling these sheets to be loaded into a data base and kept per region.

Deliverable: For quality control purposes a statistically qualified sampling of projects will be selected on a quarterly basis and reviewed. These select contracts will be checked for quality and effectiveness of Title VI deliverables, thoroughness of mandated activities, any correspondence and or complaint activities and general overall monitoring. Where needed or required the Title VI Program will provide technical assistance.

Staff: Title VI Officer, Title VI Programming and Planning Analyst, Regional EROs, Randy Knoche- Division of Transportation Investment Management, Bureau of State Highway Programs.

L. Local Programs

1. Key Documents:

a. Individual WisDOT Local Programs, Program Manuals

b. WisDOT Local Program Website documents at

<http://www.dot.wisconsin.gov/localgov/>

c. Sponsors Guide To Non-Traditional Transportation Project Implementation

<http://www.dot.wisconsin.gov/localgov/docs/sponsors-guide.pdf>

2. WisDOT maintains responsibility for ensuring that all local public agencies, MPOs, and Colleges/Universities receiving FHWA funds from WisDOT are compliant with the Title VI/Nondiscrimination requirements. Pursuant to this responsibility, in regards to local public agencies, WisDOT has an extensive program and a comprehensive oversight program.

3. WisDOT handles their administration of the Federally funded local program projects in two distinct manners. First, the majority of dollars are spent on projects that are administered directly by WisDOT. That is, WisDOT advertises the contracts; receives the bids; evaluates the bids, awards the contracts; and administers the contracts. WisDOT then bills the local governments for their share of the project costs. Because of this unique manner, these are not considered to be subrecipient situations. However, WisDOT by written agreement with the local units of government WisDOT does incorporate Title VI Nondiscrimination Agreement language and requirements into these WisDOT administered local program projects.

4. The second manner in which administers Federally funded local program projects is through the Sponsor's Guide. For Local Public Agencies (LPA), a reimbursement-type program is available for financing eligible transportation projects. Non-Traditional Transportation Projects are defined as LPA sponsored projects funded by the following programs, controlled by WisDOT and administered through a Local Let Contract (LLC) or completed with Sponsor's staff and equipment through a Local Force Account (LFA) Agreement. These programs provide funding for a wide variety of transportation related projects that go beyond what has traditionally been delivered using highway funds. The following are the funding categories: Congestion Mitigation and Air Quality Improvement Program(CMAQ) Local Transportation Enhancements Program (TE) Bicycle and Pedestrian Facilities Program (BFPF) Safe Routes To School Program (SRTS) Sheboygan Non-motorized Transportation Pilot Program (NTPP) Scenic Byways High Priority Projects (HPPs) where LLCs or LFAs may be used Federal Appropriation Earmarks where LLCs or LFAs may be used

5. The Sponsor's Guide to Non-Traditional Transportation Project Implementation (Sponsor's Guide) exists to provide information and instructions to Local Public Agencies (Sponsors) in order to help them successfully develop certain Federally funded transportation projects in accordance with Federal and State laws and regulations. This Guide is only intended to address the procedures required for a Sponsor to deliver a project through a Local Letting Process. It should not be used for guidance on projects that are let through the State of Wisconsin Department of Transportation (WisDOT) letting process. The Sponsor MUST become familiar with the Guide so that they understand the responsibilities they are accepting when applying for the benefit of Federal Funding. The Sponsor cannot begin any project activity until written notification from WisDOT confirming Federal Authorization has been received. Failure to meet Federal and State requirements will result in denial of Federal Reimbursement, even if the Sponsor has initially funded the activity.

6. Beginning with the 2010 Project Applications, Sponsors are required to complete a Certification Process in order to have a WisDOT Locally Let Project with Federal Funding. FHWA allows the WisDOT to delegate project activities on Federal-aid projects to Sponsors, but WisDOT is ultimately responsible and must assure local compliance with all Federal and State laws, regulations and policies. Furthermore WisDOT remains in control of the project. In order to uphold the integrity of WisDOT's Local-let program and as evidence of capability to administer a Local-let construction project, Sponsors must possess a minimum organizational structure, credentialed employees or consultants, and certain processes and experience. These considerations apply to more than just the specific project development disciplines associated with design and construction, but also general aspects of public business, fiscal accountability, Title VI/Nondiscrimination and other applicable requirement associated with Federal and State funding. Through the Certification process, WisDOT will determine if a Sponsor possesses qualified staff, experience and management oversight to successfully administer a project from preliminary development through construction.

7. WisDOT contracts with Management Consultant contractors to oversee the delivery of the local program in each of the five WisDOT Regions. The Management Consultant's oversee the implementation of the program in regard both of the above delivery models: WisDOT let and Sponsor's Guide local let.

M. Maintenance

1. Key Documents:

- a. WisDOT Highway Maintenance Manual
- b. WisDOT Highway Operations Manual (Traffic and Maintenance)

2. WisDOT divides maintenance into two program areas –highway maintenance and highway traffic operations.

3. Highway maintenance activities are winter maintenance and general maintenance. Winter maintenance is winter plowing and snow removal while general maintenance includes daily or periodic repair and upkeep of the state trunk highways.
4. Highway traffic operations includes installation of traffic control and safety devices designed to enhance the flow of vehicles on state trunk highways. Highway traffic operation functions include: pavement marking, signing, traffic signals, intelligent Transportation Systems (ITS), and lighting.
5. The majority of state trunk highway maintenance activities are performed by county workforces. WisDOT sets statewide maintenance policies, work priorities and oversees the work.
6. General maintenance performed by 1) private contractors employing disabled citizens to perform maintenance of year-round rest areas and other roadside facilities, and 2) counties reimbursed by WisDOT for actual state maintenance work performed. In the later WisDOT establishes a maintenance budget with each county, counties are generally expected to stay within those budgets, and WisDOT uses a level-of-service budget model for each county.
7. Process to ensure that the development and implementation of the Maintenance Program is compliant with Title VI/Nondiscrimination requirements. *(See page 20, #2)*
8. STA Monitoring Of Sub-Recipients – The STA needs to have process that details how the STA monitors all Local Public Agencies (LPAs) that receive Federal funds and advertise/award Federally-funded contracts. If this monitoring does not occur under Maintenance, then the monitoring function needs to be identified elsewhere within the STA. *(See page 20, #4)*

N. Safety

1. Key Documents:
 - a. WisDOT HSIP Program Requirements
<http://www.dot.wisconsin.gov/localgov/highways/hsip.htm>
 - b. WisDOT HSIP Application
<http://www.dot.wisconsin.gov/localgov/highways/hsip.htm>
2. The WisDOT Highway Safety Improvement Program (HSIP) funds highway safety projects at sites that have experienced a high crash history. Emphasis is on low-cost options that can be implemented quickly.

3. The overall objective of HSIP is to develop and implement, on a continuing basis, stand-alone safety projects designed to reduce the number and severity of crashes on all streets and highways (state and local). The federal funding ratio for HSIP funds is usually 90%, requiring a 10% match of state and/or local funds.

4. Public Involvement procedures -- These procedures will detail how the STA identifies and ensures participation of all Title VI/Nondiscrimination populations (including Environmental Justice and Limited English Proficiency populations) in the development of Safety environmental documentation and project plans. The procedures will define how Public Hearings/Public Meetings are noticed and conducted and how comments from members of the Public are addressed. If Safety projects are developed following the same processes as defined for Environment and Design, these procedures may be referenced;

5. The STA is responsible for periodically evaluating these procedures to determine if the processes and how they are being implemented are Title VI/Nondiscrimination compliant. *(See page 20, #2)*

6. STA Monitoring Of Sub-Recipients – The STA needs to have process that details how the STA monitors all Local Public Agencies (LPAs) that receive Federal funds and implement the Safety Program. If this monitoring does not occur under Safety, then the monitoring function needs to be identified elsewhere within the STA. *(See page 20, #4)*

O. Research

1. Key Documents:

a. WisDOT Research Program website <http://wisdotresearch.wi.gov/>

b. WisDOT RFPs and Proposals <http://wisdotresearch.wi.gov/implementation>

c. WisDOT Researcher Information Packet
<http://wisdotresearch.wi.gov/project-guidance>

2. The WisDOT Research Program manages \$4 million annually in projects and activities that address all modes of transportation and impact all business areas in the department. Research examines aspects from planning and policy to delivery, maintenance and operations of transportation infrastructure.

