

Title VI Plan

Tri-Lakes Metropolitan Planning Organization

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NOTICE OF NONDISCRIMINATION

The Tri-Lakes Metropolitan Planning Organization complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, the MPO does not discriminate on the basis of race, sex, color, age, national origin, religion, disability, Limited English Proficiency (LEP), or low-income status in the admission, access to and treatment in the MPO's programs and activities, as well as the MPO's hiring or employment practices.

This notice is available from the ADA/Title VI Coordinator in large print, on audio tape and Braille, upon request. Free language assistance will be provided to persons of LEP upon request. Complaints of alleged discrimination and inquiries regarding the MPO's nondiscrimination policies should be directed to:

Emmily Tiampati
MPO Study Director & ADA/504 Title VI Coordinator
Tri-Lakes Metropolitan Planning Organization
1000 Central Avenue
Hot Springs, AR 71901
501-302-5028, Voice/TTY 711
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Common Metropolitan Transportation Planning Process Acronyms: Civil Rights	
3-C	Continuing, Cooperative, and Comprehensive
ACS	American Community Survey
ADA	Americans with Disabilities Act
ARDOT	Arkansas Department of Transportation
CFR	Code of Federal Regulations
CTPP	Census Transportation Planning Products
DBE	Disadvantaged Business Enterprises
DOT	Department of Transportation
E.O.	Executive Order
EJ	Environmental Justice
F.R.	Final Rule
FAST Act	Fixing America's Surface Transportation
FFY	Federal Fiscal Year
FHWA	Federal Highway Administration
FMCSA	Federal Motor Carrier Safety Administration
FTA	Federal Transit Administration
HHS	Health and Human Services
HSATS	Hot Springs Area Transportation Study
IT	Intracity Transit (City of Hot Springs Transit System)
JARC	Job Access – Reverse Commute
LAP	Language Assistance Plan
LEP	Limited English Proficiency
MAP-21	Moving Ahead for Progress in the 21st Century
MPA	Metropolitan Planning Area
MPO	Metropolitan Planning Organization
MSA	Metropolitan Statistical Area
MTP	Metropolitan Transportation Plan
NEPA	National Environmental Policy Act
NHTS	National Household Travel Survey
NPRM	Notice of Proposed Rule Making
PPP	Public Participation Plan
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
SFY	State Fiscal Year
SRTS	Safe Routes to School
STBGP	Surface Transportation Block Grant Program
STIP	Statewide Transportation Improvement Program
TAC	Technical Advisory Committee
TEA-21	Transportation Equity Act for the 21st Century
TIP	Transportation Improvement Program
Title VI	Title VI of the Civil Rights Act of 1964
TOC	Table of Contents
TOD	Transit Oriented Development
TP&P	Transportation Planning and Policy Division
U.S.	United States
UPWP	Unified Planning Work Program
USC	United States Code
UZA	Urbanized area
WCAPDD	West Central Arkansas Planning and Development District

Definitions¹

Direct recipient means an entity that receives funding directly from FTA. For purposes of this Circular, a direct recipient is distinguished from a primary recipient in that a direct recipient does not extend financial assistance to sub-recipients, whereas a primary recipient does.

Discrimination refers to any action or inaction, whether intentional or unintentional, in any program or activity of a Federal aid recipient, sub-recipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.

Disparate impact refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the recipient's policy or practice lacks a substantial legitimate justification and where there exists one or more alternatives that would serve the same legitimate objectives but with less disproportionate effect on the basis of race, color, or national origin.

Disproportionate burden refers to a neutral policy or practice that disproportionately affects low-income populations more than non-low-income populations. A finding of disproportionate burden requires the recipient to evaluate alternatives and mitigate burdens where practicable.

Disparate treatment refers to actions that result in circumstances where similarly situated persons are intentionally treated differently (i.e., less favorably) than others because of their race, color, or national origin.

Environmental Justice Executive Order 12898 calls on each Federal agency to achieve "environmental justice...by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations...."

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

Limited English Proficient (LEP) persons refers to persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.

Low-income person means a person whose median household income is at or below the U.S. Department of Health and Human Services (HHS) poverty guidelines. Recipients are encouraged to use a locally developed threshold, such as the definition found in 49 U.S.C. 5302 as amended by MAP-21: "refers to an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C 9902(2)), including any revision

¹ FTA C 4702.1B, 2012-10-1

required by that section) for a family of the size involved” or another threshold, provided that the threshold is at least as inclusive as the HHS poverty guidelines.

Low-income population refers to any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FTA program, policy or activity.

Metropolitan planning organization (MPO) means the policy board of an organization created and designated to carry out the metropolitan transportation planning process.

Metropolitan transportation plan (MTP) means the official multimodal transportation plan addressing no less than a 20-year planning horizon that is developed, adopted, and updated by the MPO through the metropolitan transportation planning process.

Minority persons include the following: (1) American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment. (2) Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. (3) Black or African American, which refers to people having origins in any of the Black racial groups of Africa. (4) Hispanic or Latino, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. (5) Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Minority population means any readily identifiable group of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient populations (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.

National origin means the particular nation in which a person was born, or where the person’s parents or ancestors were born.

Noncompliance refers to an FTA determination that the recipient is not in compliance with the DOT Title VI regulations, and has engaged in activities that have had the purpose or effect of denying persons the benefits of, excluding from participation in, or subjecting persons to discrimination in the recipient’s program or activity on the basis of race, color, or national origin.

Predominantly minority area means a geographic area, such as a neighborhood, Census tract, block or block group, or traffic analysis zone, where the proportion of minority persons residing in that area exceeds the average proportion of minority persons in the recipient’s service area.

Primary recipient means any FTA recipient that extends Federal financial assistance to a sub-recipient. Therefore, the Arkansas Department of Transportation (ARDOT) is the primary recipient of metropolitan planning funds in Arkansas, and the Tri-Lakes Metropolitan Planning Organization (MPO) is the sub-recipient of these funds.

Recipient as used in this Circular means any public or private entity that receives Federal financial assistance from FTA, whether directly from FTA or indirectly through a primary recipient. This term includes sub-recipients, direct recipients, designated recipients, and primary recipients. The term does not include any ultimate beneficiary under any such assistance program.

Service area refers either to the geographic area in which a transit agency is authorized by its charter to provide service to the public, or to the planning area of a State Department of Transportation or Metropolitan Planning Organization.

Service standard/policy means an established service performance measure or policy used by a transit provider or other recipient as a means to plan or distribute services and benefits within its service area.

Statewide transportation improvement program (STIP) means a statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and TIPs, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.

Sub-recipient means an entity that receives Federal financial assistance from FTA through a primary recipient.

Title VI Program refers to a document developed by an FTA recipient to demonstrate how the recipient is complying with Title VI requirements. Direct and primary recipients must submit their Title VI Programs to FTA every three years. The Title VI Program must be approved by the recipient's board of directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission to FTA. For State DOTs, the appropriate governing entity is the State's Secretary of Transportation or equivalent.