3. Major program components include the Wisconsin Highway Research Program (WHRP) and the Policy Research Program and the Transportation Pooled Fund (TPF) program. WisDOT also coordinates activities with the Transportation Research Board (TRB) and national cooperative research programs. Most WisDOT research activities utilize federal State Planning & Research (SPR) funds.

4. WisDOT Research Program reports, briefs, project information, RFPs and opportunities for involvement are available at <http://wisdotresearch.wi.gov>.

5. There are two Tribal Colleges located in Wisconsin: The College of Menominee Nation in Keshena and the Lac Courte Oreilles Ojibwa Community College in Haywood. There are no Historically Black Colleges and Universities in Wisconsin, and there are no Hispanic Serving Institutions in Wisconsin. WisDOT makes an effort to involve the two Tribal Colleges in WisDOT related research opportunities, however there are few matches between the College's programs and the research needs. However WisDOT has been successful in contracting with these two Tribal Colleges for a variety of other program needs. Both Colleges have conducted FHWA sponsored National Summer Transportation Institutes for over ten years. The College of Menominee Nation has also operated a jobs training program (TrANS) under contract with WisDOT. The College of Menominee Nation has also facilitated the WisDOT Tribal Partnership Meetings, Tribal Safety Conferences, and the Annual Tribal Conference under contract with WisDOT.

Solicitation & Award Process of Research funds to Colleges/Universities – Not only must the process be implemented in a non-discriminatory manner, the process must also identify and ensure that Minorities In Higher Education institutions (including Hispanic Serving Institutions and Tribal Serving Institutions) are afforded opportunities to compete for the award of Research funds;

6. The Program Area will periodically review the implementation of the actual process to determine if the processes and how they are being implemented are Title VI/Nondiscrimination compliant. *(See page 20, #2)*

7. WisDOT maintains responsibility for ensuring that all Local Public Agencies (LPAs), MPOs, and Colleges/Universities receiving FHWA funds from this agency are compliant with the Title VI/Nondiscrimination requirements. Pursuant to this responsibility, in regards to colleges and universities that receive Federal funding through WisDOT, the Department policies and procedures are as follows:

a. The majority of these funds are going to flow to major universities.

Universities that will receive millions of dollars of Federal funding directly from several different Federal agencies. Given this other Federal funding, which is significantly greater than the funding provided by WisDOT, it is expected that these other Federal agencies will provide sufficient and direct oversight of these universities.

b. However, WisDOT will maintain and receive the following:

(1). The name, title, phone number, and address of point of contact in the the university office that has direct involvement in the implementation of the university Title VI program.

(2). The university will provide to WisDOT a copy of all Title VI related reports and plans provided to Federal agencies.

P. Training

1. Key Documents: WisDOT University <http://dotnet/training/tech/index.htm>
2. WisDOT through its organizational development section in the Bureau of Human Resources offers Title VI Training on a rotating basis. The target audience is all WisDOT and other recipient personnel assigned civil rights responsibilities on either a full or part-time basis. In addition, WisDOT division administrators, bureau directors, district office directors and WisDOT management personnel in any discipline with significant civil rights implications (e.g. planning, contract administration, legal, environment, safety, right-of-way and relocation, and research. A minimum of 15, not to exceed 30, participants is recommended to hold a session.
3. Promotion of the Title VI Training Program is offered through websites, postings, and on special events materials. Title VI Trainings are also offered at special seminars and conferences such as the Tribal Transportation Conference and the Golden Shovel Awards.

PUBLIC PARTICIPATION PLAN

A. Overview

The motoring public's demand for more and better transportation services (including vehicular traffic, bikeways, and pedestrian services) has been the principal factor in the evolution of WisDOT. Transportation planning is directed toward satisfying the "need" while minimizing, to the greatest extent possible, the negative "impacts" generated in the "needs satisfaction" process. The Americans with Disabilities Act (ADA) requirements for public needs are mostly in the area of design and construction of bus stops, crosswalks, curb cuts, adequate parking spaces, building accessibility, and vehicle accessibility with transit systems. Pursuant to the above, it is the policy of WisDOT to develop and implement transportation systems in a nondiscriminatory manner. All transportation plans are developed so as to satisfy the greatest "need" with the smallest amount of adverse impact.

B. Program Areas With Specific Public Participation Procedures

In several WisDOT Program Areas there is a regular, consistent, and predictable public participation element. These Program Areas will have a public publication plan and procedures built into the existing FDM section, program document, or other manuals or directives. The primary source document is Chapter 6 of the Facilities Development Manual (FDM). The following applies to the Program areas that have such written, specific, focused procedures:

1. When these procedures are revised the Program Area needs to ensure that the procedures are reviewed and approved by the WisDOT Title VI Office.
2. The Program Area needs to review and monitor the implementation of these procedures consistent with the previously described internal and external monitoring requirements.

C. General Public Participation Procedures

Many WisDOT Program Areas will not involve a regular, consistent, and predictable public participation element. Therefore these Program Areas will not have a public publication plan and procedures built into the existing FDM section or program document. These Program Areas are free to, but are not required to, adopt and use a public participation process from another Program Area. However the Program Area will, at the least, comply with the following requirements when they do conduct activities that require public participation:

1. Timing – public participation is not provided when decisions are made in advance of public participation opportunities. Therefore the public participation must be provided prior to final decisions are made, and before activities and commitments are made which unduly limit the options available for the Department.
2. Notice – adequate notice must be provided to the public. This requires effort to determine interested stakeholders, and research to determine the most appropriate method of

letting the stakeholders know about the process and the opportunity to provide comments on the decisions to be made.

3. Access – when physical meetings are conducted the location must provide reasonable access to members of the public.

4. Opportunity to Participate – whether public comments are requested through email, letters, public statements, or otherwise the process must be conducive to providing the public with an effective opportunity to convey their objections, recommendations, concerns, and questions.

5. Consideration – the Program Area must give consideration to the public comments received. This does not mean that the Program Area must fully incorporate all comments. Instead, this means that the Program Area must understand the comment, must provide due consideration, and must be prepared to explain why the comment could not or should not be incorporated. In many situations, even when a change cannot be implemented as requested, there are often other actions the Department can take to mitigate the underlying concern.

6. Reporting – the Program Area must record and eventually report to the Title VI Office the following key information about the process used: when and how the public participation was conducted; a summary of the key issues, and the resolution or mitigation of the issues or underlying concerns.

ENVIRONMENTAL JUSTICE

A. Executive Order 12898, Federal Actions to Address Environmental Justice (EJ) in Minority and Low-Income Populations (EO), was signed by President Clinton on February 11, 1994. The Executive Order (EO) and accompanying Presidential Memorandum focus Federal attention on the environmental and human health conditions in EJ and LEP communities, enhances efforts to assure nondiscrimination in Federal programs affecting human health and the environment, and promotes meaningful opportunities for access to public information and for public participation in matters relating to EJ and LEP communities and their environment.

B. The EO directed all Federal departments and Federal agency heads to take the appropriate steps to identify and address any disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on EJ and LEP populations. For projects not requiring FHWA approval, there is no Federal requirement to comply with this EO.

C. WisDOT is committed to implementation of the EO on Federally funded projects. The essence of effective environmental justice practice as practiced by WisDOT is summarized in three fundamental principles:

1. Avoid, minimize or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on EJ and LEP populations.
2. Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
3. Prevent the denial of, reduction of or significant delay in the receipt of benefits by EJ and LEP populations.

D. The following identify the EJ populations:

1. Minority: Black or African American, Hispanic, Asian American, American Indian/Alaskan Native, and Native Hawaiian or Pacific Islander.

2. Low-income: WisDOT and FHWA use the Department of Health and Human Services poverty guidelines. The guidelines are updated annually and available online at <http://aspe.hhs.gov/poverty/>.

Using localized census tract data and other relevant information sources, the intent is to gather data and list any readily identifiable groups or clusters of EJ and LEP populations in the EJ study area. Small clusters or dispersed populations should not be overlooked.