Transportation improvement program (TIP) means a prioritized listing/program of transportation projects covering a period of four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the metropolitan transportation plan, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.

Transportation management area (TMA) means an urbanized area with a population over 200,000, as defined by the Bureau of the Census and designated by the Secretary of Transportation, or any additional area where TMA designation is requested by the Governor and the MPO and designated by the Secretary of Transportation.

Item	Title VI Program Implementation Plan Checklist		Yes	No	Comments
1	Policy Statement	Does the Plan have a Title VI Program Policy Statement signed by the CEO?	X		
2	Standard DOT Assurances	Does the Plan include a signed copy of the DOT Standard Title VI Assurances with Appendices "A," "B," "C," "D," and "E"?	X		
3	Organization & Staffing	Does the Plan identify the Title VI Coordinator who has easy access to the head of the agency? Is there an organizational chart that identifies a Civil Rights Unit, and its placement in the agency?	X		
4	Program Review Procedures	Does the Plan describe the nature of the recipient's program areas and include procedures for conducting reviews of pertinent program areas?	X		
5	Special Emphasis Program Areas	Does the Plan describe the process the STA uses to identify their special emphasis program areas and how they address identified trends or patterns of discrimination in those areas?	X		
6	Sub-Recipient Review Procedures	Does the Plan describe the process for conducting reviews of sub recipients, (cities, counties, universities/colleges, etc.)?	X		
7	Data/Collection/Reporting/Analysis	Does the Plan contain a process for collecting and reporting Title VI data (race, color, national origin, sex, age, disability...)?	X		
8	Title VI Training	Does the Plan address Title VI training of staff members and sub recipients?	X		
9	Complaint Procedures	Does the Plan contain complaint procedures which describe a prompt process for investigations and disposition of Title VI complaints?	X		
10	Dissemination of Title VI Information	Does the Plan contain community outreach and public education procedures (making the public aware of their rights under Title VI program authorities)?	X		
11	Limited English Proficiency (LEP)	Does the Plan communicate how the STA implements the Title VI Program requirements of Limited English Proficiency (LEP)?	X		
12	Environmental Justice (EJ)	Does the Plan communicate how the STA implements the Title VI Program requirements of Environmental Justice to include a public participation plan and outreach plan?	X		
13	Review of STA Directives	Does the Plan describe how the STA reviews directives to determine if there are Title VI implications, and interpret how directives impact Title VI program areas?	X		
14	Compliance and Enforcement Procedures	Does the Plan outline Title VI Program compliance and enforcement procedures to eliminate and address discrimination, resolve deficiencies, etc. when noncompliance occurs?	X		

Title VI Program Policy Statement

Tri-Lakes Metropolitan Planning Organization

It is the policy of the Tri-Lakes Metropolitan Planning Organization (MPO) to ensure compliance with federal nondiscrimination compliance, on the grounds of race, color, national origin, age, sex, religion (not applicable as a protected group under the FMCSA Title VI Program), disability, LEP, or low-income status as provided by Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities. The nondiscrimination statutes and authorities include, but are not limited to the following:

- Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq);
- Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324);
- Age Discrimination Act of 1975, as amended (42 USC 6101);
- Section 504 of the Rehabilitation Act of 1973 (29 USC 794);
- Americans With Disabilities Act of 1990;
- Civil Rights Restoration Act of 1987;
- 49 CFR Part 21;
- 23 CFR Part 200;
- USDOT Order 1050.2;
- Executive Order #12898 (Environmental Justice);
- Executive Order #13166 (Limited-English-Proficiency);
- FTA C 4702.1B

The West Central Arkansas Planning and Development District (WCAPDD) Executive Director delegates full authority to the MPO Director to oversee and implement the Title VI program and regulations. No person will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any MPO program or activity. The MPO will make every effort to ensure nondiscrimination in all of its programs and activities, whether these programs and activities are federally funded or not. The MPO also requires its sub-recipients, grant recipients, and contractors to comply with this policy.

Dwayne Pratt

Signature: 

Executive Director

WCAPDD, Inc.

Date: 8/13/18

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances

DOT Order No. 1050.2A

The **Tri-Lakes MPO** (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 **Federal Highway and Transit Administrations**, 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 and Transit Administrations**.*

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 **Metropolitan Transportation Planning 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 **Metropolitan Transportation Planning Program** and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The **Tri-Lakes MPO**, 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, **Tri-Lakes MPO** 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 **Tri-Lakes MPO** 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 **Arkansas Department of Transportation (ARDOT)**. You must keep records, reports, and submit the material for review upon request to **ARDOT**, 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.

Tri-Lakes MPO 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 Highway and Transit Administrations**. This ASSURANCE is binding on **Arkansas**, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **Metropolitan Transportation Planning Program**. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

TRI-LAKES MPO
(Name of Recipient)

by Dwayne Pratt
(Signature of Authorized Official)

DATED 8/13/18

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 and Transit Administrations**, 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 and Transit Administrations** 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 and Transit Administrations**, 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 and Transit Administrations** 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 and Transit Administrations** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the **Tri-Lakes MPO** will accept title to the lands and maintain the project constructed thereon in accordance with **23 U.S.C. 134 and 49 U.S.C. 5303** the Regulations for the Administration of **Metropolitan Transportation Planning Program**, and the policies and procedures prescribed by the **Federal Highway and Transit Administrations** 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 **Tri-Lakes MPO** 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 **Tri-Lakes MPO** 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 **Tri-Lakes MPO**, its successors and assigns.

The **Tri-Lakes MPO**, 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 **Tri-Lakes MPO** will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

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

APPENDIX C

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

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the **Tri-Lakes MPO** 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, **Tri-Lakes MPO** 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 **Tri-Lakes MPO** 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 **Tri-Lakes MPO** and its assigns.*

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

APPENDIX D

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

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by **Tri-Lakes MPO** 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, **Tri-Lakes MPO** 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, **Tri-Lakes MPO** will there upon revert to and vest in and become the absolute property of **Tri-Lakes MPO** and its assigns.*