E. The WisDOT policies and procedures to implement EJ are set forth in 20-10-35 of the FDM.

F. Environmental Justice is more than a set of legal and regulatory obligations. Properly implemented, environmental justice principles and procedures improve all levels of transportation decision-making. This approach will:

1. Make better transportation decisions that meet the needs of all people.

2. Design transportation facilities that fit more harmoniously into communities.
3. Enhance the public-involvement process, strengthen community-based partnerships, and provide EJ and LEP populations with opportunities to learn about and improve the quality and usefulness of transportation in their lives.
4. Improve data collection, monitoring, and analysis tools that assess the needs of, and analyze the potential impacts on EJ and LEP populations.
5. Partner with other public and private programs to leverage transportation-agency resources to achieve a common vision for communities.
6. Avoid disproportionately high and adverse impacts on EJ and LEP populations.

G. The primary EJ contacts are listed below:

Carolyn Amegashie
Division of Transportation Systems Development
Environmental Justice and Title VI
4802 Sheboygan Avenue, Room 451
Madison, WI 53707
Phone: (608) 266-2965

Systems Planning Group Manager
Southeast Transportation Region
141 NW Barstow Street
P.O. Box 798
Waukesha, WI 53188
Phone: (262) 548-8713

Planning Supervisor
141 NW Barstow Street
P.O. Box 798
Waukesha, WI 53188
Phone: (262) 548-8767

U.S. Department of Transportation
Departmental Office of Civil Rights
External Policy and Program Development Division
Nassif Building, Room 5414
400 7th Street SW
Washington, D.C. 20590
Phone: (202) 366-4070

Federal Highway Administration
FHWA Resource Center San Francisco
Environmental Program Specialist
201 Mission Street, Suite 2100
San Francisco, CA 94105
Phone: (415) 744-2612
Fax (415) 744-2620

LANGUAGE ACCESS PLAN (LIMITED ENGLISH PROFICIENCY)

Executive Order 13166 (EO 13166) challenges federal agencies to "implement a system by which limited English-proficient (LEP) persons can meaningfully access... services consistent with, and without unduly burdening, the fundamental mission of the agency." When read in its entirety, and interpreted consistently with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1972, the Executive Order applies to all programs and activities of a federal agency, which is, essentially, everything the agency does.

The Executive Order requires Federal agencies that provide Federal financial assistance to develop guidance to clarify those obligations for recipients of such assistance ("recipient guidance"). WisDOT is such a recipient.

In addition, the Executive Order requires all Federal agencies to apply the four-factor analysis as Federal financial assistance recipients in providing meaningful access for LEP individuals to all of its federally conducted programs and activities. Each federal agency is required to develop a plan for taking reasonable steps to provide meaningful access for LEP persons, in light of the four-factor analysis.

As a recipient of Federal financial assistance, WisDOT is committed to conducting WisDOT programs consistent with the Executive Order, and will apply the four-factor analysis in providing meaningful access for LEP individuals to all of its federally conducted programs and activities. This Plan commits WisDOT to taking reasonable steps to provide meaningful access for LEP persons, consistent with the four-factor analysis.

Key WisDOT LEP Responsibilities for Program Managers:

1. Ensure that subrecipients and appropriate local program partners have an LEP plan, and that their plan and this WisDOT Plan are being implemented in accordance with regulations (including complaint procedures).
2. Use a multidisciplinary approach, monitor and evaluate WisDOT and subrecipients' efforts to prevent, resolve or mitigate issues/situations that could lead to LEP violations.

Limited English Proficiency (LEP) is defined as "individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English." LEP individuals are entitled by EO 13166 to language assistance with respect to a particular type of service, benefit, or encounter. FHWA has mandated that "... recipients must take reasonable steps to ensure that such persons have meaningful access to the programs, services, and information those recipients provide, free of charge" WisDOT provides many options for individuals who require these services. Those include:

- Multi-language flashcards that WisDOT could use to identify the driver's language, then access to an interpreter.

- <http://www.lep.gov> should be accessed as statewide and region-wide LEP populations are identified.
- Contract for deaf/hard of hearing services.
- Creating and maintaining a “WisDOT Interpreters List.”

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

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

WisDOT enforces LEP in the same manner as Title VI. LEP is included as review criteria in all Title VI compliance reviews. WisDOT will continue to monitor LEP requirements both internally and in federal-aid reviews of local governments and contractors. The four factor analysis as mentioned above has also been applied to extensive levels in some of the most important public contact areas of our department. **The last and most extensive survey we performed for example was in our Division of Motor Vehicles.**

STUDY

The methodology by employed DMV combined Office of Equal Opportunity census data which establishes underutilization for all of our state counties which necessarily cover LEP, ethnic and related communities and groups. In partnership with the EEO Office and as a functionary of the department’s efforts, we access this data for the purposes of conducting outreach activities and tracking program usage of various target and LEP populations.

In the last census study we conducted which focused exclusively on languages (there was no 2010 census data available at that time) we used extrapolation information that brought our analysis as close as we could to the 2000 census data as was available. A study undertaken by the “WI DMV Language Translation Team” stated:

“While (extrapolation) census data continue to show a significant number of European languages spoken in Wisconsin, more recent estimates on the number of immigrants to Wisconsin, UW International students, and public school ESL students indicate that people who speak Spanish or an Asian language are more likely to need language assistance.

Data from Census on country of origin and year of entry into the U.S. of the foreign born March 1999 (attached). These data indicate that people from Mexico and other Spanish speaking countries plus people from Asia totaled about 25 million foreign born and represented 52.4% of that total.

Data on UW System International Students (1999)—in the spring of 1999, the UW Madison had 3,404 students from over 100 countries. 71% of these students were from 10 Asian countries. The UW System provided fall enrollment for “non-citizen students” on all two and four year UW campuses in the state (including Madison). This report shows 3597 undergraduate and graduate students with 61% from 10 Asian countries.”

This information sample is from a draft document that was used to inform our efforts to target services including the language translation of documents, calculation of LEP individual program usage and the provision of on-site multi lingual services. We do not however, simply conduct such studies to harvest statistics from populations and local communities. Our intent is to use this data to partner with local schools, churches, community centers and non-profit organizations for information exchanges, conducting driver’s tests on site and providing employment opportunity programs as well.

In conjunction with this base information we track on an individual basis LEP customers who take advantage of our services offered in non-English languages. Our ongoing knowledge overview of our statewide population along side of our real time tracking of the actual individuals who come in for services gives us valuable site-specific feedback regarding what service enhancements and changes may be needed to address LEP usage of our programs.

Data from Census (extrapolations): languages people over 5 speak in their homes (attached are the figures for the top ten languages in Wisconsin by county).

This census data indicated that about 5.6% of the population spoke a language other than English in their own home. After English, Spanish was number one with German a fairly close second.

The census data—with German, Polish, French, Scandinavian based and Italian in the top seven languages for Wisconsin—shows the diversity of the Wisconsin population, but doesn’t reveal recent changes (with respect to these particular ethnic groups) or whether there is a need for translations of materials (for these particular ethnic groups).

OUTCOMES

1. We recently installed an all Spanish-speaking service center in southeastern Wisconsin.
2. Staffed our Customer Service Teams with bilingual customer service representatives.
3. The study reinforced our decision to continue to update translations of the DMV Automated Knowledge Test into eight different languages: English, Spanish, Hmong, Chinese, Polish, Russian, Serbo-Croat, and Somali. Where translations required updating, we did that and added Somali.

4. Title VI Posters provided in both English and Spanish for our customers.

Now that census data is available for 2010, DMV will develop a new survey.

AMERICANS WITH DISABILITIES ACT (ADA) AND SECTION 504 OF THE REHABILITATION ACT OF 1973 (504)

A. The Americans with Disabilities Act (ADA), enacted on July 26, 1990, is a civil rights law prohibiting discrimination against individuals on the basis of disability. ADA consists of five titles outlining protections in the following areas:

- Employment
- State and local government services
- Public accommodations
- Telecommunications
- Miscellaneous Provisions

Title II of ADA pertains to the programs, activities and services public entities provide. As a provider of public transportation services and programs, WisDOT must comply with this section of the Act as it specifically applies to state public service agencies and state transportation agencies. Title II of ADA provides that, "...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." ([42 USC. Sec. 12132](#); [28 CFR. Sec. 35.130](#))

B. The primary purpose of the WisDOT Americans with Disabilities Act (ADA) program is to ensure that members of the public with disabilities have the opportunity to use the transportation system in an accessible and safe manner. As part of WisDOT responsibility under Title II of the ADA and Section 504 of the Rehabilitation Act of 1973 (504), the Department ensures that the Department and subrecipients/local program partners that are responsible for roadways and pedestrian facilities do not discriminate on the basis of disability in any highway transportation program, activity, service or benefit they provide to the general public; and to ensure that people with disabilities have equitable opportunities to use the public transportation system.