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

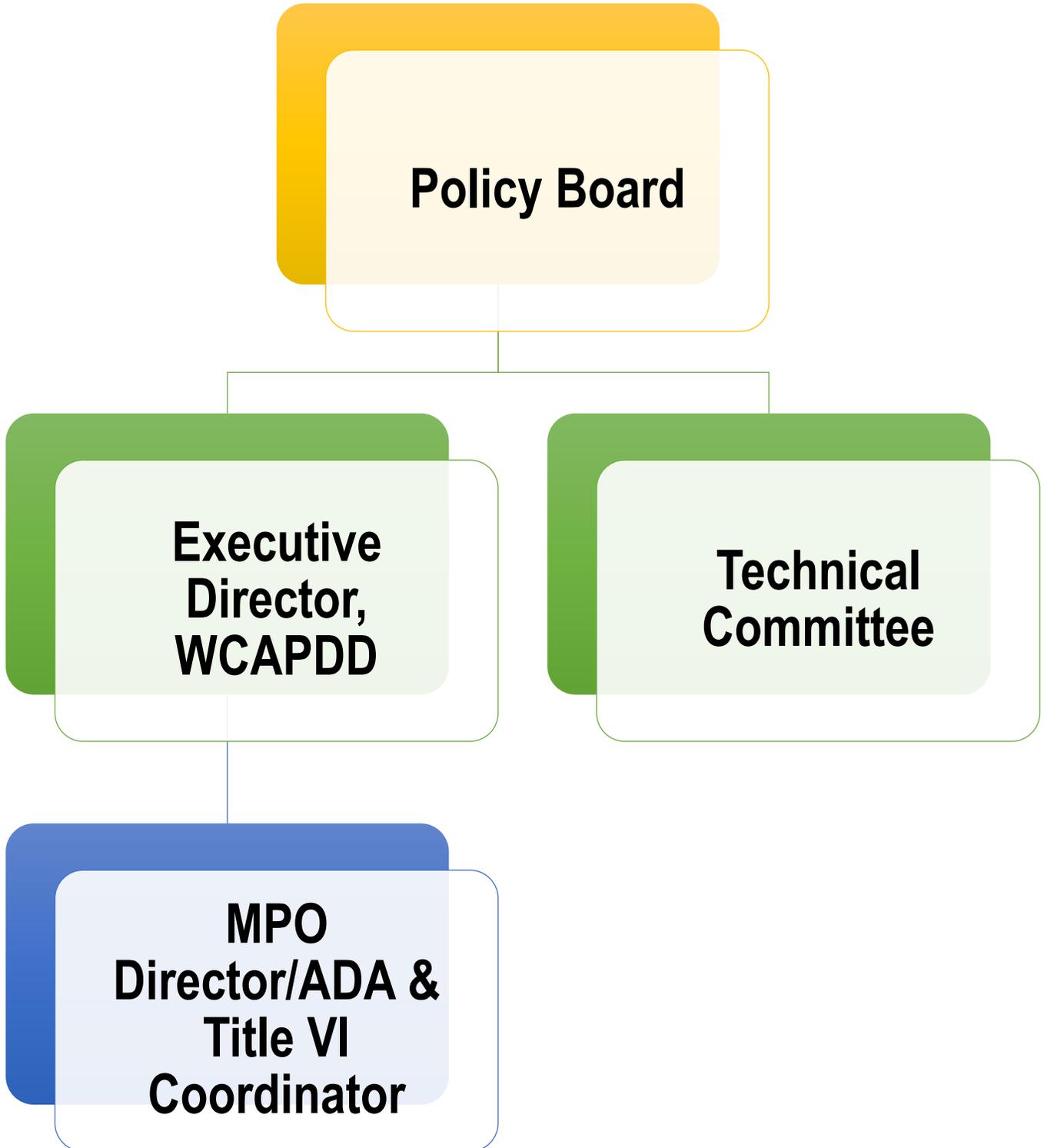
APPENDIX E

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Tri-Lakes MPO Organization and Staffing Chart



Tri-Lakes MPO Policy Board Voting List as of August 10, 2018

	Agency	Name	Office/Title
1	Garland County	Rick Davis	Judge
2	Garland County	Ray Owen	Quorum Court
3	City of Hot Springs	Pat McCabe	Mayor
4	City of Hot Springs	Suzanne Davidson	City Board of Directors
5	Hot Springs Village	Tom Weiss	POA Board Chairman MPO Policy Board Chairman
6	Town of Fountain Lake	Jack Fields	Mayor
7	City of Mountain Pine	Tambrea Bailey	Mayor
8	Greater Hot Springs Chamber of Commerce	Mike Lipton	Transportation Committee Chairperson or designee
9	Hot Spring County	Dennis Thornton	Judge
10	Arkansas Department of Transportation	Mark Headley	District 6 Engineer
11	Arkansas Department of Transportation	Paul Simms	Transportation Planning and Policy Division

Tri-Lakes MPO Policy Board Ex-Officio (Non-Voting) List

	Agency	Name	Office/Title
1	City of Hot Springs	Bill Burrough	City Manager
2	City of Hot Springs	Charles Smith	Planning Commission Chairperson
3	Hot Springs National Park	Laura Miller	Superintendent
4	Greater Hot Springs Chamber of Commerce	Gary Troutman	President
5	Hot Springs Village	David Whitlow	Governmental Affairs Committee
6	West Central Arkansas Planning & Development District	Dwayne Pratt	Executive Director
7	Federal Highway Administration	Valera McDaniel	Transportation Program Coordinator/ Planner
8	AR and U.S. Legislators	Various	AR and U.S. Legislators

Tri-Lakes MPO Technical Advisory Committee (TAC) Voting List

	Agency	Name	Office
1	Garland County	Jeffrey Carr	Citizen
2	Garland County	Matthew Breckenridge	Citizen/B & F Engineering
3	City of Hot Springs	Denny McPhate	Public Works Director
4	City of Hot Springs	Gary Carnahan	City Engineer
5	City of Hot Springs	Kathy Sellman	Planning Director
6	City of Hot Springs	Kathleen Lambert	Intracity Transit Director
7	City of Hot Springs	Glen Barentine	Airport Director
8	Hot Springs Village	James Patton	POA Committee Member
9	Town of Fountain Lake	Jack Fields	Mayor
10	City of Mountain Pine	Tambrea Bailey	Mayor
11	Greater Hot Springs Chamber of Commerce	Don Beavers	Chamber President's Designee
12	Hot Spring County	Dennis Thornton	Judge
13	Arkansas Department of Transportation	Josh Walker	District 6 Resident Engineer
14	Arkansas Department of Transportation	Paul Simms	Transportation Planning and Policy Division
15	National Park Service	Laura Miller	Superintendent
16	Genesee & Wyoming Railroad	Ryan Richardson	General Manager's Designee

Tri-Lakes MPO TAC Ex-Officio (Non-Voting) List

	Agency	Name	Office/Title
1	Federal Highway Administration	Valera McDaniel	Transportation Program Coordinator/Planner
2	-	-	Study Group Chairpersons

Tri-Lakes MPO TAC Staff (Non-Voting) List

	Agency	Name	Office/Title
1	WCAPDD, Inc	Dwayne Pratt	Executive Director
2	Tri-Lakes MPO	Emmily Tiampati	Study Director/Title VI & ADA/504 Coordinator

Overview¹

Title VI of the Civil Rights Act of 1964, prohibits discrimination based upon race, color, and national origin. Specifically, 42 USC 2000d states that “*No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance*” (*Pub. L. 88–352, title VI, §601, July 2, 1964, 78 Stat. 252. 42 USC §2000d*).

The use of the word “person” is important as the protections afforded under Title VI apply to anyone, regardless of whether the individual is lawfully present in the United States or a citizen of a State within the United States. In addition to Title VI, there are other Nondiscrimination statutes that afford legal protection. These statutes include the following: Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex), Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/Americans with Disabilities Act of 1990 (disability).

The Civil Rights Restoration Act of 1987 clarified the broad, institution-wide application of Title VI. Title VI covers all of the operations of covered entities without regard to whether specific portions of the covered program or activity are federally funded. The term “program or activity” means all of the operations of a department, agency, special purpose district, or government; or the entity of such State or local government that distributes such assistance and each such department or agency to which the assistance is extended, in the case of assistance to a State or local government.²

Authorities³

- Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq);
- Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324);
- Age Discrimination Act of 1975, as amended (42 USC 6101);
- Section 504 of the Rehabilitation Act of 1973 (29 USC 794);
- Americans With Disabilities Act of 1990;
- Civil Rights Restoration Act of 1987;
- 49 CFR Part 21;
- 23 CFR Part 200;
- 49 CFR Part 303 (applies to agencies that received any transferred properties or money from FMCSA);
- USDOT Order 1050.2;
- Executive Order #12898 (Environmental Justice);
- Executive Order #13166 (Limited-English-Proficiency);
- FTA C 4702.1B

¹ <https://www.fhwa.dot.gov/civilrights/programs/tvi.cfm>

²FTA C 4702.1B, 2012-10-1

³ <https://www.fhwa.dot.gov/civilrights/programs/tvi.cfm> and ARDOT Title VI Plan

Program Review Procedures

Pursuant to national policy, the MPO designated for each urbanized area is to carry out a continuing, cooperative, and comprehensive performance-based multimodal transportation planning process, including the development of a UPWP, APER, MTP, TIP, ALOP, Title VI plan, LAP, PPP, Bylaws, and other documents.

The MPO provides the public and other interested parties with a reasonable opportunity to be involved in the development of these documents and other activities in the metropolitan transportation planning process.

The MPO also provides an anonymous and voluntary Title VI data collection survey at every meeting. The purpose of this form is to enable the MPO to gather information for ARDOT's Title VI survey that is submitted annually in October for the October 1 through September 30, reporting period. In addition, the MPO submits DBE reports about twice a year, to ARDOT's Public Transportation Programs Office. Also, for the UPWP, the MPO annually provides the U.S. DOT Federal Certifications and Assurances to ARDOT. None the less, concurrent with the submittal of the entire proposed TIP to the FHWA and the FTA as part of the STIP approval, the MPO submits self-certifications and Federal certifications to ARDOT at least every four years, to certify that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements. Last but not least, ARDOT performs on-site Title VI compliance reviews with all its sub-recipients.

These review procedures help the MPO to periodically review the effectiveness of the procedures and strategies it implements to ensure an equal and open public participation process.

FTA requires that all direct and primary recipients document their compliance with DOT's Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. Sub-recipients shall submit Title VI Programs to the primary recipient from whom they receive funding in order to assist the primary recipient in its compliance efforts. Sub-recipients must submit all the above information to the primary recipient on a schedule requested by the primary recipient. Collection and storage of sub-recipient Title VI Programs may be electronic at the option of the primary recipient.⁴ ARDOT requires its sub-recipients to update their Title VI plans every three years.

Special Emphasis Program Areas

The MPO does not currently have any "Special Emphasis Program Areas." Based on the information collected through the strategies mentioned above, the Title VI Coordinator will determine whether or not a program area will be identified as a "Special Emphasis Program Area." If a "Special Emphasis Program Area" is identified, a plan will be drafted on how best to remedy the trend or pattern of discrimination. The Title VI Coordinator will notify the Executive Director of the WCAPDD, who will ensure that the program area complies with the remediation plan.

Sub-Recipient Review Procedures

As a non-TMA, the MPO is a sub-recipient of Federal financial assistance through ARDOT. Therefore, it does not have sub-recipients except in rare instances where it issues contracts to consultants to assist with metropolitan planning activities such as the development of the MTP. In such instances, the MPO requires its sub-recipients to comply with all Civil Rights non-discrimination regulations. Although the MPO doesn't conduct onsite reviews of its sub-recipients, it ensures their compliance by requiring the sub-recipients to sign an agreement which includes various provisions including a declaration that the sub-recipient will conduct the metropolitan planning activity in compliance with Civil Rights regulations.

⁴ FTA C 4702.1B, 2012-10-1

Data Collection, Reporting and Analysis

Title VI data collection, reporting and analysis includes, but is not limited to the following means. Data from the Census Bureau, the MPO's voluntary and anonymous Title VI surveys and the DBE report are the primary means of data collection at the MPO. The data is analyzed and reported in ARDOT's annual Title VI survey, ARDOT's semi-annual DBE report, Title VI Plan and other metropolitan planning documents.

Title VI Training

The West Central Arkansas Planning and Development District (WCAPDD) is committed to providing Title VI training to all of its employees, including the MPO staff. The MPO takes advantage of all training opportunities offered by ARDOT.

Complaint Procedures

The WCAPDD's personnel policy governs employment-related complaints of discrimination. The complaint form illustrates the MPO's prompt process for investigations and disposition of Title VI complaints. The MPO's complaint procedures require that the complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date and description of the problem. Alternative means of filling complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request. The complaint should be submitted by the complainant and/or his/her designee as soon as possible, but no later than 180 calendar days after the alleged violation to:

Emmily Tiampati
Tri-Lakes MPO Director/Title VI & ADA/504 Coordinator
P.O. Box 6409, Hot Springs, AR 71902
Email: etiampati@wcapdd.org
Telephone: 501-525-7577 x20 (voice/TTY 711)

Within 15 calendar days after receipt of the complaint, the Title VI Coordinator or designee will contact the complainant to discuss the complaint and the possible resolutions. Within 30 calendar days of the meeting, the Title VI Coordinator or designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, braille or audio tape. The response will explain the position of the MPO and offer options for substantive resolution of the complaint.

If the response by the Title VI Coordinator or designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision of the response to the ARDOT. If the response by ARDOT or its designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision of the response to FHWA Arkansas Division.

Joanna McFadden
Section Head – EEO/DBE (ADA/504 and Title VI Coordinator)
Arkansas Department of Transportation
P.O. Box 2261
Little Rock, AR 72203
Phone: 501-569-2298 (voice/TTY 711)
Email: Joanna.McFadden@ardot.gov

Valera McDaniel
Transportation Planner/Title VI Coordinator
Federal Highway Administration – Arkansas Division

700 West Capitol Ave, Suite 3130
Little Rock, AR 72201
Phone: (501) 324-5625 (voice/TTY 711)

The MPO will retain records of all Title VI complaints received by the Title VI Coordinator for at least five (5) years. The records shall include the date the complaint was filed, a summary of the allegations, the status of the complaint, and actions taken in response to the complaint.