C. Applicable laws and regulations and the implementing WisDOT documents require accessible planning, design, and construction to integrate people with disabilities into mainstream society. Further, these laws and documents require that the actions of government highway entities do not discriminate in their programs and activities against persons with disabilities.

D. Section 504 of the 1973 Rehabilitation Act (*Public Law 93-112*) prohibits discrimination on the basis of disability in Federally assisted programs. Section 504 requirements for USDOT administrations such as FHWA are covered under *49 CFR Part 27* (USDOT), Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Financial Assistance. The Americans with Disabilities Act (ADA, 1990, *Public Law 101-336*) is a broader civil rights statute that prohibits discrimination against people with disabilities in all areas of public life.

E. The ADA addresses State and local government services, activities and policy making under the Department of Justice's ADA Title II implementing regulations. The ADA, under Title II, Subpart A, covers public rights-of-way. The Department of Justice (DOJ) has rulemaking authority and enforcement responsibility for Title II, while USDOT is legally obligated to

implement compliance procedures relating to transportation, including those for highways, streets, and traffic management.

F. Section 504 responsibilities not detailed specifically in Title II of the ADA are: Rest areas on Interstate highways must be accessible; and pedestrian overpasses, underpasses, and ramps constructed with Federal financial assistance must be accessible.

G. Key WisDOT responsibilities include the following:

1. Ensure that the Department and subrecipients/local program partners are informed of their responsibilities to provide accessibility in their programs, activities, and facilities (i.e., public rights-of-way).

2. Ensure that the Department and subrecipients are applying appropriate accessibility standards to all transportation facilities.

3. Ensure that all complaints filed under Section 504 or the ADA are processed in accordance with established complaint procedures.

H. WisDOT has an approved ADA Transition Plan. WisDOT has supplemented that Plan with a current facilities improvement plan. This section of the WisDOT Title VI/Nondiscrimination Plan supplements the administrative section of the original ADA Transition Plan.

I. Under Title II, WisDOT must meet these general requirements:

1. May not refuse to allow a person with a disability to participate in a service, program or activity simply because the person has a disability ([28 C.F.R. Sec. 35.130 \(a\)](#)).

2. Must make reasonable modifications in policies, practices and procedures that deny equal access to individuals with disabilities unless a fundamental alteration in the program would result ([28 C.F.R. Sec. 35.130\(b\) \(7\)](#)).

3. May not provide services or benefits to individuals with disabilities through programs that are separate or different unless the separate or different measures are necessary to ensure that benefits and services are equally effective ([28 C.F.R. Sec. 35.130\(b\)\(iv\) & \(d\)](#)).

4. Must take appropriate steps to ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others ([29 C.F.R. Sec. 35.160\(a\)](#)).

5. Must designate at least one responsible employee to coordinate ADA compliance [[28 CFR § 35.107\(a\)](#)]. This person is often referred to as the "ADA Coordinator." The public entity must provide the ADA coordinator's name, office address, and telephone number to all interested individuals [[28 CFR § 35.107\(a\)](#)].

6. Must provide notice of ADA requirements. All public entities, regardless of size, must provide information about the rights and protections of Title II to applicants, participants, beneficiaries, employees, and other interested persons [28 CFR § 35.106]. The notice must include the identification of the employee serving as the ADA coordinator and must provide this information on an ongoing basis [28 CFR § 104.8(a)].

7. Must establish a grievance procedure. Public entities must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints [28 CFR § 35.107(b)]. This requirement provides for a timely resolution of all problems or conflicts related to ADA compliance before they escalate to litigation and/or the federal complaint process.

8. State and local governments may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. 28 CFR section 35.130(h)

9. State and local governments are not required to permit an individual to participate in a government service, program or activity when that individual poses a direct threat to the health or safety of others. A state or local government must make an individualized assessment, relying on current medical knowledge or the best available objective evidence to determine whether an individual poses a direct threat to the health or safety of others. 28 CFR section 35.139

10. A direct threat as a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by providing auxiliary aids or services. 28 CFR section 35.104

J. Program Location and Staffing

1. Managing and implementing the WisDOT ADA Transition Plan requires a multidisciplinary approach encompassing policy development, outreach, technical support and oversight. These responsibilities, required by 28 CFR 35.107, will be managed by three peer positions: the Title VI Coordinating Officer, BHRS Affirmative Action Office, and ADA Technical/Engineering Consultant.
2. The Title VI Coordinating Officer is located in the Division of Transportation System Development under the direction of the Director of the Office of Business Opportunity and Equity Compliance. The Title VI Coordinating Officer is responsible for tracking the overall progress of the implementation of the Transition Plan. The Title VI Coordinating Officer is also responsible for the investigation of all formal external grievances made against WisDOT.
3. The BHRS Affirmative Action Office is responsible for developing policy and procedures to integrate Title II requirements into WisDOT practices for the purposes of Title VII provisions of the Civil Rights Act of 1964. This is to ensure the obligations of ADA and the Transition Plan are met with regards to WisDOT employees and the facilities they use. The Affirmative Action Office is under the direction of the Director of the Bureau of Human Resource Services within the Division of Business Management.

4. The ADA Technical/ Engineering Consultant position can reside within various operations of design and construction in the Division of Transportation Systems Development and/or the Division of Business Management. This position works with the ADA experts to develop policy and provide technical support for design and construction at a project level. In addition to providing support for projects, this position is also available to assist districts in implementing design options that address accessibility complaints.

K. Grievance Procedure

1. Under the Americans with Disabilities Act users of WisDOT facilities and services have the right to file a grievance if they believe WisDOT has not provided reasonable accommodation.
2. The Grievance Procedure required by [28 CFR 35.107](#) can be found in the Transportation Administration Manual (TAM) 118 (see Appendix C of this report or on WisDOT accessibility website), which provides details on how to file a complaint. Under this grievance procedure, a formal complaint must be filed within 180 calendar days of the alleged occurrence. WisDOT will act or respond only to complaints made through the grievance process identified in Appendix C.

TITLE VI/NONDISCRIMINATION TRAINING: INTERNAL AND EXTERNAL

A. OVERVIEW

WisDOT has always had a vibrant Title VI training apparatus which has been available to department employees and management as well as our partners and stakeholders on a flexible basis over the years. While there have been some years where Title VI training has been in demand there have been other years where other aspects of the program for logistical or political reasons consumed more of our limited resources. As a part of an overall growth strategy we are at this time placing a greater emphasis on training and have to this end initiated some new courses. These courses are currently being promoted and are being scheduled in our training catalogue. New course initiatives include:

Basic Civil Rights Title VI Program Training

A basic overview of the WisDOT Title VI civil rights program and its authorities, as well as how to administer the programs at the divisional and the state wide levels, including the development, monitoring, and implementation of state programs. The course is divided into separate sections for the following program areas: EEO Contractor Compliance, Title VI Assurances, Investigation of Discrimination Complaints, Title VI/Environmental Justice, and Americans with Disabilities Act.

Target Audience:

All WisDOT and other recipient personnel assigned civil rights responsibilities on either a full or part-time basis. In addition, WisDOT division administrators, bureau directors, district office directors and WisDOT management personnel in any discipline with significant civil rights implications (e.g. planning, contract administration, legal, environment, safety, right-of-way and relocation, and research. A minimum of 15, not to exceed 30, participants is recommended to hold a session.

LENGTH: 2 hrs (short session) - 4 hrs (full session)

CLASS SIZE: 30

DOTNET On Line- Web Service

Through the Division of Transportation System Development - Technical Services, WisDOT offers an ongoing window to the operations in the organization of our Civil Rights and Labor Compliance Program, Environmental Compliance Program, Disadvantaged Business Enterprises Program, Equal Opportunity Program, Native American Community Initiative and Community Impacts and Outreach Initiatives. Those who log into our on-line web pages and index are provided with a wealth of information including pertinent statistics, program histories and program content as well as dates and times for upcoming events in the specific area of interest.

Venue: On-Line web Pages

Target Audience: The Public, Program Partners, Government Agencies, WisDOT Employees

Americans with Disabilities Act (ADA)/504

Course length: 2 to 4 hrs

This course provides attendees with an understanding of the authorities, regulations, and coverage of the program; an overview of the ADA compliance program as administered through WisDOT; and clarifies ADA compliance standards. Participants, whether recipients or public entities, will know the recipients and public entities' responsibilities under the ADA and related statutes.

EXTERNAL COMMUNICATION (NOTIFICATION TO BENEFICIARIES)

A. WisDOT, and their subrecipients, provides information to members of the public detailing the WisDOT Title VI/Nondiscrimination obligations and notify members of the public of the protections against discrimination afforded to them by Title VI/Nondiscrimination requirements.

B. WisDOT and their subrecipients actively disseminate this information to members of the public via accessible printed and electronic media, including posting on the entities' website.

C. The contents of this notification include, at a minimum, the following information:

1. A statement that the Department or subrecipient operates their Federal Program(s) without regard to race, color, national origin, sex, age, or disability;
2. The procedures to be followed by members of the public to request additional information regarding the Department's or subrecipients' Nondiscrimination obligations; and
3. The procedures to be followed by members of the public to file a discrimination complaint against the Department or subrecipient.

TITLE VI NONDISCRIMINATION COMPLAINTS

SCOPE OF TITLE VI COMPLAINTS

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

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

Complaints can originate as a result of project impacts on individuals or groups and also those who come to WisDOT for services or business purposes. For example, social and economic, traffic, noise, air quality, access, accidents, failure to maintain facilities or a contact with a service provider deemed to be unfairly or inappropriately handled.

INFORMAL TITLE VI COMPLAINT PROCEDURE

1. Title VI complaints may be resolved by informal means. When informal means are used, the complainant is informed of his or her right to file a formal written complaint. Such informal attempts and their results are summarized by the program area official or program area manager or designee and forwarded to the Title VI Coordinating Officer.
2. The Title VI Coordinating Officer may use informal means to resolve issues at the lowest level possible in the interest of standard conflict resolution measures. These could range from conversations with the parties to resolve a misunderstanding to a discussion regarding a genuine policy requirement that may be unknown to a customer.
3. The Title VI Coordinating Officer periodically informs the FHWA Division Office of the status of all complaints.
4. When a complaint has been directly filed with another federal or state agency, the Title VI Coordinating Officer is to be informed by the agency where the complaint has been filed and is to coordinate any action needed by the department to resolve the complaint.

FORMAL TITLE VI COMPLAINT PROCEDURE

The Wisconsin Department of Transportation's Title VI Policy, as outlined in its Title VI and Nondiscrimination Program and Title VI Complaint Procedure Directive TAM 118, assures that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the department, its recipients, subrecipients, and contractors. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on EJ and LEP status.

1. Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with the Wisconsin Department of Transportation Title VI Coordinating Officer. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of the department's programs for it to be considered and processed as an allegation of a discriminatory practice.
2. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. The department's Title VI Complaint Form (DT2507) must be used.
3. Upon receipt of a Title VI complaint, the Title VI Coordinating Officer immediately advises the Director of the Office of Business Opportunity and Equity Compliance of the complaint. The Director confers with the appropriate Deputy WisDOT manager and the Title VI Coordinating Officer to determine a course of action. Possible courses of action may include but are not limited to:
 - a. Title VI complaints filed against the department are referred to the Federal Highway Administration (FHWA) Division Office for processing.
 - b. Title VI complaints filed against department recipients and subrecipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed and resolved by WisDOT as detailed in the specific TAM procedures.
 - c. The Director of the Office of Business Opportunity and Equity Compliance reviews and determines the appropriate action regarding every complaint. The department will not proceed with or continue a complaint investigation if for example the complaint is, on its face, without merit or the same allegations and issues of the complaint have

been addressed in a recently closed investigation or by previous federal court decisions.

- d. If an investigation is to be initiated, the Director in partnership with appropriate level management designates a specific party to whom the investigation team will report in order to facilitate communication. The oversight team confers with the Title VI Coordinating Officer and Legal Counsel to establish guidelines for the investigation team. The Title VI Coordinating Officer is instructed to appoint a team leader and an on-call team member to conduct the investigation. The team leader apprises the oversight team of the investigation's progress throughout the assigned timeline.
 - e. The team leader determines the timeframe in which the investigation should be completed based on the date the complaint was filed. The entire investigation process, including the submission of a final disposition report to the FHWA Division Office, is to be carried out in a period as specified in the applicable TAM policy.
4. Normally, the complainant receives a letter from the Director of the Office of Business Opportunity and Equity Compliance detailing the findings, conclusions, and any corrective action taken. All issues in the complaint are addressed.
 5. The Director forwards the final report to the FHWA Division Office. Included with the report is a copy of the complaint, copies of all documentation pertaining to the complaint, the date the complaint was filed, the date the investigation was completed, the disposition and date of the disposition, and any other pertinent information.
 6. If the complaint cannot be resolved by the department to the satisfaction of all parties concerned, the party not satisfied is advised of his or her right to appeal pursuant to Title 49, Code of Federal Regulations, Part 21. The appeal must be filed, in writing, with the Secretary, U. S. Department of Transportation, 400 Seventh Street, Southwest, Washington, D.C. 20590 no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary. A complaint may be filed with the Secretary, U. S. Department of Transportation, before, during, or after the complaint has been filed with the Wisconsin Department of Transportation.

DISSEMINATION OF WISDOT TITLE VI INFORMATION

The Title VI Plan- will be rolled out in a scheduled meeting of the WisDOT Board of Directors. At this meeting details of the plan will be discussed and the entire document will be reviewed along with final Q&A on various implementation details. Hard copies of the Plan will be provided for the top managers including the Executive Offices, Division Administrators and Bureau Directors. Further the document will be published on line and all other managers and supervisors will be informed by way of electronic mail.

With respect to how overall Title VI information is disseminated, there are a variety of ways that the WisDOT has of getting information out to our employees and stakeholders as well as to the general public. These include but are not limited to:

Title VI on line- There is a website which contains Title VI information including information on available trainings, program up-dates, complaint processes, assurances, ADA policy and other related information. Anyone may visit the website 24 hours and 7 days a week.

Posters of Vital Title VI Information- Posted up on public bulletin boards and in other key, highly traffic places- in all WisDOT Facilities are posters that delineate important Title VI information. These posters are bilingual and list ADA available assistance, Equal Opportunity and Nondiscrimination statements, Complaint policies and other information including names and contact information for the Title VI Coordinating Officer.

Title VI Training- In all Title VI training courses we offer there is a wealth of information disseminated about various aspects of our program including take away materials which list specific information and contact numbers/e-mail address of Title VI staff. Trainings are conducted state wide to all divisions as well as to various stakeholders on an as needed basis and also at special seminars and conferences held yearly.

Speakers Bureau- WisDOT title VI Program offers speakers who upon special request will provide mini-courses, executive briefings and public speaking on any aspect of the program both internally and externally. Here again a broad variety of information is disseminated about our program with attendant materials , which can be taken away and used for later reference.