Alternative formats of this policy (free languages assistance, large print, Braille, and audio tape) are available upon request.

Dissemination of Title VI Information

In an effort to make the public aware of their rights under Title VI program authorities, the MPO disseminates Title VI information through the MPO Director, who also acts as the MPO's Title VI & ADA/504 Coordinator. The MPO disseminates Title VI information through the nondiscrimination statement which is included in all of the MPO's planning documents; the nondiscrimination statement, the Title VI plan and the Public Participation Plan (PPP) are also posted on the MPO's website <http://wcapdd.org/index.php/hot-springs-area-mpo>. The nondiscrimination statement is also visibly placed in the MPO's office and the WCAPDD reception area. The nondiscrimination statement is also included in all public notices. The MPO's PPP documents the strategies used by the MPO to involve the public and other interested parties in the MPO's metropolitan planning process.

Review of MPO's Directives

The WCAPDD's policy directives and procedural directives will be reviewed to determine if there are Title VI implications, and interpret how directives impact Title VI program areas. If a directive is deemed to have potential discriminatory results, the issue will be brought to the WCAPDD's Executive Director.

Compliance and Enforcement Procedures

Title VI Program compliance and enforcement procedures to eliminate and address discrimination, resolve deficiencies, etc. when noncompliance occurs, take place through methods described above under the *Program Review Procedures* section and subsequent sections. When a deficiency is identified, the MPO will write a Voluntary Corrective Action Plan (VCAP) agreed upon by the MPO and ARDOT, within 90 days of identifying the deficiency.

ARDOT will seek the cooperation of sub-recipients in correcting deficiencies found during their on-site reviews. ARDOT will also provide the technical assistance and guidance necessary to aid the sub-recipient to comply voluntarily. Sub-recipients placed in a deficiency status will be allotted a reasonable time frame, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies. When a sub-recipient fails or refuses to voluntarily comply with requirements within the time frame allotted, ARDOT will submit to the FHWA copies of the file and a recommendation that the sub-recipient be deemed non-compliant.⁵

⁵ ARDOT Title VI Plan (2018)

ENVIRONMENTAL JUSTICE¹

Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” was signed by President Clinton on February 11, 1994. Subsequent to issuance of the Executive Order, the U.S. Department of Transportation (DOT) issued a DOT Order for implementing the Executive Order on environmental justice (EJ). The DOT Order (Order 5610.2(a), “Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” 77 FR 27534, May 10, 2012) describes the process the Department and its modal administrations (including FTA) will use to incorporate EJ principles into programs, policies, and activities.

The Presidential memorandum accompanying EO 12898 identified Title VI of the Civil Rights Act of 1964 as one of several Federal laws that should be applied “to prevent minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects.” According to the U.S. Department of Justice, “...the core tenet of environmental justice—that development and urban renewal benefitting a community as a whole not be unjustifiably purchased through the disproportionate allocation of its adverse environmental and health burdens on the community’s minority—flows directly from the underlying principle of Title VI itself.”²

Title VI prohibits discrimination by recipients of Federal financial assistance on the basis of race, color, and national origin, including the denial of meaningful access for limited English proficient (LEP) persons. Under DOT’s Title VI regulations, recipients of Federal financial assistance are prohibited from, among other things, using “criteria or methods of administering its program which have the effect of subjecting individuals to discrimination based on their race, color, or national origin.” For example, facially neutral policies or practices that result in discriminatory effects or disparate impacts violate DOT’s Title VI regulations, unless the recipient can show the policies or practices are substantially justified and there is no less discriminatory alternative. In addition, Title VI and DOT regulations prohibit recipients from intentionally discriminating against people on the basis of race, color, and national origin.

The overlap between the statutory obligation placed on Federal agencies under Title VI to ensure nondiscrimination in federally assisted programs administered by State and local entities, and the administrative directive to Federal agencies under the Executive Order to address disproportionate adverse impacts of Federal activities on minority and low-income populations explain why Title VI and environmental justice are often paired. The clear objective of the Executive Order and Presidential memorandum is to ensure that Federal agencies promote and enforce nondiscrimination as one way of achieving the overarching objective of environmental justice—fair distribution of the adverse impacts of, or burdens associated with, Federal programs, policies, and activities.

Over the years, U.S. DOT has encouraged a proactive approach to the implementation of environmental justice principles in its programs, policies, and activities. This is reflected in the DOT Order on Environmental Justice (DOT Order 5610.2(a)) which, consistent with E.O. 12898, sets forth a process by which DOT and its Operating Administrations, including FTA, will integrate the goals of environmental justice into their existing operations to ensure that consideration of EJ principles is an integral part of all programs, policies, and activities, from the inception of the planning process through to project completion, operations, and evaluation.

¹ FTA C 4702.1B, 2012-10-1

² Title VI Legal Manual, U.S. Department of Justice Civil Rights Division (2001), page 59.

FTA has developed policy guidance in the form of a Circular (Circular 4703.1), “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” in order to provide recipients with a distinct framework to assist them as they integrate principles of environmental justice into their public transportation decision-making processes. FTA expects the clarification provided by the EJ Circular and the updated Title VI Circular will provide recipients with the guidance they need to properly incorporate both Title VI and environmental justice into their public transportation decision-making. Because of the connection between EJ and Title VI, the consideration of EJ principles has sometimes been confused with the requirements of Title VI.

While Title VI is one tool for agencies to use to achieve the principles of environmental justice, it is important to recognize that Title VI imposes statutory and regulatory requirements that are broader in scope than environmental justice. Recipients are cautioned that while there may be overlap, engaging in an EJ analysis under Federal transportation planning and NEPA provisions will not satisfy Title VI requirements, as outlined in this Title VI Circular. Similarly, a Title VI analysis will not necessarily satisfy environmental justice, given that Title VI does not include low-income populations. Moreover, Title VI applies to all activities of Federal recipients, not solely those which may have disproportionately high and adverse human health or environmental effects on EJ populations.

For example, while a bus rehabilitation project may not impose disproportionately high or adverse health or environmental effects on minority or low-income populations, the use of those buses subsequent to the rehabilitation may be subject to a Title VI analysis to ensure that vehicles assigned to a particular area do not result in a disparate impact on the basis of race, color, or national origin. In addition, if there are substantive changes to the service levels for which the rehabilitated or other buses will be used, i.e., the vehicles are deployed in such a way that the nature and quantity of service in a particular area is changed, then a service equity analysis must be conducted to determine whether this change results in a disparate impact on the basis of race, color, or national origin. The requirements for that particular analysis are part of the compliance determinations made for Federal transit recipients under chapter IV of this Circular.

The following table highlights the key differences between the Title VI and EJ policies:

Key Aspects of the Authorities	Title VI	Environmental Justice
What is the basis for the authority?	Title VI is a Federal statute and provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.	The basis for addressing environmental justice is an Executive Order: EO 12898 directs each Federal agency to "make achieving environmental justice part of its mission." The EO is intended to improve the internal management of the executive branch and not to create legal rights enforceable by a party against the U.S.
What is the purpose of the authority?	Title VI prohibits recipients of Federal financial assistance (e.g., states, local governments, transit providers) from discriminating on the basis of race, color, or national origin in their programs or activities, and it obligates Federal funding agencies to enforce compliance.	EO 12898 calls on each Federal agency to achieve "environmental justice...by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations...."
To whom does the authority apply?	Title VI is a Federal law that applies to recipients and subrecipients of Federal financial assistance (e.g., States, local governments, transit providers), and not to DOT itself.	EO 12898 applies to Federal agency actions, including DOT's and FTA's actions. Title VI is one of the tools used by Federal agencies to implement this directive.
What does the authority require, and of whom?	Under Title VI, DOT has the responsibility to provide oversight of recipients and to enforce their compliance with Title VI, to ensure that recipients do not use DOT funds to subsidize discrimination based on race, color, or national origin.	EO 12898 is a directive from the President of the United States to Federal agencies intended to improve the internal management of the Federal government. DOT issued its own Order implementing EO 12898, and updated the Order in May 2012 (Order 5610.2(a)).
What does the authority say with regard to negative effects or impacts?	In accordance with 49 CFR part 21 and Title VI case law, if an otherwise facially neutral program, policy, or activity will have a discriminatory impact on minority populations, that program, policy, or activity may only be carried out if (1) the recipient can demonstrate a substantial legitimate justification for the program, policy, or activity; (2) there are no comparably effective alternative practices that would result in less-disparate impacts; and (3) the justification for the program, policy or activity is not a pretext for discrimination.	In accordance with EO 12898 and the DOT Order on EJ, if a DOT program, policy, or activity will have a disproportionately high and adverse effect on minority or low-income populations, that program, policy, or activity may only be carried out if further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is "practicable," the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.
Does the authority create any rights or remedies?	Title VI allows persons alleging discrimination based on race, color, or national origin by recipients of Federal funds to file administrative complaints with the Federal departments and agencies that provide financial assistance. Persons alleging intentional discrimination (i.e., disparate treatment) may bring a court action seeking to enforce Title VI but cannot do so with regard to allegations of discrimination based on agency disparate impact regulations. Disparate impact claims may be filed with the Federal agency.	EO 12898 establishes the Executive Branch policy on environmental justice; it is not enforceable in court and does not create any rights or remedies.

Source: FTA C 4702.1B, 2012-10-1

Demographic Analysis

Hot Springs, AR Metro Area; Arkansas		
Total:	97,119	Percent
Not Hispanic or Latino:		
	92,055	94.8%
White alone	80,533	87.5%
Black or African American alone	7,927	8.6%
American Indian and Alaska Native alone	666	0.7%
Asian alone	691	0.8%
Native Hawaiian and Other Pacific Islander alone	9	0.0%
Some other race alone	314	0.3%
Two or more races:	1,915	2.1%
Two races including Some other race	17	0.0%
Two races excluding Some other race, and three or more races	1,898	2.1%
Hispanic or Latino:		
	5,064	5.2%
White alone	2,527	49.9%
Black or African American alone	32	0.6%
American Indian and Alaska Native alone	42	0.8%
Asian alone	0	0.0%
Native Hawaiian and Other Pacific Islander alone	0	0.0%
Some other race alone	2,378	47.0%
Two or more races:	85	1.7%
Two races including Some other race	42	0.8%
Two races excluding Some other race, and three or more races	43	0.8%
<p>Source: 2018-6-28, Census Bureau, American Fact Finder, Table B03002, Hispanic Or Latino Origin By Race, Universe: Total Population, 2012-2016 American Community Survey 5-Year Estimates</p>		

Hot Springs, AR Metro Area; Arkansas		
	Estimate	Percent
Total:		
	91,703	
5 to 17 years:		
	14,786	16.1%
Speak only English	13,581	14.8%
Speak Spanish:		
	945	1.0%
Speak English "very well"	825	0.9%
Speak English "well"	120	0.1%
Speak English "not well"	-	0.0%
Speak English "not at all"	-	0.0%
Speak other Indo-European languages:		
	198	0.2%
Speak English "very well"	172	0.2%
Speak English "well"	13	0.0%
Speak English "not well"	13	0.0%
Speak English "not at all"	-	0.0%
Speak Asian and Pacific Island languages:		
	62	0.1%
Speak English "very well"	19	0.0%
Speak English "well"	43	0.0%
Speak English "not well"	-	0.0%
Speak English "not at all"	-	0.0%
Speak other languages:		
	-	0.0%
Speak English "very well"	-	0.0%

Speak English "well"	-	0.0%
Speak English "not well"	-	0.0%
Speak English "not at all"	-	0.0%
18 to 64 years:	55,818	60.9%
Speak only English	52,498	57.2%
Speak Spanish:	2,289	2.5%
Speak English "very well"	1,045	1.1%
Speak English "well"	599	0.7%
Speak English "not well"	569	0.6%
Speak English "not at all"	76	0.1%
Speak other Indo-European languages:	757	0.8%
Speak English "very well"	562	0.6%
Speak English "well"	95	0.1%
Speak English "not well"	100	0.1%
Speak English "not at all"	-	0.0%
Speak Asian and Pacific Island languages:	244	0.3%
Speak English "very well"	189	0.2%
Speak English "well"	46	0.1%
Speak English "not well"	9	0.0%
Speak English "not at all"	-	0.0%
Speak other languages:	30	0.0%
Speak English "very well"	30	0.0%
Speak English "well"	-	0.0%
Speak English "not well"	-	0.0%
Speak English "not at all"	-	0.0%
65 years and over:	21,099	23.0%
Speak only English	20,319	22.2%
Speak Spanish:	258	0.3%
Speak English "very well"	184	0.2%
Speak English "well"	37	0.0%
Speak English "not well"	37	0.0%
Speak English "not at all"	-	0.0%
Speak other Indo-European languages:	453	0.5%
Speak English "very well"	247	0.3%
Speak English "well"	110	0.1%
Speak English "not well"	73	0.1%
Speak English "not at all"	23	0.0%
Speak Asian and Pacific Island languages:	52	0.1%
Speak English "very well"	29	0.0%
Speak English "well"	-	0.0%
Speak English "not well"	18	0.0%
Speak English "not at all"	5	0.0%
Speak other languages:	17	0.0%
Speak English "very well"	8	0.0%
Speak English "well"	7	0.0%
Speak English "not well"	2	0.0%
Speak English "not at all"	-	0.0%