Attachment A – WisDOT Organizational Structure

Insert from the below:

<http://www.dot.wisconsin.gov/about/overview/index.htm>

Attachment B – WisDOT Title VI Complaint DIV 102

Insert from the below:

<http://dotnet/tam/tam-toc.htm>

Attachment C – WisDOT ADA Complaint HR 126

Insert from the below:

<http://dotnet/tam/tam-toc.htm>

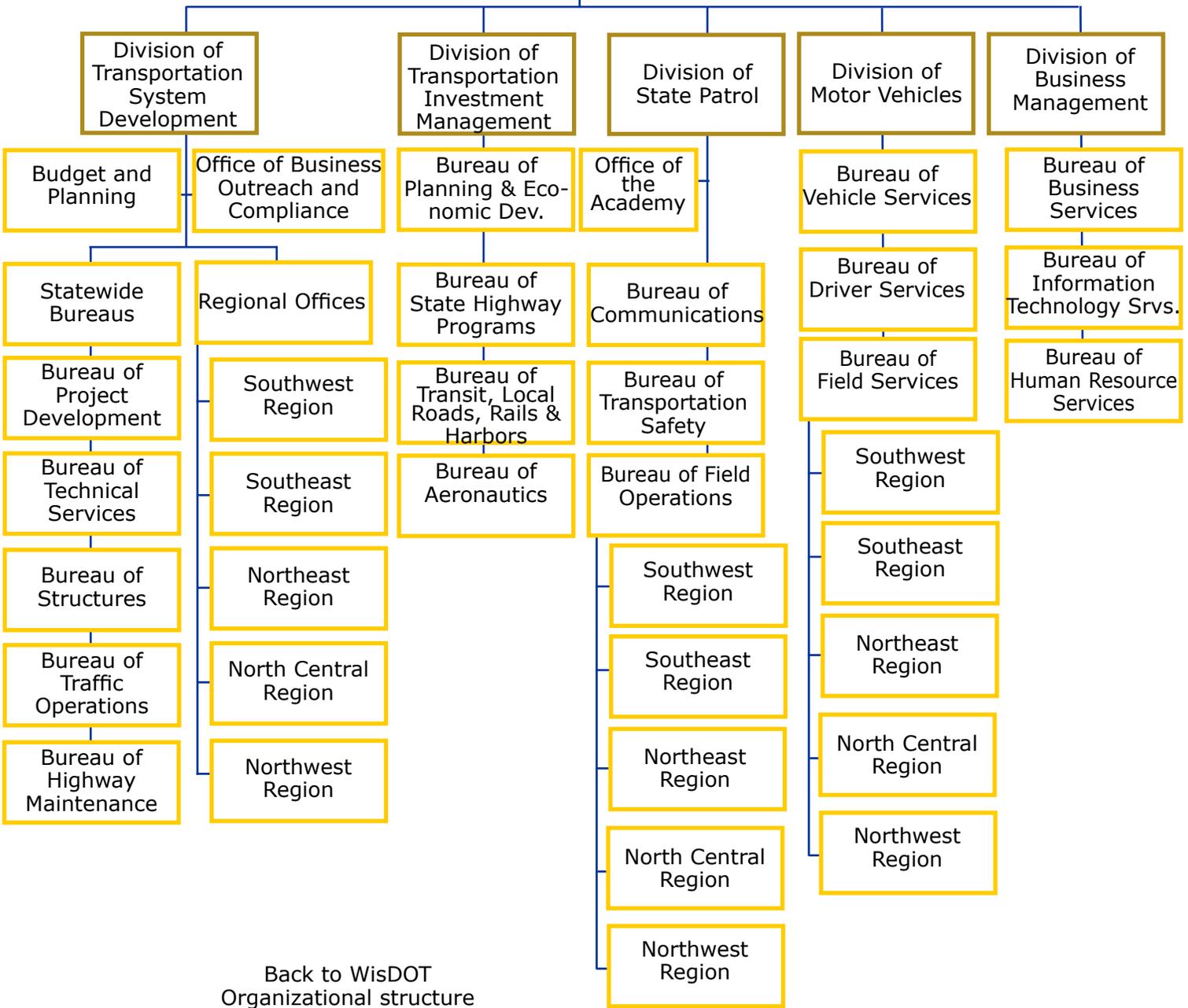
Wisconsin Department of Transportation Organizational Structure

Department overview

Secretary, Mark Gottlieb, P.E. (biography)
Deputy Secretary, Mike Berg (biography)
Assistant Deputy Secretary, Tom Rhatican (biography)

Office of Public Affairs Office of Policy, Finance and Improvement

Office of General Counsel



[Back to WisDOT Organizational structure](#)

DBE Group		
10-18-01-00-01		
008740	SWB	100
Franklin, John	EOS Sr	
008342	SWB	100
Fisher, Vincent	EOS Sr	
002830	SWB	100
Codlyn, Rochelle	EOS Sr	
311882	SWB	100
Falorio, O.M.	CE Trans Sr	
014837	SWB - MIL	100
Roberson, Rosalind	Prog Pol Anl Adv	
329800	SWB	100
Han, Sukl	Prog Pol Anl	

Disadvantaged Business Enterprise Section		
10-18-01-00-00		
013598	SWB - MIL	100
Carter, Michele	DOT Program Chief	

Labor Group		
10-18-01-00-02		
014744	SWB	100
Jerde, Jay	Prog Pol Anl Adv	
030287	SWB - MIL	100
002174 (Multironey)	EOS Sr	
	SWB	100
	IS Sys Dev Svc Sr	

Bush, Joanna

Office of Business Opportunity & Equity		
Compliance		
10-18-00-00-00		
003186	SWB	100
Akya, Aggo	DOT Manager	

008360	SWB - MIL	100
Ndon, Paul	EOS Sr	

Title VI Group		
10-18-00-00-01		
011779	SWB	100
Fisher, Demetri	DOT Officer	
320205	SWB	100
Smith, Taqwanya	Prog Pol Anl Adv	

Tribal Affairs Group		
10-18-00-00-02		
005484	SWB	100
Jackson, Kelly	Comm Svcs Spec Sr	
023332	SWB	100
Yancey, Danielle	Comm Svcs Spec	

CE Trans Supv



6



2



2



1



3



TRANSPORTATION ADMINISTRATIVE MANUAL

Directive: DIV 102

Subject: Title VI/Nondiscrimination Complaint Intake Procedure

Issued: 10/24/14

Supersedes: 03/29/13

Agency/Originator: Office of Business Opportunity and Equity Compliance

Purpose

As a recipient of federal funds through U.S. DOT, WisDOT has been delegated the responsibility for investigating external complaints of discrimination, by the Federal Highway Administration, Federal Aviation Administration, Federal Motor Carrier Safety Administration, Federal Railroad Administration, Federal Transit Administration, and the National Highway Traffic Safety Administration.

Scope

WisDOT receives federal funding for many of its programs, and so Title VI applies to all WisDOT services. Any person who believes that, in the course of business with a WisDOT program or service, he or she or any specific class of persons or business entity has been subject to discrimination or retaliation prohibited by any of the federal or state Civil Rights statutes or common law principles, based upon race, color, national origin, sex, age or disability may file a complaint.

The complaint may be filed by the affected individuals or a representative and should be reduced to writing when possible.

Policy Statement

It is the policy of the Wisconsin Department of Transportation ("WisDOT") to ensure full compliance with Title VI of the Civil Rights Act of 1964 ("Title VI"), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.) and related statements and regulations in all programs and activities. All such provisions require that no person in the United States shall, on the grounds of race, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. See 42 U.S.C. § 2000d.

Policy Requirements

The complaint procedures outlined are intended for and applicable to all divisions of WisDOT, their customers, WisDOT program sub-recipients, and all persons receiving services from WisDOT that are federally funded. The complaint procedures outlined in this document also cover individuals who are protected under Section 504 of the Rehabilitation Act of 1973 as amended and the Americans with Disabilities Act of 1990. These procedures supersede any previous procedures that may be in conflict with them.

Related Policy Information

Discrimination involves any action or inaction, whether intentional or unintentional in any program or activity of a Federal-aid recipient, sub-recipient, contractor, firm or individual which results in disparate (unfavorable) treatment, disparate impact, or perpetuates the effect of prior discrimination based on race,

color, national origin, sex, age, disability, or for the purpose of the complaint procedures listed in this document, in the case of disability, failure to make a reasonable accommodation.

Contact(s)

The organizational location of the Title VI Program is in the Office of Business Opportunity and Equity Compliance of the Division of Transportation System Development. The Director of the Office of Business Opportunity and Equity Compliance and the Title VI Program Officer have overall responsibility for the implementation of the Title VI Program, and investigating complaints of discrimination by individuals protected under Section 504 of the Federal Rehabilitation Act of 1973 as amended and the Americans with Disabilities Act of 1990.

Procedures

Complaints shall be in writing and signed by the person(s) or representative and include the complainant's name, address and telephone number. Complainants should use the Title VI Complaint Form where possible. Allegations of discrimination received by fax or e-mail will be acknowledged and processed.

A complaint must be filed no later than 180 days after the following:

- The date of the alleged act of discrimination; or
- The date when the person(s) became aware of the alleged discrimination; or
- Where there has been a continuing violation, the latest instance of prohibited conduct.

Acceptance of a complaint will be determined by: 1) whether the complaint is timely filed; 2) whether the allegations involve a covered basis such as race, color, national origin, sex, age, disability, or retaliation; and 3) whether the allegations involve a program or activity of a Federal-aid recipient, sub-recipient, or contractor.

If the initial complaint does not meet the threshold for discrimination, the complaint can be refused by the Title VI Program Officer. If the complaint is refused by the Title VI Program Officer, the complainant has the option to go to FHWA or FTA for appeal.

Responsibilities & Role

Any representative in charge of a program or a supervisor or manager of WisDOT can receive a complaint on behalf of the Department. Once one of these individuals accepts a complaint, it is his/her responsibility to forward the complaint to the Department's Title VI Program Officer. It is in the interests of all parties involved that issues raised in a complaint of discrimination be resolved informally if possible. At each stage of the process, the Title VI Program Officer will make reasonable efforts to pursue a resolution of the complaint through mediation, arbitration, Alternative Dispute Resolution and informal negotiations.

Any complaint beyond the magnitude of informal resolution and coordination will be passed directly to FHWA or FTA.

Under the Wisconsin Open Records Law and the Federal Freedom of Information Act, it may be necessary to release the investigative report, related correspondence and records upon request. In the event that WisDOT receives such a request, we will seek to protect, to the extent provided by law, personal information, which if released, could constitute an unwarranted invasion of privacy.

Cross References

Title VI of the Civil Rights Act of 1964

Section 504 of the Federal Rehabilitation Act of 1973

Title II of the Americans with Disabilities Act of 1990

Section 15.04(1)(g), Wisconsin State Statutes

DIV 101, Equal Employment Opportunity and Affirmative Action Directive

FHWA's "Federal Highway Administration External Complaint Processing Procedures"

END OF DOCUMENT

Contact: Samantha Schwark, 608-266-2878



TRANSPORTATION ADMINISTRATIVE MANUAL

Directive: HR 126

Subject: Reasonable Accommodations in Employment

Issued: 09/26/14

Supersedes: 05/06/14

Agency/Originator: Bureau of Human Resource Services

Purpose and Scope

This document describes the policy and procedures related to Reasonable Accommodations in Employment. This policy is applicable to all department employees, including project and limited term employment (LTE) and candidates for employment with the department. The department follows the provisions of the Americans with Disabilities Act of 1990 (ADA), Americans with Disabilities Act Amendments Act (ADAAA) of 2008 and the Wisconsin Fair Employment Act (WFEA) when handling requests for an accommodation due to a temporary or permanent disability. The department follows the provisions under Patient Care Protection and Affordable Care Act (PPACA) amending Section 7 of the Fair Labor Standards Act (FLSA) and Title VII of the Civil Rights Act of 1964 when responding to accommodation requests from a nursing mother or for an employee to practice their religious belief.

Note: Ergonomic concerns are not necessarily disabilities. A simple workstation adjustment or purchase of ergonomic equipment may assist an employee. If an employee has an issue with an ergonomic concern, the [WisDOT Risk and Safety Unit](#) is available to conduct onsite work station assessments to identify risk factors that may contribute to musculoskeletal disorders.

Policy Statement and Requirements

The Wisconsin Department of Transportation (WisDOT) is committed to the assurance of equal access to employment for all individuals or applicants for employment. A Reasonable Job Accommodation is any modification or adjustment to a job or the work environment that will enable an employee to perform essential job functions or a qualified applicant to participate in the application process. **An employee must be able to perform the essential job functions with or without an accommodation.**

Employees may request a reasonable accommodation due to a temporary or permanent disability, including pregnancy; as a nursing mother and for an employee to observe their religious belief. WisDOT reviews all requests for reasonable accommodations consistently and in full compliance with State and Federal laws. Requests are reviewed in partnership with the employee, management and designees from the Bureau of Human Resource Services (BHRS) including the BHRS Director, AA/EEO Officer and/or Medical Coordinator.

The department uses the following legal definitions when managing requests for an accommodation due to a disability. Guidelines from WFEA and amended ADA, ADAAA are similar; however, provisions under WFEA supersede ADAAA. In particular, ADAAA states a disability as "substantially impairs one or more major life activities", whereas WFEA is more generous to the employee in stating,

- An Individual with a Disability is (1) having a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work *in the particular job in question*; (2) having record of such an impairment; or (3) being perceived as having such an impairment.

- A Qualified Individual with a Disability is someone who, with or without reasonable accommodation, can perform the essential functions of the job.
- Essential job functions are those duties and responsibilities that must be done for an employee (or work unit) to successfully achieve performance goals and objectives. Essential job duties are determined by management, vary depending on specific positions and should be identified in written position descriptions. Essential job functions may include physical requirements, driving with a valid Wisconsin driver's license, the ability to report to work regularly, to complete tasks within a reasonable time, to handle normal job stress and to work effectively with supervisors, coworkers and the public.

WisDOT is not required to provide the specific accommodation(s) requested by an employee, however, will engage in an interactive discussion to identify potential alternatives. Under ADA and WFEA, WisDOT is not required to alter or eliminate essential functions of a position as an accommodation.

When an accommodation is granted, it may differ from what was requested, but it will be considered effective resolution if it accommodates the documented medical need(s). WisDOT will not provide accommodations that cause undue hardship in the completion of its business and mission. Hardship to the employer may be financial or a matter of business operations, such as major impact on business processes or the inability to re-assign tasks. WisDOT will review, approve and/or deny requests for accommodation in a consistent manner. **A request for an accommodation cannot be denied without BHRS knowledge, as that will not meet the intent of an interactive process.**

It is required, as part of the department's Reasonable Accommodation policy, for the process to be an interactive discussion between the employer and employee. In partnership with BHRS, both management and the employee/applicant have a duty to cooperate in good faith in the interactive process. Having an interactive process means that all parties contribute to the cooperative effort to achieve an effective and reasonable accommodation. The employee must provide supporting medical documentation, and if applicable signed medical releases. They are required to offer input, suggestions or depending on situation, obtain feedback from their treating provider as to what specific adjustments might work best. The employee should ask questions as needed, and otherwise participate in open communication. The supervisor ensures that employee is aware of the reasonable accommodation policy and notifies BHRS of request. Management should engage in sufficient communications with the employee to obtain a clear understanding of the employee's needs and concerns. Management is also required to work with BHRS to identify possible accommodations that will not negatively impact business operations. As part of this process, management will verify and confirm the essential functions of a position. If an employee chooses not to engage in the interactive process, the department will have fulfilled its obligation and may deny the request.

A reasonable accommodation may be implemented upon hire, or requested later as needs arise. Examples of provided accommodation include but not limited to: making facilities accessible, adjusting work schedules, acquiring or modifying equipment or restructuring job through the reassignment of non-essential tasks. If necessary and available, a temporary accommodation may be provided, until a longer-term accommodation can be implemented. In some cases, if available where medically necessary, an accommodation may include transferring an employee to an alternate position.

All levels of management are responsible for ensuring that employees are aware of the department's policy on reasonable accommodations and their right to request reasonable accommodations. This may be accomplished through memos, e-mail, posting on bulletin boards or incorporated into performance evaluation meetings. Management may also mention the Reasonable Accommodation policy and process to individual employees in specific situations such as occasions of employee injury or serious illness, when performance problems are an issue, when corrective discipline is being administered or when management recognizes an obvious need. BHRS will send notice of reasonable accommodation options to employees that have used a large amount of leave before expiration of their allotted hours of FMLA (Family Medical Leave Act).

A request for accommodation will not minimize or eliminate previous disciplinary action taken against the employee. Employees who have requested or who have been provided a reasonable accommodation are still subject to disciplinary action for misconduct or performance issues.

All provided accommodations are reviewed at the end of agreed duration, or annually. In conjunction with BHRS, accommodations may be revised depending on changes in medical circumstance or organizational impact.

Process and Procedures: Requesting a Reasonable Accommodation

The following steps describe the interactive process for an employee requesting a reasonable accommodation and the employer reviewing the reasonable accommodation request.

1. The affected employee will initiate the process by completing department Form DT1120 and submitting it either to their direct supervisor or the department's Affirmative Action and Equal Employment Opportunity (AA/EEO) Officer in BHRS. If the employee is unable to complete Form DT1120, the supervisor may assist the employee. If an employee verbally requests an accommodation from their supervisor, the supervisor may ask for the employee to complete the DT1120 or submit a signed note from a treating physician on letterhead, that includes the following:
 - A description of how the disability or medical condition affects the ability to perform essential job functions and assigned job duties; AND
 - A description of the specific accommodation(s) requested and for what duration.