Source: 2018-6-28, Census Bureau, American Fact Finder, Table B16004, AGE BY LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER, Universe: Population 5 years and over, 2012-2016
American Community Survey 5-Year Estimates

Hot Springs, AR Metro Area; Arkansas		
Total:	91,703	Percent
Speak only English	86,398	94.2%
Spanish:	3,492	3.8%
Speak English "very well"	2,054	2.2%
Speak English less than "very well"	1,438	1.6%
French, Haitian, or Cajun:	158	0.2%
Speak English "very well"	134	0.1%
Speak English less than "very well"	24	0.0%
German or other West Germanic languages:	565	0.6%
Speak English "very well"	516	0.6%
Speak English less than "very well"	49	0.1%
Russian, Polish, or other Slavic languages:	168	0.2%
Speak English "very well"	28	0.0%
Speak English less than "very well"	140	0.2%
Other Indo-European languages:	517	0.6%
Speak English "very well"	303	0.3%
Speak English less than "very well"	214	0.2%
Korean:	106	0.1%
Speak English "very well"	106	0.1%
Speak English less than "very well"	-	0.0%
Chinese (incl. Mandarin, Cantonese):	31	0.0%
Speak English "very well"	-	0.0%
Speak English less than "very well"	31	0.0%
Vietnamese:	-	0.0%
Speak English "very well"	-	0.0%
Speak English less than "very well"	-	0.0%
Tagalog (incl. Filipino):	106	0.1%
Speak English "very well"	68	0.1%
Speak English less than "very well"	38	0.0%
Other Asian and Pacific Island languages:	115	0.1%
Speak English "very well"	63	0.1%
Speak English less than "very well"	52	0.1%
Arabic:	19	0.0%
Speak English "very well"	19	0.0%
Speak English less than "very well"	-	0.0%
Other and unspecified languages:	28	0.0%
Speak English "very well"	19	0.0%
Speak English less than "very well"	9	0.0%

Source: 2018-6-28, Census Bureau, American Fact Finder, Table C16001, LANGUAGE SPOKEN AT HOME FOR THE POPULATION 5 YEARS AND OVER, Population 5 years and over, 2012-2016 American Community Survey 5-Year Estimates

Language Assistance Plan¹

Developing a Language Assistance Plan (LAP): After completing the Four Factor Analysis, the recipient shall use the results of the analyses to determine which language assistance services are appropriate. Additionally, the recipient shall develop an assistance plan to address the identified needs of the Limited English Proficient (LEP) population(s) it serves. The DOT LEP Guidance recognizes that certain recipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written plan. However, FTA has determined it is necessary to require its recipients to develop an assistance plan in order to ensure compliance. A recipient may formally request an exemption from this requirement if it believes it fits within the exception described.

Recipients have considerable flexibility in developing a Language Assistance Plan, or LEP Plan. An LEP Plan shall, at a minimum:

- a) Include the results of the Four Factor Analysis, including a description of the LEP population(s) served;
- b) Describe how the recipient provides language assistance services by language;
- c) Describe how the recipient provides notice to LEP persons about the availability of language assistance;
- d) Describe how the recipient monitors, evaluates and updates the language access plan; and
- e) Describe how the recipient trains employees to provide timely and reasonable language assistance to LEP populations.

Safe Harbor

Safe harbor provisions apply to all Federal-Aid recipients. The provision obligates all recipients to provide written translations in languages other than English. If a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance with the recipient's written translation obligations under Title VI.

The failure to provide written translations under the circumstances outlined in paragraphs (a) and (b) below, does not mean there is noncompliance. Rather these paragraphs merely provide a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four factor analysis. For example, even if a safe harbor is not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of its program, it is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances. Safe Harbor. The following actions will be considered strong evidence of compliance with the recipient's written translation obligations:

- (a) The DOT recipient provides written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served

¹ FR 74095 2005-12-14

or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

- (b) If there are fewer than 50 persons in a language group that reaches the 5% trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These safe harbor provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable.

Four Factor Analysis

In order to ensure meaningful access to programs and activities, recipients shall use the information obtained in the Four Factor Analysis to determine the specific language services that are appropriate to provide. A careful analysis can help a recipient determine if it communicates effectively with LEP persons and will inform language access planning. The Four Factor Analysis is an individualized assessment that balances the following four factors:

- 1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient:
 - a. How LEP persons interact with the recipient's agency;
 - Historically, the Tri-Lakes MPO has had minimal interaction with the LEP persons. However, the MPO has made an effort to improve this interaction by adding a member of the Hispanic/Latino community to the MPO's contact list.
 - b. Identification of LEP communities, and assessing the number or proportion of LEP persons from each language group to determine the appropriate language services for each language group;
 - According to the demographic analysis, an estimate of 3,492 persons, 5 years and over, speak Spanish, in a total population of 91,703 in the Hot Springs Metro Area. Of these, an estimate of 695 (0.8%) persons speak English "not well" and "not at all". Therefore, this LEP group does not meet the safe harbor provisions. The same case applies to the other LEP groups in the Hot Springs Metro Area.
 - c. The literacy skills of LEP populations in their native languages, in order to determine whether translation of documents will be an effective practice; and
 - Based on demographic analysis, translation of documents will not be an effective practice at this time. However, the MPO offers free language assistance to LEP persons upon request. This offer is included in the MPO's notice of nondiscrimination which is available at the MPO's offices, website and planning documents.
 - d. Whether LEP persons are underserved by the recipient due to language barriers.

- Based on current census data, LEP persons in the Hot Springs Metro Area are not underserved by the MPO due to language barrier.
- 2) The frequency with which LEP persons come into contact with the program. Recipients should survey key program areas and assess major points of contact with the public, such as:
 - a. Use of bus and rail service;
 - See Intracity Transit Title VI plan.
 - b. Purchase of passes and tickets through vending machines, outlets, websites, and over the phone;
 - N/A
 - c. Participation in public meetings;
 - The MPO announces all its public meetings on social media and in a general circulation newspaper, as well as on the MPO's website and through members of the MPO's committees.
 - To-date, the MPO has not encountered LEP persons at its public meetings.
 - d. Customer service interactions;
 - To-date, the MPO has not encountered LEP persons through customer service interactions.
 - e. Ridership surveys;
 - See Intracity Transit Title VI plan.
 - f. Operator surveys.
 - N/A
- 3) The nature and importance of the program, activity, or service provided the program to people's lives.
 - The MPO's regional planning activities impact every person in the region. Therefore, the MPO strives to ensure that it not only provides meaningful access to LEP persons, but to the population of persons eligible to be served or likely to be affected or encountered by the MPO planning activities.
- 4) The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach.
 - The MPO offers free language assistance to LEP persons upon request. To-date, the MPO has not received such a request; therefore, the costs associated with this service is yet to be determined.