WisDOT cannot reasonably accommodate an indefinite, unknown or permanent leave of absence or temporary alternate duty reassignment. NOTE: Although requests for accommodations should be in writing, the department will not deny a request solely because it is not in writing.

2. The supervisor, in partnership with the AAO, will review the request to determine appropriate steps, the reasonableness of the request and whether or not it would create undue hardship for the department. WisDOT will contact the Medical Coordinator to verify if there is medical documentation on file to support the request. If an employee submits a request to their supervisor, the supervisor must notify the AA/EEO Officer in BHRS even if the request can be easily provided.

NOTE: An approved reasonable accommodation request should not remove an essential function of the position. Supervisors should follow their division's internal purchasing rules when acquiring equipment/materials for accommodation or ergonomic requests. Any purchase for reasonable accommodations should be reported to the Affirmative Action Officer in BHRS.

If medical documentation is not submitted with the accommodation request or is not already on file in BHRS, the employee will be required to provide it to the WisDOT Medical Coordinator to assist in final determination. Medical information must be sent directly to the Medical Coordinator, not the supervisor or work unit. The documentation must include the diagnosis or condition that constitutes the disability, how the diagnosis prevents the employee from performing the required duty, the recommended accommodation and duration needed. Detailed medical information should only be provided/disclosed to the Medical Coordinator.

If the medical information provided by the employee/applicant (or treating physician) is insufficient to enable the department to evaluate the functional limitations and possible accommodation(s), the Medical Coordinator will explain to the individual why the documentation is insufficient and allow the individual a reasonable period of time to provide the missing information. If an employee/applicant fails to fully cooperate and provide necessary and sufficient information

during the interactive process, WisDOT will no longer have an obligation to continue the interactive process and may deny the accommodation request.

The Medical Coordinator will share the non-confidential restrictions/limitations information with management and the AAO in BHRS to enable appropriate resolution of the accommodation request. Once sufficient medical documentation is received, the AA/EEO Officer in BHRS, in partnership with the supervisor, will initiate an interactive discussion to identify a reasonable accommodation.

3. Within a reasonable period of time after management and/or BHRS has received the necessary and sufficient medical documentation from the WisDOT Medical Coordinator, the AA/EEO Officer or supervisor will provide a written response to the employee if request has been approved, modified or denied. If an extended time is necessary to fully resolve issues or arrange specific accommodations, an interim response may be provided for the employee's information.

The written notification will include the specific accommodation approved and the length of time the accommodation will be in place. Copies should be provided to the AA/EEO Officer, Medical Coordinator and supervisor.

4. If the department deems the request for accommodation to be unreasonable, the supervisor will work with the AA/EEO Officer in BHRS to provide a written denial to the employee. See information below on "Denials of a Request".

Note: All responses to accommodation requests must be in writing and copy provided to AAO and Medical Coordinator.

5. The AA/EEO Officer in BHRS will maintain a record of all reasonable accommodation requests, including documentation of the interactive process with the employee.
6. The Reasonable Job Accommodation process is an ongoing, interactive effort between the employee and WisDOT. Even after a denial for an accommodation, employees can resubmit their request if there is a change in circumstance or an alternative suggestion. WisDOT will work to identify a successful solution that will assist the employee perform the essential functions of their position.

Temporary Accommodations and Alternate Duty

A temporary accommodation may be provided to an employee where an employee's job duties or schedule need temporary modification. This could be a result of temporary work restrictions due to a work injury, return from leave or other medically verified situation. If a supervisor approves a temporary accommodation without requiring the employee to complete Form DT1120, the supervisor should notify the AA/EEO Officer in BHRS of the temporary accommodation and duration for tracking purposes. If a temporary accommodation becomes a long-term need, BHRS will work with the supervisor to formalize the accommodation using Form DT1120. Supervisors may approve requests for temporary accommodations due to work restrictions from a medical condition.

WisDOT makes every effort to provide employees the opportunity to ensure their early return to work or ability to continue to work with temporary light/alternate duty work assignments in compliance with their temporary work restrictions. Employees should consult WisDOT's [Worker's Compensation Program](#) for details on early return to work or other requirements.

Regarding alternate duty, it is the supervisor's responsibility to advise the employee of the temporary alternate duty assignment both verbally and in writing. Such notification should include, but is not limited to the following information: effective date of temporary alternate duty assignment, alternate duty work schedule, alternate duty TEAL code, alternate duty site, alternate duty supervisor, brief outline of work to

be performed, work restrictions and accommodations while on-duty, doctor or therapy appointments. Supervisors should use the "[Supervisor's Template for Light Duty Assignment](#)" template, which can be found on the Worker's Compensation Program forms page on the dotnet when providing the employee with the required information. A copy of the written temporary light/alternate duty work assignment information along with notification(s) of any changes in the employee's return to work status or alternate duty work assignment should be forwarded to the following WisDOT staff as needed:

- If due to work injury, copy Worker's Compensation Agency Coordinator.
- For non-work related temporary assignments, please send copies to the AA/EEO Officer and WisDOT Medical Coordinator.

Reasonable Accommodation – Alternate Position Search HR 125

In some cases, an employee provides medical documentation indicating they cannot perform the essential job functions of the present position even with an accommodation. In this situation, the department may look for an alternate position for the employee. This policy and process is identified in HR 125.

Accommodations for Exams and Interviews

WisDOT provides accommodations to applicants for employment, upon request. Requests should be submitted to the assigned exam/interview coordinator in BHRS with cc: to the AA/EEO Officer. Additional information on reasonable accommodations for participating in exams or interviews is located on the WiscJobs web site: <http://oser.state.wi.us/docview.asp?docid=1227>.

When preparing to fill a position via examination, BHRS will provide notification to all candidates that a reasonable accommodation may be requested for employment interviews upon request. All candidates should be advised of specific activities involved in the interview process, such as written exercises or skills tests.

Denials of a Request

If WisDOT cannot provide the requested accommodation, every effort will be made to identify an alternative or modified accommodation by engaging in the required interactive process/discussion. However, requests may be denied if provision of the accommodation would cause undue hardship for the agency, either monetarily or in the conduct of business. In addition, requests may be denied if it is identified the employee cannot successfully perform essential job functions, even with accommodation and is therefore not a qualified individual with a disability. WisDOT will also deny a request if it would permit violation of a work rule or if an employee is a direct threat to the health or safety of others. Violent acts or behaviors by employees will not be excused or accommodated even if they are the result of a disability.

A supervisor may not deny a request for an accommodation. If after the interactive discussion, an alternative to the original request cannot be identified, the AA/EEO Officer will provide employee written notice of the denial. All accommodations, including those denied are reported to the Office of State Employment Relations (OSER) and as part of the Affirmative Action Plan.

Confidentiality

Management should not reveal details of a provided accommodation to the employee's co-workers or non-affected staff. However, the supervisor or management may reveal reasonable accommodation information to other members of management on a need-to-know basis.

To ensure strict confidentiality, all medical documentation and related information are maintained by the Medical Coordinator under the auspices of the BHRS Bureau Director.

Information about or reference to reasonable accommodations are not included in an employee's official personnel file maintained by BHRS. Therefore, no such information or references may be included in written performance evaluations or other documents destined for this file.

Cross References

Chapter 230, Wisconsin State Statutes

Section 230.37, Wisconsin State Statutes, fitness for duty requirements

Wisconsin Fair Employment Act

Rehabilitation Act of 1973, Sections 503 and 504

Age Discrimination in Employment Act of 1967

Americans with Disabilities Act (ADA) of 1990

Civil Rights Act of 1991

Equal Pay Act of 1963

Federal Executive Order 11246

State Executive Order 28

State Executive Order 63

EEOC Guidelines, 29CFR Chap. XIV

EEOC Enforcement Guidelines, March 1999

DIV 101, Equal Employment Opportunity and Affirmative Action

HR 119, Medical Information

HR 110, Employee Discrimination, Retaliation and Harassment Complaints Policy

HR 125, Reasonable Accommodation Alternate Position Search

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