Title VI Complaint Form

Tri-Lakes MPO

Name of person submitting complaint														
Address														
City										Zip Code		State		
Telephone (Home)										(Work)				
Name of person(s) discriminated against (if other than complainant)														
Address														
City										Zip Code		State		
Telephone (Home)										(Work)				
What is the discrimination based on? *Religion is not applicable as a protected group under the FMCSA Title VI Program)	Race/Color		National Origin		Sex		Disability		Age		Economic Status		Religion	Other
Date of the alleged discrimination							Location							
Agency or person that was responsible for the alleged discrimination:														
Have you filed this complaint with any other Federal, State, or local agency? If so, whom?														
What remedy are you seeking?														
List names and contact information of persons who may have knowledge of the alleged discrimination.														
Describe the alleged discrimination. Explain what happened and whom you believe is responsible.														
Please sign and date this complaint form. The form will not be accepted if it has not been signed. You may attach additional information to support your complaint. Return the form no later than 180 calendar days after the alleged violation.														
Did you attach additional information on a separate sheet of paper(s)? How many additional pages?														
Signature										Date				

Complete this form and return to Emmily Tiampati, MPO Study Director/Title VI & ADA/504 Coordinator: Tri-Lakes MPO P.O. Box 6409 Hot Springs, AR 71902. Tel: 501-525-7577 x20 Voice TTY/711.

Title VI Data Collection

Agency			
Event			
Date		County of Residence	

Sex	Female	<input type="checkbox"/>
	Male	<input type="checkbox"/>

Income	Below \$25,000	<input type="checkbox"/>
	\$25,000 and above	<input type="checkbox"/>
For families with 4 or more people.		

Age Group	Below 20 Years	<input type="checkbox"/>
	20 Years to 64 Years	<input type="checkbox"/>
	65 Years and above	<input type="checkbox"/>

Language(s) Spoken	English	<input type="checkbox"/>
	Spanish	<input type="checkbox"/>
	Both English and Spanish	<input type="checkbox"/>
	Other (Specify)	<input type="checkbox"/>

Race	White	<input type="checkbox"/>
	Black or African American	<input type="checkbox"/>
	American Indian and Alaska Native	<input type="checkbox"/>
	Asian	<input type="checkbox"/>
	Native Hawaiian and Other Pacific Islander	<input type="checkbox"/>
	Two or more races (Specify)	<input type="checkbox"/>

Ability to Speak English	Advanced	<input type="checkbox"/>
	Intermediate	<input type="checkbox"/>
	Beginner	<input type="checkbox"/>

Ethnicity	Hispanic or Latino	<input type="checkbox"/>
	Not Hispanic or Latino	<input type="checkbox"/>

Primary Mode of Transportation	Driving	<input type="checkbox"/>	
	Carpooling	<input type="checkbox"/>	
	Public Transit	<input type="checkbox"/>	
	Bicycling	<input type="checkbox"/>	
	Walking	<input type="checkbox"/>	
	Other (Specify)	<input type="checkbox"/>	

How did you hear about us?	Newspaper	<input type="checkbox"/>
	Poster/Flyer	<input type="checkbox"/>
	Radio	<input type="checkbox"/>
	Television	<input type="checkbox"/>
	Social Media Platforms	<input type="checkbox"/>
	Website	<input type="checkbox"/>
	Other (Specify)	<input type="checkbox"/>

**** The purpose of this form is to collect data to enable the MPO to meet federal civil rights requirements. Please do not provide your name or any other identifying information. Any information you provide on this form is optional and anonymous.***

THANK YOU!

Pursuant to Federal regulations, the Tri-Lakes Metropolitan Planning Organization (MPO) is responsible for conducting a continuous, comprehensive and cooperative planning process with the Arkansas Department of Transportation (ARDOT), Intracity Transit, local government agencies, and other planning partners in the Hot Springs Metropolitan Planning Area (MPA). As such, the Tri-Lakes MPO is charged with the responsibility of developing and updating the Title VI plan among other documents.

Therefore, Tri-Lakes MPO invites the public to review and submit comments on the Title VI plan. The public comment period begins on **Wednesday, August 29, 2018**, through close of business day on **Tuesday, September 18, 2018**. All comments must be postmarked no later than Tuesday, September 18, 2018.

Copies of the draft Title VI plan will be available throughout the public comment period at the following locations; Garland County Court House; City of Hot Springs; Intracity Transit; City of Mountain Pine; Town of Fountain Lake; Hot Springs Village; Hot Spring County; Greater Hot Springs Chamber of Commerce; Hot Springs National Park; Garland County Public Library; and the MPO Office & Website <http://wcapdd.org/index.php/hot-springs-area-mpo>

The Tri-Lakes MPO complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, the MPO does not discriminate on the basis of race, sex, color, age, national origin, religion (not applicable as a protected group under the Federal Motor Carrier Safety Administration Title VI Program), disability, Limited English Proficiency (LEP), or low-income status in the admission, access to and treatment in the MPO's programs and activities, as well as the MPO's hiring or employment practices.

This notice is available from the ADA/Title VI Coordinator in large print, on audio tape and Braille, upon request. Free language assistance shall be provided to persons of LEP upon request. Complaints of alleged discrimination and inquiries regarding the MPO's nondiscrimination policies should be directed to:

All comments/questions regarding the draft Title VI plan should be submitted in writing to:

Emmily Tiampati
MPO Study Director & ADA/504/Title VI Coordinator
Tri-Lakes MPO
1000 Central Avenue - 71901
P.O Box 6409 - 71902
Hot Springs, AR
501-525-7577 x20 Voice/TTY 711
etiampati@wcapdd.org

*** The MPO did not receive any public comments***

Resolution 2018-07

Title VI Plan

WHEREAS, pursuant to 23 CFR 200.9 (a) (1) (State assurances in accordance with Title VI of the Civil Rights Act of 1964), Title 49, CFR part 21 (Department of Transportation Regulations for the implementation of Title VI of the Civil Rights Act of 1964) requires assurances from States 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 assistance from the Department of Transportation, including the Federal Highway Administration; and

WHEREAS, pursuant to FTA C 4702.1B, the Circular, since States pass through planning funds to the MPOs, MPOs are sub-recipients of the States and must submit Title VI compliance reports for planning activities to the State in order to assist the State in demonstrating compliance with Title VI; and

WHEREAS, the Circular also requires that for all recipients, the Title VI Program must be approved by the recipient's governing entity (MPO Policy Board) responsible for policy decisions, prior to submission to ARDOT; which reports to FTA; and

NOW, THEREFORE, BE IT RESOLVED, that on this 11th day of October 2018, the Policy Board of the Tri-Lakes Metropolitan Planning Organization (MPO) hereby approves the MPO's Title VI plan update.

Approve:

Tom Weiss

Policy Board Chairman

October 11, 2018

Sign:



Attest:

Emmily Tiampati

MPO Study Director

October 11, 2018

Sign:

