



City of Chandler

Title VI Non-Discrimination Program Implementation Plan

**Relating to Federal Highway Administration (FHWA) Funds
September 3, 2019**

**Public Works and Utilities Department
Capital Projects Division
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Phone: 480-782-3300
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Policy Statement, Authorities, and Notification

The City of Chandler (City) assures that no person shall on the grounds of race, color, national origin, age, sex, and disability, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which it receives Federal financial assistance from the Department of Transportation thru the Arizona Department of Transportation (ADOT) and Federal Highway Administration (FHWA). The City is responsible for initiating and monitoring Title VI activities, preparing required reports, and other responsibilities as required by the following 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 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-Effetuation 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 (entitles *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 Informant of Title VI of the Civil Rights Act of 1964);
15. Executive Order 12898–Federal Actions to Address Environmental Justice in Minority and Low-Income Populations;
16. Executive Order 13166–Improving Access to Services for Persons with Limited English Proficiency;
17. U.S. Department of Transportation’s Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons [Federal Register: December 14, 2005 (Volume 70, Number 239), 70 FR 74087]
18. DOT Order 1050.2–Standard Title VI Assurances

Notice to the public, notifying their protection under Title VI, has been posted on the City website (See Appendix A). Additionally, this Title VI Implementation Plan is linked on the City website. See www.chandleraz.gov/default.aspx?pageid=147

City of Chandler

By: _____

(Public Works and Utilities Director)

Date: 8/7/19

Standard Title VI Assurances

Signed copies of the Title VI Assurances are provided in Appendix B.

Organization & Staffing

In the City's Public Works & Utilities Department (Department), the Title VI Coordinator is responsible for administering/ensuring implementation of the Title VI Program for Federal financial assistance from the Department of Transportation thru ADOT and FHWA. Within the Department, Paul Young (Assistant CIP City Engineer-Construction, Capital Projects Division) (480-782-3146), is the Title VI Coordinator. Additionally, Janece Ray (Contract Compliance Analyst) (480-782-3331), assists with Title VI responsibilities. Overall management of the Capital Projects Division is the responsibility of Andrew Goh. The organizational chart is provided in Appendix C. The Title VI Coordinator reports through the command chain to the Capital Projects Manager and Department Director.

Title VI Coordinator Responsibilities:

1. Program Administration - Administer the Title VI Program and coordinate implementation of the plan. Ensure compliance with the assurances, policy, and program objectives. Perform Title VI Program reviews to assess and update administrative procedures, staffing, and resources; provide recommendations as required.
2. Data Collection - Review the statistical data gathering process performed periodically to ensure sufficiency of data.
3. Training Programs - Through the ADOT Civil Rights Office (CRO), facilitate training for appropriate staff, consultants, contractors, and vendors.
4. Title VI Annual Report - A Title VI Annual Report will be provided annually by August 1. The Report will include the following:
 - a. Accomplishments: Program Area Reviews;
 - b. Accomplishments: Sub-Recipient Reviews (Contract Compliance);
 - c. Accomplishments: Title VI Training;
 - d. Accomplishments: Complaint Procedures;
 - e. Goals: Reviews;
 - f. Goals: Training; and
 - g. Goals: Any Other Title VI Related Goals.
5. Title VI Plan Update - Review and update the Title VI Plan on an annual basis. Present the updated plan through the City's Department Director to ADOT and FHWA as required. The updated plan will be provided by August 1 of each year.
6. Public Dissemination-Work with City staff to develop and disseminate Title VI program information to City employees, contractors, subcontractors, consultants, subconsultants, and vendors. Public dissemination may include postings of official statements, inclusion of Title VI language in contracts and other agreements; and website postings. Ensure notices are posted at City facilities, public meetings and project construction sites. Ensure utilization of available minority publications or media; and, where appropriate, provide written or verbal information in languages other than English.
7. Complaints-Review and investigate Title VI complaints that may be received following procedural guidelines provided under Section VI. Complaint Procedures. Efforts will be made to resolve at the lowest level. The CRO will be informed of each complaint and disposition.

Program Review Procedures

The City will ensure projects with FHWA federal aid are monitored for compliance within the following three areas.

- Contracts
 - Project bid documents and contracts are reviewed and prepared to ensure Title VI assurances are included;
 - As part of the subcontractor/subconsultant approval process, contracts are reviewed to ensure inclusion of Title VI assurances;
- Public Outreach
 - For public meetings, notifications are checked to ensure appropriate demographic areas are notified. Additionally, surveys are conducted during public meetings to help determine if there are any disparities in demographic area participation;
 - Limited English Proficiency (LEP) services are provided as identified or requested;
- Complaints
 - Maintain record of any discrimination complaint received;

Monitoring is performed by utilizing checklists when preparing bid documents & contracts; approval of subcontractor/subconsultant contracts; and public information meeting notifications & demographic surveys.

Appendix D includes checklist templates utilized to review contracts and public outreach efforts.

Special Emphasis Program Areas

The City will ensure sufficient monitoring of projects with FHWA grant funding obtained through ADOT. The monitoring will focus on any identification of any disparate impact or treatment, material deficiencies, and/or discriminatory practices that require resolution or reporting. Monitoring work will be conducted in conjunction/coordination with the City's Purchasing Division and Communications and Public Affairs Department along the ADOT Civil Rights Office (CRO). If any type of discriminatory trend or pattern is identified, the City will work closely with both our partners in ADOT as well as other Certification Acceptance (CA) Agencies to identify best practices and determine the steps and timelines needed to remedy any discrimination. Those steps will include how to prevent the specific discrimination from occurring in the future. Progress will be tracked and reported in the Title VI Annual Report.

Sub-Recipient Review Procedures

As a sub-recipient of FHWA federal aid, the City is required to implement policies and procedures prohibiting discrimination in consultant, vendor, and contractor services. Title VI contractual language and assurances are included in contracts. Monitoring is performed by utilizing checklists when preparing bid documents & contracts; and approval of subcontractor/subconsultant contracts. See Appendix D for checklists. Vendors are not permitted to proceed with work until contract requirements are met.

Data Collection/Reporting/Analysis

During public outreach and contract reviews, the City's Capital Projects Division will make efforts to collect voluntary statistical data on the ethnicity and sex of participants in and beneficiaries of FHWA federal aid projects. At public meetings, staff will request participants to voluntarily complete survey forms. A copy of the voluntary survey is included in Appendix E. Staff will perform rough estimates of participants attending public meetings. Additionally, staff will perform estimates of prime and subcontractor participation. Data will be analyzed to help determine who attends public meetings and if any disparities are identified on an on-going basis. Staff will review and observe data; and also utilize www.maps.azmag.gov link to consider if the City needs to make additional efforts to help encourage specific groups to participate in projects.

Title VI Training

The City, Title VI Coordinator is responsible for overall Title VI related training and staff development for agency employees. The coordinator will organize or conduct a minimum of one internal Title VI training session annually. Additionally, the coordinator will organize and facilitate the provision of Title VI training sessions for consultants, contractors, and subcontractors as applicable. The CRO may be asked to provide applicable training. The coordinator will attend and inform other City staff of Title VI training provided by FHWA and ADOT CRO. A summary of the attended training will be reported in the Title VI Plan Update.

Training includes the following Title VI items.

- Title VI requirements overview.
- Addressing Title VI complaints.
- Public notification requirements and voluntary survey documentation.
- Title VI contract requirements for prime contractors/consultants; and subcontractors/subconsultants.
- Prime contractors/consultants are provided training and written guidelines to include Title VI requirements in subcontracts.
- Limited English Proficiency requirements.

Public Outreach

Public outreach is a requirement of Title VI. The City will seek out and consider the viewpoints of minority and low-income populations while conducting outreach. The City will engage the public in its planning and decision-making process, as well as its marketing and outreach activities.

The first step of outreach is to identify the City's Title VI population affected by a project. This information can be obtained by utilizing the www.maps.azmag.gov link and will provide general guidance for any public involvement process aiming to give the public ample opportunities for early and continuing participation in critical transportation projects, plans and decisions, and to provide full public access to key decisions. Any accommodations needed during the public outreach effort will include, but is not limited to, Limited English Proficiency (LEP) and transportation to meetings. The City's public outreach efforts include:

- *City Council and Transportation Commission* – The City Council and Transportation Commission provides a forum for public hearings and other public involvement mechanisms to assure community-based transportation plans and projects and issues, meet Federal requirements and other guidelines.
- *Public Outreach Advertisements* – Public meetings are held throughout the design and construction for capital improvement projects. Advertisements for public meetings are provided project area mailings and advertisements in the local newspapers. During design and construction of major projects, the City utilizes a public outreach consultant to provide project notifications and a project specific website. Notifications, advertisements, and website information consider Title VI requirements for LEP and Environmental Justice (EJ) needs and issues as described in later in this Title VI Implementation Plan.
- *Accessibility to community* – Planners receive calls regularly from minority and low-income community residents requesting information on capital improvement projects offering comments and suggestions. During design and construction of major projects, the City utilizes a public outreach consultant to provide project notifications and a project specific website.
- *Consultants utilized for public outreach* – Public outreach consultants utilize this plan while providing outreach services for capital improvement projects.

Complaint Procedures

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 as they relate to any Federal Highway Administration program or activity administered by the City, its subrecipients, consultants and contractors. In addition to these procedures, complainants reserve the right to file formal complaints with other state or federal agencies or take legal action for complaints alleging discrimination.

Required procedures for FHWA Title VI Complaints filed against the City, the City's subrecipients, contractors or consultants:

Any person, specific class of persons or entity that believes they have been subjected to discrimination on an FHWA-related activity or program as prohibited by the legal provisions of Title VI on the basis of race, color, national origin, can file a formal complaint with the City. A copy of the Complaint Form may be accessed electronically at: www.chandleraz.gov/default.aspx?pageid=147 .

1. The complaint must be filed within 180 days of the alleged discrimination, and include the date the alleged discrimination became known to the complainant or the last date of the incident.
2. Complaints should be in writing, signed, and may be filed by mail, fax, in person, or e-mail. However, the complainant may call the City and provide the allegations by telephone for transcription. Once transcribed the City will send the written complaint to the complainant for correction and signature.
3. A complaint should contain at least the following information:
 - a. A written explanation of what has happened;
 - b. A way to contact the complainant;
 - c. The basis of the complaint (e.g., race, color, national origin);
 - d. The identification of a specific person/people and the respondent (e.g., agency/organization) alleged to have discriminated;
 - e. Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal Highway Administration financial assistance; and is a consultant, contractor or subrecipient of the City and
 - f. The date(s) of the alleged discriminatory act(s).
4. Upon receipt of a completed complaint, the City will forward all FHWA Title VI complaints to Arizona Department of Transportation (ADOT) Civil Rights Office (CRO) within 72 hours.
5. ADOT CRO will forward all FHWA Title VI complaints to the FHWA Division Office.
6. All Title VI complaints received by the FHWA Division Office will be forwarded to the FHWA Office of Civil Rights for processing and potential investigation.
7. If the FHWA Office of Civil Rights determines a Title VI complaint against a subrecipient can be investigated by ADOT CRO, the FHWA Office of Civil Rights may delegate the task of investigating the complaint to ADOT CRO. ADOT CRO will conduct the investigation and forward the Report of Investigation to the FHWA Office of Civil Rights for review and final disposition.
8. The disposition of all Title VI complaints will be undertaken by the FHWA Office of Civil Rights, through either (1) informal resolution or (2) issuance of a Letter of Finding of compliance or noncompliance with Title VI. A copy of the Letter of Finding will be sent to the FHWA Division Office.
9. The complainant may also file a discrimination related complaint on an FHWA program or activity directly with ADOT or with the Federal Highway Administration by contacting the agencies at:

Paul Young
City of Chandler/Public Works & Utilities Department
Capital Projects Division
Mail Stop 407, P.O. Box 4008
Chandler, AZ 85244
Email: paul.young@chandleraz.gov
480.782.3146

ADOT Civil Rights Office
206 S. 17th Avenue, Mail Drop 155A
Phoenix, AZ 85007
Email: civilrightsoffice@azdot.gov
602.712.8946
602.239.6257 FAX

Federal Highway Administration
U.S. Department of Transportation
Office of Civil Rights
1200 New Jersey Avenue, SE
8th Floor E81-105
Washington, DC 20590
Email: CivilRights.FHWA@dot.gov
202-366-0693
202-366-1599 FAX

Dissemination of Title VI Information

Notifications entitled “City of Chandler Title VI Notice to the Public” (see Appendix A) that inform the community of rights under Title VI with contact information are posted at the following City locations:

City of Chandler/Public Works & Utilities Department
215 East Buffalo Street
Chandler, AZ 85225

City of Chandler/Streets Division
975 East Armstrong Way
Chandler, AZ 85286

Additionally, the notice is posted in English, Spanish, and Chinese on the City’s website at the following address:

www.chandleraz.gov/default.aspx?pageid=147

Additionally, this Title VI Implementation Plan is linked on the City website.

The notice is also posted at project public meetings and at construction sites.

Limited English Proficiency (LEP)

The City is committed to providing equal opportunity in all programs and services to ensure full compliance with all civil rights laws, including Title VI. Equal opportunity includes access for persons with Limited English Proficiency (LEP). Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency” was issued on August 11, 2000 and requires Federal agencies to examine the services they provide, identify any need for services to those with limited English Proficiency, and develop and implement a system to provide those services so LEP persons can have meaningful access to them (See Appendix G).

For LEP, the City is consistent with the U.S. Department of Transportation's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons [Federal Register: December 14, 2005 (Volume 70, Number 239), 70 FR 74087]. From Section V of this policy, "while designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee;
2. The frequency with which LEP individuals come in the contact with the program;
3. The nature and importance of the program, activity, or service provided by the recipient to people's lives; and
4. The resources available to the recipient and costs.

Any individual eligible for programs or services who cannot speak, read, write, or understand the English language at a level that permits them to interact effectively with City staff has the following rights:

1. A right to qualified interpreter services at no cost to them
2. A right not to be required to rely on their minor children, other relatives, or friends as interpreters
3. A right to file a grievance about the language access services provided them.

Per the U.S. Department of Transportation's previously referenced policy (70 FR 74087) Section VI, 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 or likely to be affected or encountered."

The City utilized the U.S. Census Bureau American Fact Finder Table B16001 (2011-15 American Community Survey 5-Year Estimates) to determine if any populations exceed the 5% or 1,000 criteria (See Appendix G). The Table demographics indicate the Spanish and Chinese populations meet the criteria. Considering this presence, the four factor analysis was applied as follows.

1. From the demographic data, the only City ethnic group greater than 5% or 1,000, whichever is less, was the Spanish and Chinese populations.
2. The demographic data did not indicate specific locations of the Spanish or Chinese populations within the City. Additionally, there is a good possibility the Spanish or Chinese populations utilize all roadway facilities with the City. So there is more than likely that LEP individuals come into contact with projects throughout the City.
3. Transportation projects have a good possibility of being important to the daily life of the Spanish or Chinese populations.
4. The City will interpret vital documents, such as meeting notifications, and provide interpretation during meetings at minimal costs.

Oral Language Assistance

The City's staff takes necessary steps to make sure that a person who is LEP is given adequate information in his/her language to understand the services, benefits or the requirements for services offered. The necessary steps must allow an individual the opportunity to qualify for the benefits or services provided without unnecessary delay due to the person's LEP. Staff provides oral language assistance to LEP clients in face-to-face and telephone contact. In the case of which a City employee is not available to provide oral language assistance, the City will contract with a qualified outside in-person or telephonic interpreter service.

The City does not require, suggest or encourage LEP individuals or families to use friends, family members or minor children as interpreters. If a LEP individual or family insists that a friend or family member serve as interpreter, that choice is documented. City staff will then, on a case by case basis, consider factors such as: competence of the family or friend used as the interpreter; the appropriateness of the use in light of the circumstances and ability to provide quality and accurate information, especially if the interview could result in a negative effect on the individual or family's eligibility for benefits or services; potential or actual conflicts of interest; and confidentiality of the information being interpreted to determine whether the agency should provide its own independent interpreter for itself.

Given the significant Spanish and Chinese populations within the City, the City will have Spanish and Chinese interpreters available at public meetings for FHWA funded projects.

Translation of Written Materials

All vital materials and documents are translated into languages other than English where a significant number or percentage of the recipients served or likely to be served is limited English proficient and need services or information in a language other than English to communicate effectively. Vital documents that convey information that critically affects the ability of the program percipient to make decisions about his or her participation in the program or are required by law have been translated. Vital documents included are applications for programs, consent forms, letters, eligibility requirements, loan documents, and all outreach and program guidelines for Division programs and services.

For FHWA funded projects, in addition to English all vital documents will be provided in Spanish and Chinese.

Notification of Availability

The City will inform LEP clients through the notification materials of the availability of free language assistance services. Additionally, notification is given orally in the language of the LEP client within a reasonable period of time. LEP persons are also advised that they may choose to secure the assistance of an interpreter.

Monitoring

City staff will monitor the need for language assistance on an annual basis to ensure that the scope and nature of language assistance services provided under the plan reflect updated information on relevant LEP populations, their language assistance needs, and their experience under this plan. If it is determined that other LEP language groups are seeking benefits/services or are potentially eligible to receive benefits/services, the City will adjust its methods and services to serve the LEP language groups. Any new LEP populations will be reflected in an updated version of the LEP plan.

Environmental Justice (EJ)

In 1994, Executive Order (EO) 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations was issued. EO 12898 emphasized a federal agency's and sub-recipients responsibility to make environmental justice a goal by identifying and addressing the effects of programs, policies and activities on minority and low-income populations. This is accomplished by involving the public in developing transportation projects that fit within their communities without sacrificing equity, environmental justice and safety. Demographic data used to identify areas of minority and low-income populations include Maricopa Association of Governments (MAG) Community Profiles ethnicity (uses U.S. Census Bureau data (2011-15 5 year estimates) (See Appendix G, Chandler Demographic Report).

The City recognizes that a sustainable community is predicated on providing opportunities for all of its residents to participate in the City's planning and decision making process. Input from residents, including minority and low-income residents, into the planning of transportation-related projects and services occurs during large master planning efforts such as development of the City's Transportation Plan, as well as during City budget hearings, citizen surveys, boards & commission meetings, Council meetings and neighborhood outreach meetings.

Public Outreach, including outreach to minority and low-income residents, occurs in various ways when it comes to transportation-related services and/or improvements. They include the use of community meetings, news releases, websites, social media, mailed notices and occasionally, paid advertising.

- Public meetings are held during the design of major street and utility projects, plus a meeting is held prior to construction. Bilingual staff provide assistance to Spanish speakers.
- News releases and notices are distributed informing residents/businesses of meetings or pending construction. Spanish media are included in the distribution of releases. Notices include information in Spanish, or at a minimum, a statement in Spanish saying that if they'd like information in Spanish, to please contact the City (phone number provided).
- Contractors for larger projects are required to establish and maintain a project web site and hotline number for complaints/questions. All hotlines accommodate bilingual (Spanish speaking) calls. A link to the contractor's web site is provided on the City's web site.
- Project Update Newsletters are produced and mailed to residents and hand-delivered to businesses nearest the construction. The newsletters include information in Spanish when projects occur in minority prevalent areas.

The City Web site contains information about some of the larger construction projects. An e-mail list (ListServe) of persons interested in being notified of road closure/restrictions and street construction information is used to mail out information. Residents use the City Web site to sign up to receive these notifications.

Review of Certified Acceptance Directives

When directives and information are provided by FHWA and/or ADOT, the City's CA Liason actively communicates this information to all City staff involved with FHWA federal aid projects. One of these individuals includes the City's Title VI Coordinator. The Title VI Coordinator will evaluate the City directive or information to determine what effects may have on the Title VI Program and accommodate as necessary.

Additionally, as projects are managed through design and construction typically project managers and support staff interact with ADOT staff. The project managers and support staff are trained to be aware of any new directives/information that may affect the Title VI Program. These items are brought to the attention of the Title VI Coordinator.

Compliance and Enforcement Procedures

This section outlines the City's Title VI Non-Discrimination Program compliance and enforcement procedures to eliminate and address discrimination and resolve deficiencies when noncompliance occurs.

The City will actively pursue the prevention of deficiencies and will take the necessary steps to ensure compliance with all program requirements. To further enhance the ability to identify and eliminate patterns of discrimination, the City will ensure that staff, sub-recipients (prime contractors/consultants and subcontractors/subconsultants), and beneficiaries are educated and informed regarding Title VI roles and responsibilities.

Process to Identify/Eliminate Deficiencies

Compliance reviews will be conducted to 1) ensure compliance with Title VI; 2) provide technical assistance in the implementation of the City's Title VI Program; and 3) correct deficiencies, when found to exist. When conducting Title VI compliance reviews, any deficiencies found will be communicated in writing with the agreed upon remedial action within 90 calendar days. Efforts to secure voluntary compliance will be undertaken at the outset in every noncompliance situation and will be pursued through each enforcement action. Cooperation will be sought to correct any deficiencies during the review. Technical assistance and guidance will be provided in finding methods, strategies, and processes to ensure effective Title VI implementation and enforcement. When a sub-recipient fails or refuses to comply with the requirements within the time frame allotted, the City will involve ADOT CRO to initiate remedies.

Process to Resolve Deficiencies Identified by ADOT

Effective Title VI compliance requires the City to take prompt action to achieve voluntary compliance in all instances in which deficiencies are found by ADOT CRO. The City will correct any deficiencies found within a reasonable time period, not to exceed 90 calendar days in accordance with required guidelines. Within 30 calendar days of written notification, the City will develop a corrective action plan (CAP) to include the following elements.

- Identification of deficiency;
- Applicable laws and requirements;
- Remedial actions to be taken by the City;
- Timeline to correct the deficiency;
- Plan to monitor CAP progress; and
- Timeframe for providing updates to ADOT

The CAP will be submitted to ADOT CRO for approval. When approved, the City will implement the CAP and provide periodic updates to ADOT CRO. If necessary, the City will update procedures or work with the affected program area to update its procedures to reflect the outcome of the CAP. The CAP with results will be included in the Title VI Non Discrimination Annual Goals and Accomplishments Report.

Appendix A-City of Chandler Title VI Notice to the Public



City of Chandler Title VI Notice to the Public

The City of Chandler hereby gives public notice that it is the City's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person shall, on the grounds of race, color, sex, national origin, age or disability be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Federal Aid Highway program or other activity for which the City receives Federal financial assistance.

Any person, who believes his/her Title VI protection has been violated, may file a complaint. Any such complaint must be in writing and filed with the City's Title VI Program Manager within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from the City by contacting:

Aviso public de Chandler sobre el Título VI

El Ciudad de Chandler da aviso al publico que es la norma de esta agencia asegurar cumplimiento total con el Título VI de la Ley de los Derechos Civiles de 1964, la Ley de Restauración de 1987, y articulos relacionados y regulaciones en todos los programas y actividades. El Título VI require que ninguna persona sera discriminada por razon de raza, color, pais de origen, sexo, edad o discapacidad; sera excluida de participar en, denegar servicios de programas, ayudas o beneficios por ningún programa o actividad financiados por el gobierno federal.

Cualquier persona que crea que se ha violado su protección bajo el Título VI, puede presentar una queja. Esta queja debe ser por escrito con el Ciudad de Chandler dentro de los ciento ochenta (180) días de la fecha en que se alega que la discriminación ocurrió. Para recibir formularios de reclamo por favor póngase en contacto con el Ciudad de Chandler:

Paul Young
Title VI Program Manager

City of Chandler
Public Works and Utilities Dept.
Mail Stop 407
P. O. Box 4008
Chandler AZ 85244-4008
480-782-3146



钱德勒市民权法案第六章全民公告

钱德勒市在此发布公告，本市的政策是确保在所有计划和活动中完全遵守《1964 年民权法案》第六章、《1987 年民权复原法案》以及相关法规和条例。第六章要求，任何人不得因种族、肤色、性别、国籍、年龄或残疾而被排除在联邦助建高速公路计划或该市接受联邦财政援助的其他活动之外，不得被剥夺利益或受到歧视。

任何认为自己在民权法案第六章的权益受到侵犯的人可以提交投诉。任何该等投诉必须以书面形式提交，并在指称的歧视事件发生之日起一百八十 (180) 天内提交给本市民权法案第六章项目经理。民权法案第六章歧视投诉表格可通过联系以下人员获得：

Paul Young
民权法案第六章计划主任

钱德勒市
公共工程和公用事业部
Mail Stop 407
P. O. Box 4008
Chandler AZ 85244-4008
480-782-3146

Appendix B-Title VI Assurances (A thru E)

City of Chandler
Title VI Assurances

The **City of Chandler** (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 Administration and Arizona Department of Transportation*, 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 *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 *Federal Aid Highway Program* and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

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

City of Chandler 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 Administration and Arizona Department of Transportation*. This ASSURANCE is binding on Arizona, 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.

City of Chandler
(Name of Recipient)

by _____ DATED 7/9/19
(Signature of Authorized Official)

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 or the Arizona Department of Transportation*, 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 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, the *Federal Highway Administration or Arizona Department of Transportation* 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, the *Federal Highway Administration, or Arizona Department of Transportation*, 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 or Arizona Department of Transportation*, 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 request to any subcontract or procurement as the Recipient, the *Federal Highway Administration, or Arizona Department of Transportation* 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 City of Chandler will accept title to the lands and maintain the project constructed thereon in accordance with *Title 23, United States Code the Regulations for the Administration of Federal Aid for Highways*, and the policies and procedures prescribed by the *Arizona Department of Transportation ,Federal Highway Administration and 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 City of Chandler 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 City of Chandler 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 City of Chandler, its successors and assigns.

The City of Chandler, 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 City of Chandler 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 **City of Chandler** 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, **City of Chandler** 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 licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, **City of Chandler** 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 **City of Chandler** 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 **City of Chandler** 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, **City of Chandler** will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-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, **City of Chandler** will there upon revert to and vest in and become the absolute property of **City of Chandler** and its assigns.*

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

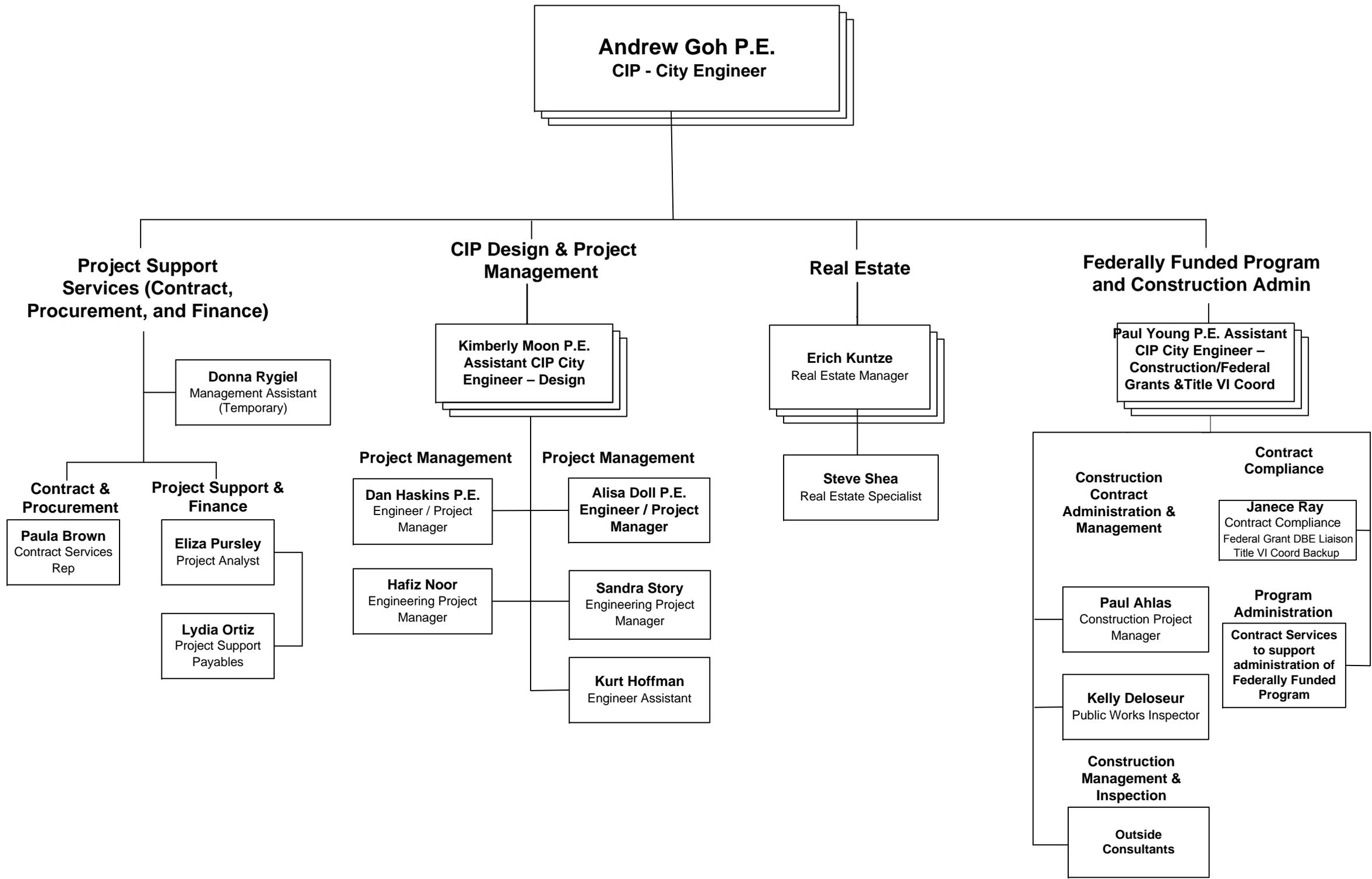
APPENDIX E

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 *et seq.*).

Appendix C-Organization Chart



Capital Projects Division
Public Works & Utilities Department
October 2018

Appendix D-Review Checklists

PUBLIC MEETING REQUIREMENTS CHECKLIST
FOR
FEDERAL FUNDED PROJECTS

Project Name	
Project Numbers (City/Federal/ADOT)	
Proposed Public Meeting Date(s)	
Proposed Meeting Location (s)	
Contacts:	

Instructions:

1. This is a worksheet/tool to assist with Title VI awareness, and ensure federal compliance. It does not need to be typed, does not need to be in any formal format. This is to assist preparation and compliance, along with a backup to ensure compliance and provide verification to auditors.
2. Please forward a copy to Janece Ray for the Project Title VI File and the City of Chandler Title VI File
3. Please work with Janece Ray and/or Paul Young during planning so that federal compliance requirements do not get missed, this includes things like Public Meetings, Public Notifications, Flyers, Mailers, Website Posts, etc.

Item	Checked	Topic	Notes
1		Notification Types – more than 1-2 types -Radio, TV, flyers, notice in utility bill (*do not assume all have computers) Must have copies in project audit file	
2		Documentation that we checked demographics – must have this in project audit file	
2		Location is accessible to citizens/businesses affected	
3		Location is accessible to any disability awareness	
4		Will public transportation be accessible to location	
5		Language supplement needed – ___ Notification ___ Meeting(s) interpreter setup	
6		Times: time of day, 2 times – afternoon and evening	
7		Environmental Justice – minority population affected, low income affected Will times and locations be an issue – example: 1 car family, night shift workers, etc. Will the public meeting be a burden	
8		Other	

Notes

**CITY OF CHANDLER
SUBCONTRACTOR APPROVAL CHECKLIST - PROCEDURE**

DATE	
PROJECT NO/FED/ADOT	
PROJECT NAME	
PRIME	
SUBCONTRACTOR	

	(x)	Task Description
1a		ROC License – Verify on ROC Web Site - (www.azroc.gov) Current: Yes/No, Expir Date: _____
1b		ROC License – print out – put with this packet
1c		ROC License Company Name matches name on SRF / Subcontract
2		SAM Website – Confirm registered. Required for projects awarded after 10-2014. (www.sam.gov , tab for search, search records – enter company name - **sometimes, absolutely nothing shows, that's ok, if record shows, print out)
3		AZ UTRACS Number verification - Web Site https://utracs.azdot.gov 5-digit number: _____
4		DBE Reporting System Profile: Web Site: www.arizonalpa.dbesystem.com (go to vendor search, print profile)
5		QA Subcontractor (look at bid items): If yes: Verify ADOT approved List (http://www.azdot.gov/docs/default-source/materials-group/directory-of-approved-materials-testing-laboratories.pdf?sfvrsn=4)
6		Review-Verify SRF Main Info – Documentation:
6a		Project Name
6b		Project Numbers: ___ City; ___ Federal; ___ ADOT
6c		Prime Contractor Info: ___ name; ___ address; ___ telephone; ___ email
7		Subcontractor Info: ___ name; ___ tel; ___ address; ___ contact; ___ email; ___ Verify to DBE Profile
8		Subcontract Dollar Amount \$ _____
9		Lower Tier: ___ Yes ___ No ___; IF YES: Upper Tier Subcontractor Identified: _____
10		Bid Items List – Match Bid Schedule (Bid Item No & Bid Description matches bid word for word)
11		EEO Clause signed – (if subcontract at \$10,000+)
12a		DBE Box: ___ No ___ YES (if yes: complete Items 12b, 12c, 12d)
12b		DBE: Is this a Committed DBE ___ NO ___ YES If yes: ___ Confirm Match submitted DBE Form 3105C
12c		DBE: SRF and Subcontract has dollar amount breakdown-details
12d		DBE: _____ Subcontract Received; _____ DBE Assurances and DBE forms in Subcontract
13a		Trucking Co: NOT OWNER OPERATOR (must submit Item 13b below)
13b		Trucking Co: Davis Bacon Wage Accept/Decline Form
14a		Trucking Co – OWNER OPERATOR (must submit items 14b,14c,14d below)
14b		Owner/Operator Truck Driver Driver's License copy attached
14c		Owner/Operator Truck Driver Truck Registration attached
14d		Owner/Operator Truck Driver COC Form with equip info attached
15		Dated ___ YES ___ NO; ___ Signatures: ALL: Prime Contractor / Subcontractor / Lower Tier (If applicable)
16		Rejected: ___ Notify Prime; If revision/resubmit allowed-___ Add to Subcontractor Log(note reject/pending status) If rejected, resubmitted, and then approved, use the same form, mark up, make notes on it – this is a worksheet
17a		Approved: Add to Subcontractor Log (project file) (**ensure Log Update date on the log) (2 logs, short version for distribution)
17b		Email Prime Contractor & Project Team - Attach pdf copy of Subcontractor Log. (shorter version/portrait)
18		Print out Subcontractor Log for: Project File (Subcontractor File Remove/Replace), Working File
19		Print out/Save pdf: email of Reject/Approve status – save in file: Subcontractors Approved Notification
20		POST Approval: Prime entered sub in ADOT DBE Reporting System for project (within 5 days of approval)
21		POST Approval: Prime has entered into the LCPTracker Certified Payroll System
22a		SUBCONTRACT - Received (with SRF or within 10 days of approval)
22b		Verify: ___ Project Name/Nos; ___ Bid Items- Dollar Amount; ___ Signatures; ___ Dated; ___ Data matches SRF (\$\$, Name, Bid Items); ___ no warranty listed; ___ no conflict federal doc wording
22c		Fed Docs: ___ FHWA1273; ___ Cargo Pref Act; ___ DB Wage Dec; ___ Prompt Pay Provision; ___ Title VI Assur; ___ Title VI App A; ___ Title VI App E; ___ Records Ret Req; ___ Immigration-Natl Act; ___ EEO Clause; ___ Ex Ord11246 7-1-78; ___ EEO Compl Rpt 10-20-15; ___ EEO Not of Affirm Action 4-15-81 Other: ___ Buy America-Mtrl Cert Requirements; ___ COC Fed Contractor's Guide; ___ Trucker forms (if applicable)
23		Scan / File: SRF / Checklist / Subcontract (including EEO, DBE, Truck Owner/Op Docs as applicable)

NOTES:

REVIEWED BY: _____ DATE: _____

**CITY OF CHANDLER
SUBCONSULTANT CONTRACT APPROVAL CHECKLIST**

DATE	
PROJECT NO(s): City/Fed/ADOT	
PROJECT NAME	
PRIME	
SUBCONSULTANT	

	Done (x)	Task Description
1		Subconsultant Approval Request (filled out completely) (must have email contact information)
2		AZ UTRACS Number _____ (5 digit) https://utracs.azdot.gov/
3		NAICS Codes – match contract work
4		SAM Website – Confirm registered or at a minimum, that Company is not listed with tax liens, tax debts, and or on the list not allowed to work on federal funded contracts. Required for contracts awarded after 10-2014. (www.sam.gov , tab for search, search records – enter company name.)
5		ADOT DBE System – <u>Confirm registration, contact info current per the COC Subconsultant Info Form</u>
6		<u>Review Contract</u>
		Project Name
		Project Number (COC, Fed, ADOT)
		Prime Info: name/address/telephone
		Subconsultant Info: name/address/telephone
		Subcontract Amount \$ _____
		Professional Services Task Items Listed
		Signatures – Prime and Subconsultant
7		QA SUB: YES / NO (From Information Form) If QA Subconsultant Box Checked, check ADOT approved List (http://www.azdot.gov/docs/default-source/materials-group/directory-of-approved-materials-testing-laboratories.pdf?sfvrsn=4)
8		DBE SUB: YES / NO (From Information Sheet) If Yes, verify DBE Status (https://arizonalpa.dbesystem.com)
		<u>Subcontract Documents Required</u>
9a		Title VI: Assurance, Appendix A, Appendix E
		Prompt Pay Provision
9b		<u>DBE ONLY</u>
		DBE Task Items in contract with dollar amounts
		DBE LPA Subrecipient EPrise for LPA Subconsultants (ensure correct one for subs)
		DBE Forms: 3108C, 3210PS (For Contracts w DBE Goal (RC): *Form 3205PS is the DBE Subconsultant participation form. Can be included in contract for information purposes, but not required. It is submitted with the 3206PS & Email Proposers List submitted prior to Council & Contract Award) (For Contracts w/ No DBE Goal (RN) - 3108C not required)
10a		<u>Rejected:</u>
		Rejected - Needs Revisions _____ Rejected Permanently _____
		Add to Subconsultant Log – document Rejected/Pending (Provides current status)
		Email Prime and Project Team
10b		<u>Approved:</u>
		Add to Subconsultant Log
		Email Prime & Project Manager
		Print out Subconsultant Log (x2) 1 for file, 1 for working book
		Check to verify Prime adds Subconsultant to DBE System for this project
		DBE Subcontracts – upload into the Docs Tab of the ADOT DBE Project
11		Scan/File all docs

**After City has set up Project in ADOT DBE System, Prime Consultant will add subconsultant to project in DBE System.

NOTES:

REVIEWED BY: _____ DATE: _____

Appendix E-Title VI Survey



Title VI of the 1964 Civil Rights Act, as amended, 42 USC 2000d, and U.S. Department of Transportation regulations provide 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 subjected to discrimination under any program or activity receiving Federal financial assistance.”

Title VI authorities:

- Federal-Aid Highway Act of 1973
- Section of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- Age Discrimination Act of 1975
- Uniform Relocation Act of 1970
- Executive orders 12898 and 13166

TITLE VI SURVEY

The goal of the City of Chandler is to ensure that every effort will be made to **prevent discrimination** through the impact of its programs, policies and activities.

The City of Chandler will also take reasonable steps to provide **meaningful access** to services and activities for persons with limited English proficiency.

By completing this survey, the City of Chandler will be able to determine who attends its public meetings and how the department can improve participation. The survey will also help the City of Chandler fulfill federal reporting requirements.

Completing this survey is voluntary. If you choose to respond, please mark all that apply.

ETHNICITY/RACE:

- American Indian/Alaskan Native
- Asian/Pacific Islander
- Hispanic/Latino
- African American/Black
- White
- Other

SEX:

- Female
- Male



Título VI de la Ley de Derechos Cives de 1964, como enmendado, 42 USC 2000d, y las regulaciones de Departamento de Transporte de los Estados Unidos disponen que “ninguna persona en los Estados Unidos, por razón de raza, color u origen nacional, será excluida de participación en, negada beneficios de, o será sometida a discriminación bajo ningún programa o actividad que recibe asistencia financiera Federal.”

Title VI authorities:

- Ley de Ayuda Federal para Carreteras de 1973
- Sección de la Ley de Rehabilitación de 1973
- Ley de Americanos con Discapacidades de 1990
- Ley de Discriminación de Edad de 1975
- Ley de Reubicación Uniforme de 1970
- Órdenes ejecutivas 12898 y 13166

TÍTULO VI ENCUESTA

El objetivo de la Ciudad de Chandler es de asegurar que se haga todo esfuerzo para **prevenir la discriminación** por medio del impacto de sus programas, políticas y actividades.

La Ciudad de Chandler también tomará pasos razonables para proporcionar el **acceso significativo** a los servicios y actividades para las personas con competencia limitada de inglés.

Llenando esta encuesta, la Ciudad de Chandler podrá determinar quien asiste a sus reuniones públicas y cómo el departamento puede mejorar la participación. La encuesta también ayudará a la Ciudad de Chandler a cumplir con los requisitos federales de reporte.

Llenar esta encuesta es voluntario. Si usted opta por responder, por favor marque todos los que aplican.

ETNICIDAD/RAZA:

- Indio americano/Nativo de Alaska
- Asiático/Isleño del Pacífico
- Hispano/Latino
- Americano africano/Negro
- Blanco
- Otro

SEXO:

- Mujer
- Hombre



经修订的《1964年民权法案》第六章（《美国法典》第42编第2000d节）和美国交通部条例规定，“在美国，任何人不得因种族、肤色或国籍而被排除在接受联邦财政援助的任何计划或活动之外，不得被剥夺利益，也不得在该等计划或活动中受到歧视。”

民权法案第六章依据：

- 《1973年联邦助建高速公路法案》
- 《1973年康复法案》的条款
- 《1990年美国残疾人法案》
- 《1975年反年龄歧视法案》
- 《1970年统一搬迁法案》
- 第12898和13166号行政命令

关于民权法案第六章的调查

钱德勒市的目标是通过其计划、政策和活动的影响，确保尽一切努力防止歧视。

钱德勒市还将采取合理措施为英语水平有限的人士提供能够获得服务和参与活动的重要的机会。

您完成本调查，钱德勒市将能够确定出席其公开会议的人员以及部门提高参与度的方式。本调查还将帮助钱德勒市完成联邦政府的报告要求。

本调查为自愿参与。如果您选择参与，请填写所有适用项。

族裔/种族：

性别：

- 女性
 男性

- 美洲印第安人/阿拉斯加原住民
- 亚裔/太平洋岛民
- 西班牙裔/拉丁裔
- 非裔美国人/黑人
- 白人
- 其他

Appendix F-Title VI Complaint Form and Log

TITLE VI COMPLAINT FORM
(Este formulario está disponible en Español.)

Section I:				
Name:				
Address:				
Telephone (Home):			Telephone (Work):	
Electronic Mail Address:				
Accessible Format Requirements?	Large Print		Audio Tape	
	TDD		Other	
Section II:				
Are you filing this complaint on your own behalf?			Yes*	No
*If you answered "yes" to this question, go to Section III.				
If you answered "no" to this question, please supply the name and relationship of the person for whom you are complaining.				
If you are filing on behalf of a third party, please explain why.				
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.			Yes	No
Section III:				
I believe the discrimination experienced was based on (check all that apply):				
<input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin				
Date of Alleged Discrimination (Month, Day, Year): _____				
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please write out on extra paper and submit with the form.				
<hr style="border: 1px solid black;"/>				

Sección IV		
¿Ha presentado previamente un Queja Título VI con esta agencia?	Sí	No
Sección V		
¿Ha presentado esta queja en cualquier otra oficina Local, Estatal o Federal, o con cualquier agencia Federal o Estatal de la Corte? <input type="checkbox"/> Sí <input type="checkbox"/> No En caso que Sí, marque todas las que correspondan y llenar en nombre de la agencia: <input type="checkbox"/> Agencia Federal: _____ <input type="checkbox"/> Corte Federal _____ <input type="checkbox"/> Agencia Estatal _____ <input type="checkbox"/> Corte Estatal _____ <input type="checkbox"/> Agencia Local _____		
Proporcione información acerca de la persona de contacto de la agencia/corte donde se formuló la denuncia.		
Nombre:		
Título:		
Agencia:		
Dirección:		
Teléfono:		
Sección VI		
Nombre denunciada en contra:		
Persona de contacto:		
Título:		
Número de teléfono:		

Puede adjuntar cualquier material escrito o cualquier otra información que considere relevante para su reclamación. Su firma autorizada y la fecha de la denuncia son requeridos.

Firma

Fecha

Por favor, envíe este formulario en persona o por correo a:

Atención:

Paul Young, Title VI Coordinator

City of Chandler/Public Works & Utilities Department

Capital Projects Division

Mail Stop 407, P.O. Box 4008

Chandler, AZ 85244-4008

民权法案第六章投诉表格

第一节：				
姓名：				
地址：				
电话（家庭）：			电话（工作）：	
电子邮件地址：				
存取格式要求？	大印刷字体		录音带	
	聋哑人用电信设备		其他	
第二节：				
您是代表自己提交此投诉吗？			是*	否
*如果您回答“是”，请转到第三节。				
如果您回答“否”，请提供您投诉的人的姓名以及与您的关系。				
如果您代表第三方提出投诉，请说明原因。				
如果您代表第三方提出投诉，请确认您已获得受损害方的许可。			是	否
第三节：				
我认为所受到的歧视是基于（勾选所有适用项）：				
<input type="checkbox"/> 种族 <input type="checkbox"/> 肤色 <input type="checkbox"/> 原国籍 所指称的歧视的事发日期（年月日）： _____ 尽可能清楚地说明发生的情况，以及您为何觉得自己受到了歧视。描述此事涉及的所有人。包括歧视您的人（如果已知）的姓名和联络方式，以及任何证人的姓名和联络方式。如果预留空白不够，请另附纸张，并与表格一起提交。 <hr style="border: 1px solid black; margin-top: 20px;"/>				

第四节

您以前是否向本机构提交过民权法案第六章的投诉?

是

否

第五节

您是否向任何其他联邦、州或地方机构或任何联邦或州法院提交过此投诉?

[] 是 [] 否

如果是, 请勾选所有适用项, 并填写机构名称:

[] 联邦机构: _____

[] 联邦法院 _____ [] 州机构 _____

[] 州法院 _____ [] 地方机构 _____

请提供受理申诉的机构/法院的联系人的信息。

姓名:

职位:

机构:

地址:

电话:

第六节

被投诉人:

联系人:

职位:

电话号码:

您可以附上您认为与您的投诉有关的任何书面材料或其他信息。请在下方提供您的授权签名和投诉日期。

签名_____
日期

请亲自递送或邮寄本表格至:

收件人:

Paul Young, 民权法案第六章协调员

钱德勒市/公共工程和公用事业部

基建项目处

Mail Stop 407, P.O.Box 4008

Chandler, AZ 85244-4008

Appendix G-City of Chandler Demographic Report



B16001

LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER

Universe: Population 5 years and over

2011-2015 American Community Survey 5-Year Estimates

Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the Data and Documentation section.

Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the Methodology section.

Tell us what you think. Provide feedback to help make American Community Survey data more useful for you.

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

	Chandler city, Arizona	
	Estimate	Margin of Error
Total:	231,923	+/-805
Speak only English	178,118	+/-2,281
Spanish or Spanish Creole:	31,298	+/-1,798
Speak English "very well"	19,530	+/-1,232
Speak English less than "very well"	11,768	+/-1,242
French (incl. Patois, Cajun):	521	+/-163
Speak English "very well"	411	+/-135
Speak English less than "very well"	110	+/-67
French Creole:	32	+/-45
Speak English "very well"	22	+/-32
Speak English less than "very well"	10	+/-15
Italian:	165	+/-98
Speak English "very well"	144	+/-91
Speak English less than "very well"	21	+/-21
Portuguese or Portuguese Creole:	149	+/-82
Speak English "very well"	106	+/-75
Speak English less than "very well"	43	+/-48
German:	516	+/-168
Speak English "very well"	473	+/-160
Speak English less than "very well"	43	+/-32
Yiddish:	8	+/-13
Speak English "very well"	0	+/-29
Speak English less than "very well"	8	+/-13
Other West Germanic languages:	54	+/-48
Speak English "very well"	54	+/-48
Speak English less than "very well"	0	+/-29
Scandinavian languages:	55	+/-37
Speak English "very well"	55	+/-37
Speak English less than "very well"	0	+/-29
Greek:	158	+/-119
Speak English "very well"	123	+/-86
Speak English less than "very well"	35	+/-42

	Chandler city, Arizona	
	Estimate	Margin of Error
Russian:	346	+/-216
Speak English "very well"	322	+/-216
Speak English less than "very well"	24	+/-24
Polish:	260	+/-158
Speak English "very well"	227	+/-154
Speak English less than "very well"	33	+/-24
Serbo-Croatian:	485	+/-344
Speak English "very well"	381	+/-322
Speak English less than "very well"	104	+/-84
Other Slavic languages:	90	+/-87
Speak English "very well"	64	+/-79
Speak English less than "very well"	26	+/-34
Armenian:	4	+/-6
Speak English "very well"	4	+/-6
Speak English less than "very well"	0	+/-29
Persian:	365	+/-173
Speak English "very well"	266	+/-143
Speak English less than "very well"	99	+/-63
Gujarati:	709	+/-262
Speak English "very well"	548	+/-233
Speak English less than "very well"	161	+/-77
Hindi:	1,350	+/-440
Speak English "very well"	1,125	+/-390
Speak English less than "very well"	225	+/-127
Urdu:	277	+/-145
Speak English "very well"	256	+/-132
Speak English less than "very well"	21	+/-23
Other Indic languages:	1,502	+/-429
Speak English "very well"	1,239	+/-339
Speak English less than "very well"	263	+/-164
Other Indo-European languages:	70	+/-45
Speak English "very well"	70	+/-45
Speak English less than "very well"	0	+/-29
Chinese:	4,578	+/-708
Speak English "very well"	2,748	+/-517
Speak English less than "very well"	1,830	+/-399
Japanese:	480	+/-190
Speak English "very well"	363	+/-180
Speak English less than "very well"	117	+/-75
Korean:	1,791	+/-532
Speak English "very well"	896	+/-325
Speak English less than "very well"	895	+/-333
Mon-Khmer, Cambodian:	92	+/-68
Speak English "very well"	85	+/-66
Speak English less than "very well"	7	+/-12
Hmong:	0	+/-29
Speak English "very well"	0	+/-29
Speak English less than "very well"	0	+/-29
Thai:	181	+/-167
Speak English "very well"	18	+/-18
Speak English less than "very well"	163	+/-149
Laotian:	25	+/-36
Speak English "very well"	25	+/-36
Speak English less than "very well"	0	+/-29
Vietnamese:	1,696	+/-412
Speak English "very well"	833	+/-260
Speak English less than "very well"	863	+/-294
Other Asian languages:	2,230	+/-528
Speak English "very well"	1,910	+/-515

	Chandler city, Arizona	
	Estimate	Margin of Error
Speak English less than "very well"	320	+/-150
Tagalog:	1,831	+/-445
Speak English "very well"	1,410	+/-371
Speak English less than "very well"	421	+/-151
Other Pacific Island languages:	223	+/-139
Speak English "very well"	191	+/-121
Speak English less than "very well"	32	+/-36
Navajo:	424	+/-185
Speak English "very well"	416	+/-184
Speak English less than "very well"	8	+/-9
Other Native North American languages:	81	+/-64
Speak English "very well"	64	+/-54
Speak English less than "very well"	17	+/-33
Hungarian:	28	+/-38
Speak English "very well"	16	+/-20
Speak English less than "very well"	12	+/-19
Arabic:	1,078	+/-451
Speak English "very well"	849	+/-419
Speak English less than "very well"	229	+/-113
Hebrew:	140	+/-138
Speak English "very well"	92	+/-81
Speak English less than "very well"	48	+/-63
African languages:	323	+/-163
Speak English "very well"	295	+/-155
Speak English less than "very well"	28	+/-27
Other and unspecified languages:	190	+/-129
Speak English "very well"	70	+/-59
Speak English less than "very well"	120	+/-105

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

Methodological changes to data collection in 2013 may have affected language data for 2013. Users should be aware of these changes when using multi-year data containing data from 2013. For more information, see: Language User Note.

While the 2011-2015 American Community Survey (ACS) data generally reflect the February 2013 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.

Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2010 data. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

Source: U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates

Explanation of Symbols:

1. An '***' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
2. An '-' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.
3. An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
4. An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.
5. An '***' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.
6. An '*****' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.

7. An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.
8. An '(X)' means that the estimate is not applicable or not available.



Federal Register

**Wednesday,
August 16, 2000**

Part V

The President

**Executive Order 13166—Improving Access
to Services for Persons With Limited
English Proficiency**

Department of Justice

**Enforcement of Title VI of the Civil
Rights Act of 1964—National Origin
Discrimination Against Persons With
Limited English Proficiency; Notice**

Presidential Documents

Title 3—

Executive Order 13166 of August 11, 2000

The President

Improving Access to Services for Persons With Limited English Proficiency

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

Section 1. Goals.

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

Sec. 2. Federally Conducted Programs and Activities.

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

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order,

each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the **Federal Register** for public comment.

Sec. 4. Consultations.

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

Sec. 5. Judicial Review.

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



THE WHITE HOUSE,
August 11, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Jonathan G. Katz,

Secretary.

[FR Doc. E5-7326 Filed 12-13-05; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF STATE

[Public Notice 5246]

Culturally Significant Objects Imported for Exhibition Determinations: "Rubens and His Age: Masterpieces From the Hermitage"

AGENCY: Department of State

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Rubens and His Age: Masterpieces from the Hermitage", imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Guggenheim-Hermitage Museum, Las Vegas, Nevada, from on or about January 30, 2006, until on or about August 30, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Richard Lahne, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453-8058). The address is U.S. Department of State, SA-44, 301 4th Street, SW. Room 700, Washington, DC 20547-0001.

Dated: December 9, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05-24065 Filed 12-12-05; 1:01 pm]

BILLING CODE 4710-08-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST-2001-8696]

Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Notice of guidance with request for comments.

SUMMARY: The United States Department of Transportation (DOT) is publishing guidance concerning services and policies by recipients of Federal financial assistance from the Department of Transportation related to persons with limited English proficiency. The guidance is based on the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, as it affects limited English proficient persons.

DATES: This guidance is effective immediately. Comments must be received on or before January 13, 2006. Late-filed comments will be considered to the extent practicable. DOT will review all comments and will determine what modifications to the guidance, if any, are necessary. This guidance supplants existing guidance on the same subject originally published at 66 FR 6733 (January 22, 2001).

ADDRESSES: You may submit comments, identified by the docket number [OST-2001-8696], by any of the following methods:

- *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* (202) 493-2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* To the Docket Management System; Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: You must include the agency name and docket number [OST-2001-8696] or the Regulatory Identification Number (RIN) for this notice at the beginning of your comment. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Docket: You may view the public docket through the Internet at <http://dms.dot.gov> or in person at the Docket Management System office at the above address.

FOR FURTHER INFORMATION CONTACT: Joseph Austin, Chief, External Policy and Program Development Division, Departmental Office of Civil Rights, Telephone: (202) 366-5992, TTY: (202) 366-9696, E-mail: joseph.austin@dot.gov; or Bonnie Angermann, Attorney-Adviser, Office of General Law, Office of the General Counsel, Telephone: (202) 366-9166, E-mail: bonnie.angermann@dot.gov. Arrangements to receive the policy guidance in an alternative format may be made by contacting the named individuals.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.*, and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance. The purpose of this limited English proficiency policy guidance is to clarify the responsibilities of recipients of Federal financial assistance from the U.S. Department of Transportation (DOT) ("recipients"), and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations.

Executive Order 13166, "Improving Access to Services for Persons With Limited English Proficiency," reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency that is subject to the requirements of Title VI to publish guidance for its respective recipients clarifying that obligation.

¹³ 17 CFR 200.30-3(a)(12).

Executive Order 13166 further directs that all such guidance documents be consistent with the compliance standards and framework detailed in the Department of Justice's (DOJ's) Policy Guidance entitled "Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency." See 65 FR 50123 (August 16, 2000) (DOJ's General LEP Guidance).

DOT published its initial guidance regarding its recipients' obligations to take reasonable steps to ensure access by LEP persons on January 22, 2001, and requested public comment on the guidance. See 66 FR 6733. DOT received 21 comments in response to its January 22, 2001, policy guidance. The comments reflected the views of individuals, organizations serving LEP populations, organizations favoring the use of the English language, and recipient agencies. While many comments identified areas for improvement and/or revision, the majority of the comments on the DOT LEP Guidance expressed agreement with its overall goal of ensuring access of LEP individuals to recipients' services. DOT worked closely with DOJ to ensure that recipients' comments were addressed in a consistent fashion.

In the order most often raised, the common areas of comment regarded: cost considerations, especially for smaller recipients serving few LEP persons; increased litigation risk and liability for recipients as a result of the guidance; and use of interpreters and the definition of "qualified interpreter."

A large number of comments focused on cost considerations and suggested that the Department address them as part of its evaluation of the language assistance needs of LEP persons. Particularly, this concern was expressed by state agencies that at the time received Coast Guard grants to administer safe boating courses.¹ But this policy guidance does not require DOT recipients to translate all courses or materials in every circumstance or to take unreasonable or burdensome steps in providing LEP persons access. We have clarified the guidance to better convey its flexibility, based on the four-factor analysis set forth in DOJ's General LEP Guidance.

Several recipients commented that they serve few if any LEP persons and that the cost of interpreting all of their courses and materials would be

excessive and unnecessary. While none urged that costs be excluded from consideration altogether, at least one comment expressed concern that a recipient could use cost as a basis for avoiding otherwise reasonable and necessary language assistance to LEP persons. In contrast, a few comments suggested that the flexible fact-dependent compliance standard set forth in the guidance, when combined with the desire of most recipients to avoid the risk of noncompliance, could lead some large recipients to incur unnecessary or inappropriate fiscal burdens in the face of already strained program budgets. The Department is mindful that cost considerations could be inappropriately used to avoid providing otherwise reasonable and necessary language assistance. Similarly, cost considerations could be ignored or minimized to justify the provision of a particular level or type of language service even though effective alternatives exist at a minimal cost. The Department also is aware of the possibility that satisfying the need for language services might be quite costly for certain types of recipients, particularly if they have not updated their programs and activities to the changing needs of the populations they serve.

The potential for some recipients to assert adverse cost impacts in order to avoid Title VI obligations does not, in the Department's view, justify eliminating cost as a factor in all cases when determining the necessary scope of reasonable language assistance services under DOT's guidance. The Department continues to believe that costs are a legitimate consideration in identifying the reasonableness of particular language assistance measures, and the DOJ Recipient LEP Guidance identifies the appropriate framework through which costs are to be considered. See Department of Justice Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 FR 41455 (June 18, 2002).

The second most common category of comments DOT received expressed concern over increased litigation risk and liability for recipients as a result of the LEP Guidance. As is addressed below in the Introduction, *Alexander v. Sandoval*, 532 U.S. 275 (2001), holds principally that there is no private right of action to enforce Title VI disparate impact regulations. The LEP Guidance is based on Title VI and DOT's Title VI regulations at 49 CFR part 21 and does not provide any private right of action

beyond that which exists in those laws. Thus, the LEP Guidance does not increase the risk of recipients' legal liability to private plaintiffs. However, the Department does not dismiss the possibility that individuals may continue to initiate such legal actions.

The third most numerous category of comments DOT received regarded the definition of "qualified interpreter" and expressed commentators' concern with recipients' responsibility to make interpreters available, especially for recipients who serve populations with extremely diverse language needs. Set forth below in section VI are practices to help recipients ascertain that their interpreters are both competent and effective. This section should enable recipients to assess the qualifications of the interpreters they use and identify any improvements that need to be addressed.

Three of the comments urged withdrawal of the guidance, arguing it is unsupported by law. In response, the Department notes that its commitment to implementing Title VI and its regulations to address language barriers is longstanding and is unaffected by recent judicial action precluding individuals from successfully maintaining suits to enforce agencies' Title VI disparate impact regulations. This guidance clarifies existing statutory and regulatory provisions by describing the factors recipients should consider in fulfilling their responsibilities to LEP persons.

The remaining 18 comments were generally supportive of the guidance and DOT's leadership in this area. One recipient commented that constraining LEP persons' access to services may actually hinder their ability to become more proficient in the English language, therefore justifying increased programs for LEP persons. Several comments received addressed areas unique to the provision of transportation services to LEP persons. One recipient discussed the inconsistency between the Federal Motor Carrier Safety Administration's (FMCSA's) regulations requiring all drivers to speak and understand a certain amount of English, and the guidance's requirement that the FMCSA division offices provide information and services in other languages to accommodate LEP persons. Pursuant to 49 CFR 391.11(b)(2), a person is qualified to drive a motor vehicle if he or she "[c]an read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records." In 1997, following an

¹ This guidance does not address the extent to which Executive Order 13166 requires language access services in the provision of boating safety courses funded by the Coast Guard, because that agency is no longer a component of the Department of Transportation.

American Civil Liberties Union (ACLU) legal challenge to this requirement, DOT issued an advance notice of proposed rulemaking (ANPRM) to address this issue. On July 24, 2003, FMCSA withdrew this ANPRM, concluding that the information introduced in response to the notice “does not establish that the current regulation requires an unnecessarily high level of English fluency that has resulted in a discriminatory impact or effect based upon national origin, color, or ethnicity.” FMCSA determined the regulation “as written and properly enforced effectively balances issues of civil rights and highway safety.” 68 FR 43890.

Another recipient, who works with community-based organizations concerned with transportation practices and policies, suggested mandatory LEP Access Assessments be attached to the standard financial assistance Assurance Forms that recipients must execute, to serve as a basis for disqualifying recipients submitting inaccurate or substantially incomplete assessments from Federal grant funding. While providing LEP persons with meaningful access is the law and should be given high priority, DOT advocates a flexible approach in ensuring such access, as outlined below in section V, in order to suit the varying needs of its recipients, and therefore has not adopted this suggestion. As discussed in section VIII, DOT seeks to promote voluntary compliance to meet Title VI’s goal of ensuring that Federal funds are not used in a manner that discriminates on the basis of race, color, or national origin. DOT will work with recipients to meet this goal, and will resort to more intrusive administrative remedies only if voluntary compliance cannot be secured and stronger measures become necessary to ensure LEP persons have meaningful access to services from recipients of DOT financial assistance.

This document has been modified based on careful consideration of public comments received by DOT, and the approach DOJ adopted after analyzing the public comments it received following its initial guidance published at 66 FR 3834 (January 16, 2001). This guidance is consistent with: Title VI, implementing regulations, Executive Order 13166, the DOJ General LEP Guidance, and the model DOJ Recipient Guidance issued on June 18, 2002.

With particular emphasis on the concerns mentioned above, the Department proposes this “Limited English Proficiency Guidance for Department of Transportation Recipients.” The text of this guidance document appears below.

Because this guidance must adhere to the Federal-wide compliance standards and framework detailed in the model DOJ Recipient Guidance issued on June 18, 2002, DOT specifically solicits comments on the nature, scope, and appropriateness of the DOT-specific examples set out in this guidance explaining and/or highlighting how those consistent Federal-wide compliance standards are applicable to recipients of Federal financial assistance from DOT. This guidance supplants the existing guidance on the same subject published at 66 FR 6733 (January 22, 2001). This guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553.

Dated: December 7, 2005.

J. Michael Trujillo,

Director, Departmental Office of Civil Rights.

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

I. Introduction

Most individuals living in the United States read, write, speak, and understand English. There are many individuals, however, for whom English is not their primary language. For instance, based on the 2000 census, regarding individuals older than age 5, over 26 million individuals speak Spanish and almost 7 million individuals speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or “LEP.”

In a 2001 Supplementary Survey by the U.S. Census Bureau,² 33% of Spanish speakers and 22.4% of all Asian and Pacific Island language speakers aged 18–64 reported that they spoke English either “not well” or “not at all.”

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. The Federal Government

funds an array of services that can be made meaningfully accessible to otherwise eligible LEP persons. The Federal Government is committed to improving the accessibility of these programs and activities to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. Recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services.³

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and Title VI regulations against national origin discrimination. The purpose of this policy guidance is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law. This guidance clarifies existing legal requirements for LEP persons by describing the factors recipients should consider in fulfilling their responsibilities to LEP persons.⁴ These are the same criteria DOT will use in evaluating whether recipients are complying with Title VI and Title VI regulations.

Executive Order 13166 charges DOJ with the responsibility for providing LEP Guidance to other Federal agencies, such as DOT, and for ensuring consistency among each agency-specific guidance. Consistency among Federal Government agencies is particularly important. Inconsistent or contradictory guidance could confuse recipients of Federal funds and needlessly increase costs without facilitating the meaningful access for LEP persons that this policy guidance is designed to address. As with most government initiatives, this requires balancing several principles.

³ DOT recognizes that many recipients had language assistance programs in place prior to the issuance of Executive Order 13166. This policy guidance provides a uniform framework for a recipient to integrate, formalize, and assess the continued vitality of these existing and possibly additional reasonable efforts based on the nature of its programs and activities, the current needs of the LEP populations it encounters, and its prior experience in providing language services in the community it serves.

⁴ This policy guidance is not a regulation but rather a guide. Title VI and its implementing regulations require that recipients take responsible steps to ensure meaningful access by LEP persons. Recipients should use the guidance to determine how best to comply with statutory and regulatory obligations to provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are LEP.

² PO35. *Age by Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over.* Cens. Summ. File 3, 2001 Supp. Survey Summ. Tables (SF 3) (based on 12 monthly samples during 2001) Washington: U.S. Dep’t of Comm., Bur. of the Census. Viewed 14 September 2004, available at: http://factfinder.census.gov/servlet/DTTable?_bm=y&-geo_id=D&-ds_name=D&-_lang=en&-redoLog=false&-mt_name=DSS_2001_EST_G2000_PO35.

While this guidance discusses that balance in some detail, it is important to note the basic principles behind that balance. First, we must ensure that federally assisted programs and activities aimed at the American public do not leave individuals behind simply because they face challenges communicating in English. This is of particular importance because, in many cases, LEP individuals form a substantial portion of those who particularly benefit from federally assisted programs and activities. Second, we must achieve this goal while finding constructive methods to reduce the costs of LEP requirements on small businesses, small local governments, or small nonprofit organizations that receive Federal financial assistance. There are many productive steps that the Federal Government, either collectively or as individual agencies, can take to help recipients reduce the costs of language services without sacrificing meaningful access for LEP persons. Without these steps, certain smaller recipients may choose not to participate in federally assisted programs or activities, threatening the critical functions that the programs or activities strive to assist. To that end, DOT plans to continue to work with DOJ and other Federal agencies to provide ongoing assistance and guidance in this important area. In addition, DOT plans to work with recipients of Federal financial assistance—for example, with motor vehicle departments, transit authorities, state departments of transportation, and other transportation service providers—and LEP persons, to identify and share model plans, examples of best practices, and cost-saving approaches. Moreover, DOT intends to explore how language assistance measures and cost-containment approaches developed with respect to its own federally conducted programs and activities can be effectively shared or otherwise made available to recipients, particularly small businesses, small local governments, and small nonprofit organizations. An interagency working group on LEP has developed a Web site, <http://www.lep.gov>, to assist in disseminating this information to recipients, Federal agencies, and the communities being served.

Many commentators have noted that some have interpreted the case of *Alexander v. Sandoval*, 532 U.S. 275 (2001), as impliedly striking down the regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to federally assisted programs and

activities. We have taken the position that this is not the case, and will continue to do so. Accordingly, we will strive to ensure that federally assisted programs and activities work in a way that is effective for all eligible beneficiaries, including those with limited English proficiency.

II. Legal Authority

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person 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.” Section 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity “to effectuate the provisions of [section 601] * * * by issuing rules, regulations, or orders of general applicability.” 42 U.S.C. 2000d–1.

Department of Justice regulations promulgated pursuant to section 602 forbid recipients from “utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.” 28 CFR 42.104(b)(2). DOT’s Title VI regulations include almost identical language in this regard. See 49 CFR 21.5(b)(vii)(2) (portions of these regulations are provided in Appendix A).

The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted regulations promulgated by the former Department of Health, Education, and Welfare, including a regulation similar to that of DOJ, 45 CFR 80.3(b)(2), to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination. In *Lau*, a San Francisco school district that had a significant number of non-English-speaking students of Chinese origin was required to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs.

On August 11, 2000, Executive Order 13166 was issued. “Improving Access to Services for Persons With Limited English Proficiency,” 65 FR 50121 (August 16, 2000). Under that order, every Federal agency that provides financial assistance to non-Federal entities must publish guidance on how its recipients can provide meaningful

access to LEP persons and thus comply with Title VI regulations forbidding recipients from “restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program” or from “utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.”

On that same day, DOJ issued a general guidance document addressed to “Executive Agency Civil Rights Officers” setting forth general principles for agencies to apply in developing guidance documents for recipients pursuant to the Executive Order. “Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency,” 65 FR 50123 (August 16, 2000) (DOJ’s General LEP Guidance).

Subsequently, Federal agencies raised questions regarding the requirements of the Executive Order, especially in light of the Supreme Court’s decision in *Alexander v. Sandoval*, 532 U.S. 275 (2001). On October 26, 2001, the Assistant Attorney General for Civil Rights issued a memorandum for “Heads of Departments and Agencies, General Counsels and Civil Rights Directors.” This memorandum clarified and reaffirmed the DOJ LEP Guidance in light of *Sandoval*. The Assistant Attorney General stated that because *Sandoval* did not invalidate any Title VI regulations that proscribe conduct that has a disparate impact on covered groups—the types of regulations that form the legal basis for the part of Executive Order 13166 that applies to federally assisted programs and activities—the Executive Order remains in force.⁵

⁵ The memorandum noted that some commentators have interpreted *Sandoval* as impliedly striking down the disparate impact regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to federally assisted programs and activities. See, e.g., *Sandoval*, 532 U.S. at 286, 286 n.6 (“[W]e assume for purposes of this decision that section 602 confers the authority to promulgate disparate-impact regulations; * * * We cannot help observing, however, how strange it is to say that disparate-impact regulations are ‘inspired by,’ at the service of, and inseparably intertwined with’ Sec. 601 * * * when Sec. 601 permits the very behavior that the regulations forbid”). The memorandum, however, made clear that DOJ disagreed with the commentators’ interpretation. *Sandoval* holds principally that there is no private right of action

Pursuant to Executive Order 13166, DOT developed its own guidance document for recipients and initially issued it on January 22, 2001. "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries." However, in light of the public comments received and the Assistant Attorney General's October 26, 2001, clarifying memorandum, DOT has revised its LEP guidance to ensure greater consistency with DOJ's revised LEP guidance, published June 18, 2002, and other agencies' revised LEP guidance. 67 FR 117 (June 18, 2002).

III. Who Is Covered?

Pursuant to Executive Order 13166, the meaningful access requirement of Title VI, the Title VI regulations, and the four-factor analysis set forth in the DOJ's revised LEP Guidance, 67 FR 117 (June 18, 2002), apply to the programs and activities of Federal agencies, including DOT. Federal financial assistance includes grants, cooperative agreements, training, use of equipment, donations of surplus property, and other assistance. Recipients of DOT assistance include, for example:

- State departments of transportation.
- State motor vehicle administrations.
- Airport operators.
- State highway safety programs.
- Metropolitan planning organizations.
- Regional transportation agencies.
- Regional, state, and local transit operators.
- Public safety agencies.⁶
- Hazardous materials transporters and other first responders.
- State and local agencies with emergency transportation responsibilities, for example, the transportation of supplies for natural disasters, planning for evacuations, quarantines, and other similar action.

Subrecipients likewise are covered when Federal funds are passed through from one recipient to a subrecipient.

Coverage extends to a recipient's entire program or activity, i.e., to all parts of a recipient's operations. This is true even if only one part of the recipient receives the Federal assistance.

Example: DOT provides assistance to a state department of transportation to

rehabilitate a particular highway on the National Highway System. All of the operations of the entire state department of transportation—not just the particular highway program—are covered by the DOT guidance.

Finally, some recipients operate in jurisdictions in which English has been declared the official language. Nonetheless, these recipients continue to be subject to Federal nondiscrimination requirements, including those applicable to the provision of federally assisted services to persons with limited English proficiency.

IV. Who Is a Limited English Proficient Individual?

Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be limited English proficient, or "LEP," and, therefore, are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounter. However, if a Federal agency were to decide to terminate Federal funds based on noncompliance with Title VI or its regulations, only funds directed to the particular program or activity that is out of compliance would be terminated. 42 U.S.C. 2000d-1.

Examples of populations likely to include LEP persons who are served or encountered by DOT recipients and should be considered when planning language services include, but are not limited to:

- Public transportation passengers.
- Persons who apply for a driver's license at a state department of motor vehicles.
- Persons subject to the control of state or local transportation enforcement authorities, including, for example, commercial motor vehicle drivers.
- Persons served by emergency transportation response programs.
- Persons living in areas affected or potentially affected by transportation projects.
- Business owners who apply to participate in DOT's Disadvantaged Business Enterprise program.

V. How Does a Recipient Determine the Extent of Its Obligation to Provide LEP Services?

Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors: (1) The number or

proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the recipient to people's lives; and (4) the resources available to the recipient and costs. As indicated above, the intent of this policy guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small businesses, small local governments, or small nonprofit organizations.

After applying the above four-factor analysis to the various kinds of contacts a recipient has with the public, the recipient may conclude that different language assistance measures are sufficient to ensure meaningful access to the different types of programs or activities in which it engages. For instance, some of a recipient's activities will have a greater impact on or contact with LEP persons than others, and thus may require more in the way of language assistance. The flexibility that recipients have in addressing the needs of the LEP populations they serve does not diminish, and should not be used to minimize, the obligation that those needs be addressed. DOT recipients should apply the following four factors to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons.

(1) *The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population*

The greater the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population, the more likely language services are needed. Ordinarily, persons "eligible to be served, or likely to be directly affected, by" a recipient's programs or activities are those who are in fact, served or encountered in the eligible service population. This population will be program-specific, and includes persons who are in the geographic area that is part of the recipient's service area. However, where, for instance, a motor vehicle office serves a large LEP population, the appropriate service area is that served by the office, and not the entire population served by the department. Where no service area has previously been approved, the relevant service area may be that which is approved by state or local authorities or designated by the recipient itself,

to enforce Title VI disparate impact regulations. It did not address the validity of those regulations or Executive Order 13166 or otherwise limit the authority and responsibility of Federal agencies to enforce their own Title VI regulations.

⁶ Recipients should review DOJ's LEP Guidance for specific examples of how the four-factor analysis applies to interactions between funded law enforcement authorities and first responders.

provided that these designations do not themselves discriminatorily exclude certain populations. When considering the number or proportion of LEP individuals in a service area, recipients should consider LEP parent(s) whose English proficient or LEP minor children and dependents encounter the services of DOT recipients.

Recipients should first examine their prior experiences with LEP individuals and determine the breadth and scope of language services that are needed. In conducting this analysis, it is important to: Include language minority populations that are eligible beneficiaries of recipients' programs, activities, or services but may be underserved because of existing language barriers; and consult additional data, for example, from the census, school systems and community organizations, and data from state and local governments, community agencies, school systems, religious organizations, and legal aid entities.⁷

(2) The Frequency With Which LEP Individuals Come in Contact With the Program, Activity, or Service

Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance, as the more frequent the contact, the more likely enhanced language services will be needed. The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that serves LEP persons daily. Recipients should also consider the frequency of different types of language contacts, as frequent contacts with Spanish-speaking people who are LEP may require certain assistance in Spanish, while less frequent contact with different language groups may suggest a different and/or less intensified solution. If an LEP individual accesses a program or service on a daily basis, a recipient has greater duties than if the same individual's program or activity contact is unpredictable or infrequent. However, even recipients that serve LEP persons on an unpredictable or infrequent basis should use this balancing analysis to determine what to do if an LEP

individual seeks services under the program in question. This plan need not be intricate. It may be as simple as being prepared to use a commercial telephonic interpretation service to obtain immediate interpreter services. Additionally, in applying this standard, recipients should consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

(3) The Nature and Importance of the Program, Activity, or Service Provided by the Program

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. The obligations to communicate rights to an LEP person who needs public transportation differ, for example, from those to provide recreational programming. A recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Decisions by a Federal, state, or local entity to make an activity compulsory, such as requiring a driver to have a license, can serve as strong evidence of the importance of the program or activity.

(4) The Resources Available to the Recipient and Costs

A recipient's level of resources and the costs imposed may have an impact on the nature of the steps it should take in providing meaningful access for LEP persons. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. In addition, "reasonable steps" may cease to be reasonable where the costs imposed substantially exceed the benefits. Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns.

Resource and cost issues, however, can often be reduced by technological advances, reasonable business practices, and the sharing of language assistance materials and services among and between recipients, advocacy groups, affected populations, and Federal agencies. For example, the following practices may reduce resource and cost issues where appropriate:

- Training bilingual staff to act as interpreters and translators.
- Information sharing through industry groups.

- Telephonic and video conferencing interpretation services.
- Translating vital documents posted on Web sites.
- Pooling resources and standardizing documents to reduce translation needs.
- Using qualified translators and interpreters to ensure that documents need not be "fixed" later and that inaccurate interpretations do not cause delay or other costs.
- Centralizing interpreter and translator services to achieve economies of scale.⁸
- Formalized use of qualified community volunteers.

Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well substantiated before using this factor as a reason to limit language assistance. Such recipients may find it useful to be able to articulate, through documentation or in some other reasonable manner, their process for determining that language services would be limited based on resources or costs.

This four-factor analysis necessarily implicates the "mix" of LEP services required. Recipients have two main ways to provide language services: Oral interpretation either in person or via telephone interpretation service (hereinafter "interpretation") and written translation (hereinafter "translation"). Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons to access through commercially available telephonic interpretation services. Written translation, likewise, can range from translation of an entire document to translation of a short description of the document. In some cases, language services should be made available on an expedited basis while in others the LEP individual may be referred to another office of the recipient for language assistance.

The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, a motor vehicle department or an emergency hazardous material clean-up team in a largely Hispanic neighborhood may need immediate oral interpreters available and should give serious consideration to hiring bilingual staff (of course, many such departments have already made these arrangements). Additionally, providing public

⁷ The focus of the analysis is on lack of English proficiency, not the ability to speak more than one language. Note that demographic data may indicate the most frequently spoken languages other than English and the percentage of people who speak that language but speak or understand English less than well. People who are also proficient in English may speak some of the most commonly spoken languages other than English.

⁸ Small recipients with limited resources may find that entering into a bulk telephonic interpretation service contract will prove cost effective.

transportation access to LEP persons is crucial. An LEP person's inability to utilize effectively public transportation may adversely affect his or her ability to obtain health care, or education, or access to employment. In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be low and the costs and resources needed to provide language services may be high—such as in the case of a voluntary general public tour of an airport or train station—in which pre-arranged language services for the particular service may not be necessary. Regardless of the type of language services provided, quality and accuracy of those services can be critical. Recipients have substantial flexibility in determining the appropriate mix.

VI. Selecting Language Assistance Services

Recipients may provide language services in either oral or written form. Quality and accuracy of the language service is critical in order to avoid potential serious consequences to the LEP person and to the recipient.

A. Oral Language Services (Interpretation)

Interpretation is the act of listening to something in one language (source language) and orally translating it into another language (target language). Where interpretation is needed and is reasonable, recipients should consider some or all of the options below for providing competent interpreters in a timely manner.

Competence of Interpreters. When providing oral assistance, recipients should ensure competency of the language service provider, no matter which of the strategies outlined below are used. Competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret into and out of English. Likewise, they may not be able to do written translations.

Competency to interpret, however, does not necessarily mean formal certification as an interpreter, although certification is helpful. When using interpreters, recipients should ensure that they:

- Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting

(e.g., consecutive, simultaneous, summarization, or sight translation).

- Have knowledge in both languages of any specialized terms or concepts peculiar to the recipient's program or activity and of any particularized vocabulary and phraseology used by the LEP person;⁹ and understand and follow confidentiality and impartiality rules to the same extent as the recipient employee for whom they are interpreting and/or to the extent their position requires.

- Understand and adhere to their role as interpreters without deviating into a role as counselor, legal advisor, or other roles.

Additionally, some recipients may have their own requirements for interpreters, as individual rights may depend on precise, complete, and accurate interpretations or translations. In some cases, interpreters may be required to demonstrate that their involvement in a matter would not create a conflict of interest.

While quality and accuracy of language services are critical, they are nonetheless part of the appropriate mix of LEP services required. The quality and accuracy of language services as part of disaster relief programs, or in the provision of emergency supplies and services, for example, must be extraordinarily high, while the quality and accuracy of language services in a bicycle safety course need not meet the same exacting standards.

Finally, when interpretation is needed and is reasonable, it should be provided in a timely manner in order to be effective. Generally, to be "timely," the recipient should provide language assistance at a time and place that avoids the effective denial of the service, benefit, or right at issue or the imposition of an undue burden on or delay in important rights, benefits, or services to the LEP person. For example, when the timeliness of services is important, such as when an LEP person needs access to public transportation, a DOT recipient does not provide meaningful LEP access when it has only one bilingual staff member available one day a week to provide the service.

⁹ Many languages have "regionalisms," or differences in usage. For instance, a word that may be understood to mean something in Spanish for someone from Cuba may not be so understood by someone from Mexico. In addition, because there may be languages that do not have an appropriate direct interpretation of certain legal terms, the interpreter should be able to provide the most appropriate interpretation. The interpreter should make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate.

Hiring Bilingual Staff. When particular languages are encountered often, hiring bilingual staff offers one of the best, and often most economical, options. Recipients can, for example, fill public contact positions, such as transit station managers, department of motor vehicle service representatives, security guards, or program directors, with staff that are bilingual and competent to communicate directly with LEP persons in their language. If bilingual staff members are also used to interpret between English speakers and LEP persons, or to orally interpret written documents from English into another language, they should be competent in the skill of interpreting, as discussed above. Effective management strategies, including any appropriate adjustments in assignments and protocols for using bilingual staff, can ensure that bilingual staff members are fully and appropriately utilized. When bilingual staff cannot meet all of the language service obligations of the recipient, the recipient should turn to other options.

Hiring Staff Interpreters. Hiring interpreters may be most helpful where there is a frequent need for interpreting services in one or more languages. Depending on the facts, sometimes it may be necessary and reasonable to provide on-site interpreters to facilitate accurate and meaningful communication with an LEP person.

Contracting for Interpreters. Contract interpreters may be a cost-effective option when there is no regular need for a particular language skill. In addition to commercial and other private providers, many community-based organizations and mutual assistance associations provide interpretation services for particular languages. Contracting with interpreters and providing training regarding the recipient's programs and processes to these organizations can be a cost-effective option for providing language services to LEP persons from those language groups.

Using Telephone Interpreter Lines. Telephone interpreter service lines often offer prompt interpreting assistance in many different languages. They may be particularly appropriate where the mode of communicating with an English proficient person would also be over the phone. Although telephonic interpretation services are useful in many situations, it is important to ensure that, when using such services, the interpreters are competent to interpret any technical or legal terms specific to a particular program that may be important parts of the conversation. Nuances in language and non-verbal communication can often assist an

interpreter and cannot be recognized over the phone. The issues discussed above regarding interpreter competency are also relevant to telephonic interpreters. Video conferencing and allowing interpreters to review relevant documents in advance may also be helpful.

Using Community Volunteers. In addition to consideration of bilingual staff, staff interpreters, or contract interpreters (either in-person or by telephone) as options to ensure meaningful access by LEP persons, use of recipient-coordinated community volunteers may provide a cost-effective supplemental language assistance strategy under appropriate circumstances. They may be particularly useful in providing language access for a recipient's less critical programs and activities. To the extent the recipient relies on community volunteers, it is often best to use volunteers who are trained in the information or services of the program and can communicate directly with LEP persons in their language. Just as with all interpreters, community volunteers used to interpret between English speakers and LEP persons, or to orally translate documents, should be competent in the skill of interpreting and knowledgeable about applicable confidentiality and impartiality rules. Recipients should consider formal arrangements with community-based organizations that provide volunteers to address these concerns and help ensure that services are available more regularly.

Use of Family Members, Friends, Other Customers/Passengers as Interpreters. Although recipients should not plan to rely on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities, where LEP persons so desire, they should be permitted to use an interpreter of their choice at their own expense (whether a professional interpreter, family member, or friend) in place of or as a supplement to the free language services expressly offered by the recipient. LEP persons may feel more comfortable when a trusted family member or friend acts as an interpreter. In addition, in exigent circumstances that are not reasonably foreseeable, temporary use of interpreters not provided by the recipient may be necessary. However, with proper planning and implementation, recipients should be able to avoid most such situations.

Recipients, however, should take special care to ensure that family members, legal guardians, caretakers, and other informal interpreters are

appropriate in light of the circumstances and subject matter of the program, service or activity, including protection of the recipient's own administrative, mission-related, or enforcement interest in accurate interpretation. In many circumstances, family members (especially children) or friends are not competent to provide quality and accurate interpretations. Issues of confidentiality, privacy, or conflict of interest may also arise. LEP individuals may feel uncomfortable revealing or describing sensitive or confidential information to a family member, friend, or member of the local community. In addition, such informal interpreters may have a personal connection to the LEP person or an undisclosed conflict of interest, such as the desire to obtain an LEP person's personal identification information, for example, in the case of an LEP person attempting to apply for a driver's license. Thus, DOT recipients should generally offer free interpreter services to the LEP person. This is particularly true in situations in which health, safety, or access to important benefits and services are at stake, or when credibility and accuracy are important to protect an individual's rights and access to important services.

An example of such a case is when no interpreters, or bilingual or symbolic signs are available in a state department of motor vehicles. In an effort to apply for a driver's license, vehicle registration, or parking permit, an LEP person may be forced to enlist the help of a stranger for translation. This practice may raise serious issues of competency or confidentiality and may compromise the personal security of the LEP person, as the stranger could have access to the LEP person's personal identification information, such as his or her name, phone number, address, social security number, driver's license number (if different from the social security number), and medical information. However, there are situations where proper application of the four factors would lead to a conclusion that recipient-provided services are not necessary. An example of this is a voluntary educational tour of an airport, or a train or bus station. There, the importance and nature of the activity may be relatively low and unlikely to implicate issues of confidentiality, conflict of interest, or the need for accuracy. In addition, the resources needed and costs of providing language services may be high. In such a setting, an LEP person's use of family, friends, or others to interpret may be appropriate.

If the LEP person voluntarily chooses to provide his or her own interpreter, a

recipient should consider whether a record of that choice and of the recipient's offer of assistance is appropriate. Where precise, complete, and accurate interpretations or translations of information and/or testimony are critical, or where the competency of the LEP person's interpreter is not established, a recipient might decide to provide its own, independent interpreter, even if an LEP person wants to use his or her own interpreter as well. Extra caution should be exercised when the LEP person chooses to use a minor as the interpreter. While the LEP person's decision should be respected, there may be additional issues of competency, confidentiality, or conflict of interest when the choice involves using children as interpreters. The recipient should take care to ensure that the LEP person's choice is voluntary, that the LEP person is aware of the possible problems if the preferred interpreter is a minor child, and that the LEP person knows that a competent interpreter could be provided by the recipient at no cost.

B. Written Language Services (Translation)

Translation is the replacement of a written text from one language (source language) into an equivalent written text in another language (target language).

What Documents Should be Translated? After applying the four-factor analysis, a recipient may determine that an effective LEP plan for its particular program or activity includes the translation of vital written materials into the language of each frequently encountered LEP group eligible to be served and/or likely to be affected by the recipient's program. Such written materials could include, for example:

- Driver's license, automobile registration, and parking permit forms.
- Parking tickets, citation forms, and violation or deficiency notices, or pertinent portions thereof.
- Emergency transportation information.
- Markings, signs, and packaging for hazardous materials and substances.
- Signs in bus and train stations, and in airports.
- Notices of public hearings regarding recipients' proposed transportation plans, projects, or changes, and reduction, denial, or termination of services or benefits.
- Signs in waiting rooms, reception areas, and other initial points of entry.
- Notices advising LEP persons of free language assistance and language identification cards for staff (i.e., "I speak" cards).

- Statements about the services available and the right to free language assistance services in appropriate non-English languages, in brochures, booklets, outreach and recruitment information, and other materials routinely disseminated to the public.

- Written tests that do not assess English-language competency, but test competency for a particular license, job, or skill for which knowing English is not required.

- Applications, or instructions on how to participate in a recipient's program or activity or to receive recipient benefits or services.

- Consent forms.

Whether or not a document (or the information it solicits) is "vital" may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not accurate or timely. For instance, applications for bicycle safety courses should not generally be considered vital, whereas access to safe driving handbooks could be considered vital. Where appropriate, recipients are encouraged to create a plan for consistently determining, over time and across their various activities, what documents are "vital" to the meaningful access of the LEP populations they serve.

Classifying a document as vital or non-vital is sometimes difficult, especially in the case of outreach materials like brochures or other information on rights and services. Awareness of rights or services is an important part of "meaningful access," as lack of awareness may effectively deny LEP individuals meaningful access. Thus, where a recipient is engaged in community outreach efforts in furtherance of its programs and activities, it should regularly assess the needs of the populations frequently encountered or affected by the program or activity to determine whether certain critical outreach materials should be translated. Community organizations may be helpful in determining what outreach materials may be most helpful to translate, and some such translations may be made more effective when done in tandem with other outreach methods, including utilizing the ethnic media, schools, and religious and community organizations to spread a message.

Sometimes a very large document may include both vital and non-vital information. This may also be the case when the title and a phone number for obtaining more information on the contents of the document in frequently encountered languages other than English is critical, but the document is

sent out to the general public and cannot reasonably be translated into many languages. Thus, vital information may include, for instance, providing information in appropriate languages regarding where an LEP person might obtain an interpretation or translation of the document.

Into What Languages Should Documents be Translated? The extent of the recipient's obligation to provide written translations of documents should be determined by the recipient on a case-by-case basis, looking at the totality of the circumstances in light of the four-factor analysis. Because translation is a one-time expense, consideration should be given to whether the upfront cost of translating a document (as opposed to oral interpretation) should be amortized over the likely lifespan of the document when applying this four-factor analysis.

The languages spoken by the LEP individuals with whom the recipient has frequent contact determine the languages into which vital documents should be translated. However, because many DOT recipients serve communities in large cities or across an entire state and regularly serve areas with LEP populations that speak dozens and sometimes more than 100 languages, it would be unrealistic to translate all written materials into each language. Although recent technological advances have made it easier for recipients to store and share translated documents, such an undertaking would incur substantial costs and require substantial resources. However, well-substantiated claims of lack of resources to translate all such documents into dozens or more than 100 languages do not necessarily relieve the recipient of the obligation to translate vital documents into at least several of the more frequently encountered languages. The recipient should then set benchmarks for continued translations into the remaining languages over time.

Safe Harbor. Many recipients would like to ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. Paragraphs (a) and (b) below outline the circumstances that can provide a "safe harbor" for recipients regarding the requirements for translation of written materials. A "safe harbor" means that 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) 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 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.

Competence of Translators. As with oral interpreters, translators of written documents should be competent. Many of the same considerations apply. However, the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate, and vice versa.

Particularly where vital documents are being translated, competence can often be achieved by use of certified translators. Certification or accreditation may not always be possible or necessary.¹⁰ Competence can often be ensured by having a second, independent translator check the work of the primary translator. Alternatively, one translator can translate the document, and a second, independent

¹⁰ For those languages in which no formal accreditation exists, a particular level of membership in a professional translation association can provide some indicator of professional competence.

translator could translate it back into English to check that the appropriate meaning has been conveyed. This is called "back translation."

Translators should understand the expected reading level of the audience and, where appropriate, have fundamental knowledge about the target language group's vocabulary and phraseology. Sometimes direct translation of materials results in a translation that is written at a much more difficult level than the English-language version or has no relevant equivalent meaning.¹¹ Community organizations may be able to help consider whether a document is written at an appropriate level for the audience. Likewise, consistency in the words and phrases used to translate terms of art, legal, or other technical or programmatic terms helps avoid confusion by LEP individuals and may reduce costs. Creating or using already created glossaries of commonly used terms may be useful for LEP persons and translators and cost effective for the recipient. Providing translators with examples of previous accurate translations of similar material by other recipients or Federal agencies may also be helpful.

While quality and accuracy of translation services are critical, they are nonetheless part of the appropriate mix of LEP services required. For instance, documents that are simple and have no important consequences for LEP persons who rely on them may be translated by translators who are less skilled than important documents with legal or other information upon which reliance has important consequences (including, *e.g.*, driver's license written exams and documents regarding important benefits or services, or health, safety, or legal information). The permanent nature of written translations, however, imposes additional responsibility on the recipient to ensure that the quality and accuracy permit meaningful access by LEP persons.

VII. Elements of an Effective Implementation Plan on Language Assistance for LEP Persons

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an

¹¹ For instance, although there may be languages that do not have a direct translation of some legal, technical, or program-related terms, the translator should be able to provide an appropriate translation. The translator should likely also make the recipient aware of this. Recipients can then work with translators to develop a consistent and appropriate set of descriptions of those terms in that language that can be used again, when appropriate.

implementation plan to address the identified needs of the LEP populations it serves. Although recipients have considerable flexibility in developing such a plan, maintaining a periodically updated written plan on language assistance for LEP persons ("LEP plan") for use by recipient employees serving the public would be an appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. Such written plans may also provide additional benefits to a recipient's managers in the areas of training, administration, planning, and budgeting. Thus, recipients may choose to document the language assistance services in their plan, and how staff and LEP persons can access those services. Certain DOT recipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities. In that event, a recipient should consider alternative ways to reasonably articulate a plan for providing meaningful access. Early input from entities such as schools, religious organizations, community groups, and groups working with new immigrants can be helpful in forming this planning process. The following five steps may be helpful in designing an LEP plan and are typically part of effective implementation plans.

(1) Identifying LEP Individuals Who Need Language Assistance

There should be an assessment of the number or proportion of LEP individuals eligible to be served or encountered and the frequency of encounters pursuant to the first two factors in the four-factor analysis.

One way to determine the language of communication is to use language identification cards (or "I speak cards"), which invite LEP persons to identify their language needs to staff. Such cards, for instance, might say, "I speak Spanish" in both Spanish and English, or "I speak Vietnamese" in both English and Vietnamese. To reduce costs of compliance, the Federal Government has made a set of these cards available on the Internet. The Census Bureau's "I speak card" can be found and downloaded at <http://www.usdoj.gov/crt/cor/13166.htm>.

When records are normally kept of past interactions with members of the public, the language of the LEP person can be included as part of the record. In

addition to helping employees identify the language of LEP persons they encounter, this process will help in future applications of the first two factors of the four-factor analysis. In addition, posting notices in commonly encountered languages notifying LEP persons of language assistance will encourage them to self-identify.

(2) Language Assistance Measures

An effective LEP plan would likely include information about the ways in which language assistance will be provided. For instance, recipients may want to include information on at least the following:

- Types of language services available.
- How recipient staff can obtain those services.
- How to respond to LEP callers.
- How to respond to written communications from LEP persons.
- How to respond to LEP individuals who have in-person contact with recipient staff.
- How to ensure competency of interpreters and translation services.

(3) Training Staff

Staff members should know their obligations to provide meaningful access to information and services for LEP persons, and all employees in public contact positions should be properly trained. An effective LEP plan would likely include training to ensure that:

- Staff knows about LEP policies and procedures.
- Staff having contact with the public (or those in a recipient's custody) is trained to work effectively with in-person and telephone interpreters.

Recipients may want to include this training as part of the orientation for new employees. Recipients have flexibility in deciding the manner in which the training is provided, and the more frequent the contact with LEP persons, the greater the need will be for in-depth training. However, management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so they can reinforce its importance and ensure its implementation by staff.

(4) Providing Notice to LEP Persons

Once an agency has decided, based on the four factors, that it will provide language services, it is important that the recipient notify LEP persons of services available free of charge. Recipients should provide this notice in languages LEP persons would understand. Examples of notification that recipients should consider include:

- Posting signs in intake areas and other entry points. This is important so that LEP persons can learn how to access those language services at initial points of contact. This is particularly true in areas with high volumes of LEP persons seeking access to certain transportation safety information, or other services and activities run by DOT recipients.¹²

- Stating in outreach documents that language services are available from the agency. Announcements could be in, for instance, brochures, booklets, and in outreach and recruitment information. These statements should be translated into the most common languages and could be “tagged” onto the front of common documents.

- Working with community-based organizations and other stakeholders to inform LEP individuals of the recipients’ services, including the availability of language assistance services.

- Using an automated telephone voice mail attendant or menu system. The system could be in the most common languages encountered. It should provide information about available language assistance services and how to get them.

- Including notices in local newspapers in languages other than English.

- Providing notices on non-English-language radio and television stations about the available language assistance services and how to get them.

- Providing presentations and/or notices at schools and religious organizations.

(5) Monitoring and Updating the LEP Plan

Recipients should, where appropriate, have a process for determining, on an ongoing basis, whether new documents, programs, services, and activities need to be made accessible for LEP individuals, and they may want to provide notice of any changes in services to the LEP public and to employees.

In addition, recipients should consider whether changes in demographics, types of services, or other needs require annual reevaluation of their LEP plan. Less frequent reevaluation may be more appropriate

where demographics, services, and needs are more static. One good way to evaluate the LEP plan is to seek feedback from the community.

In their reviews, recipients may want to consider assessing changes in:

- Current LEP populations in the service area or population affected or encountered.
- Frequency of encounters with LEP language groups.
- Nature and importance of activities to LEP persons.

- Availability of resources, including technological advances and sources of additional resources, and the costs imposed.

- Whether existing assistance is meeting the needs of LEP persons.

- Whether staff knows and understands the LEP plan and how to implement it.

- Whether identified sources for assistance are still available and viable.

In addition to these five elements, effective plans set clear goals, management accountability, and opportunities for community input and planning throughout the process.

VIII. Voluntary Compliance Effort

The goal for Title VI and Title VI regulatory enforcement is to achieve voluntary compliance. DOT enforces Title VI as it applies to recipients’ responsibilities to LEP persons through the procedures provided for in DOT’s Title VI regulations (49 CFR part 21, portions of which are provided in Appendix A).

The Title VI regulations provide that DOT will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI or its regulations. If the investigation results in a finding of compliance, DOT will inform the recipient in writing of this determination, including the basis for the determination. DOT uses voluntary mediation to resolve most complaints. However, if a case is fully investigated and results in a finding of noncompliance, DOT must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance. It must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, DOT must secure compliance through the termination of Federal assistance after the DOT recipient has been given an opportunity for an administrative hearing and/or by referring the matter to DOJ with a recommendation that appropriate proceedings be brought to enforce the

laws of the United States. In engaging in voluntary compliance efforts, DOT proposes reasonable timetables for achieving compliance and consults with and assists recipients in exploring cost-effective ways of coming into compliance. In determining a recipient’s compliance with the Title VI regulations, DOT’s primary concern is to ensure that the recipient’s policies and procedures provide meaningful access for LEP persons to the recipient’s programs, activities, and services.

While all recipients must work toward building systems that will ensure access for LEP individuals, DOT acknowledges that the implementation of a comprehensive system to serve LEP individuals is a process and that a system will evolve over time as it is implemented and periodically reevaluated. As recipients take reasonable steps to provide meaningful access to federally assisted programs and activities for LEP persons, DOT will look favorably on intermediate steps recipients take that are consistent with this guidance, and that, as part of a broader implementation plan or schedule, move their service delivery system toward providing full access to LEP persons. This does not excuse noncompliance but instead recognizes that full compliance in all areas of a recipient’s activities and for all potential language minority groups may reasonably require a series of implementing actions over a period of time. However, in developing any phased implementation schedule, DOT recipients should ensure that the provision of appropriate assistance for significant LEP populations or with respect to activities having a significant impact on the health, safety, legal rights, or livelihood of beneficiaries is addressed first. Recipients are encouraged to document their efforts to provide LEP persons with meaningful access to federally assisted programs and activities.

IX. Promising Practices

The following examples are provided as illustrations of the responses of some recipients to the need to provide services to LEP persons, and are meant to be interesting and useful examples of ways in which LEP recipients can provide language services. Recipients are responsible for ensuring meaningful access to all portions of their program or activity, not just the portions to which DOT assistance is targeted. So long as the language services are accurate, timely, and appropriate in the manner outlined in this guidance, the types of promising practices summarized below can assist recipients in moving toward

¹² For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered and should explain how to get the necessary language assistance. The Social Security Administration has made such signs available at <http://www.ssa.gov/multilanguage/langlist1.htm>. DOT recipients could, for example, modify these signs for use in programs, activities, and services.

meeting the meaningful access requirements of Title VI and the Title VI regulations. These examples do not, however, constitute an endorsement by DOT, which will evaluate recipients' situations on a case-by-case basis using the factors described elsewhere in this guidance.

Language Banks. In several parts of the country, both urban and rural, community organizations and providers have created language banks that dispatch competent interpreters, at reasonable rates, to participating organizations, reducing the need to have on-staff interpreters for low-demand languages. This approach is particularly appropriate where there is a scarcity of language services or where there is a large variety of language needs but limited demand for any particular language.

Language Support Offices. A state social services agency has established an "Office for Language Interpreter Services and Translation." This office tests and certifies all in-house and contract interpreters, provides agency-wide support for translation of forms, client mailings, publications, and other written materials into non-English languages, and monitors the policies of the agency and its vendors that affect LEP persons.

Some recipients have established working liaisons with local community colleges to educate the LEP community in transportation matters. One city formed a multilingual/multi-agency task force to address language barriers and the concerns of the affected communities. The task force completed a survey of city staff with multilingual skills in order to identify employees willing to serve as interpreters and is preparing lists of community and cultural organizations.

Use of Technology. Some recipients use their Internet and/or intranet capabilities to store translated documents online, which can be retrieved as needed and easily shared with other offices. For example, a multilanguage gateway on a Web page could be developed for LEP persons and the public to access documents translated into other languages.

Telephone Information Lines and Hotlines. Recipients have subscribed to telephone-based interpretation services and established telephone information lines in common languages to instruct callers on how to leave a recorded message that will be answered by someone who speaks the caller's language. For example, a recipient may choose to adopt a program similar to the National Highway Traffic Safety Administration's (NHTSA's) Auto

Safety Hotline, which has four representatives who speak Spanish and are available during normal hotline business hours (Mon.–Fri., 8 a.m.–10 p.m. eastern time).¹³

Signage and Other Outreach.

Recipients have provided information about services, benefits, eligibility requirements, and the availability of free language assistance, in appropriate languages by (a) posting signs and placards with this information in public places such as grocery stores, bus shelters, and subway stations; (b) putting notices in print media and on radio and television stations that serve LEP groups or broadcasting in languages other than English;¹⁴ (c) airing videos and public service announcements for non-English-speaking residents; (d) placing flyers and signs in the offices of community-based organizations that serve large populations of LEP persons; (e) distributing information at places of worship, ethnic shopping areas, and other gathering places for LEP groups; (f) using posters with appropriate languages designed to reach potential beneficiaries; and (g) developing pictures, images, figures, or icons that could be understandable alternatives to written words.

DOT agencies and recipients have implemented numerous language access services:

- DOT's Pipeline and Hazardous Materials Safety Administration (formerly known as the Research and Special Programs Administration), at 49 CFR §§ 192.616 and 195.440, requires pipeline officers to establish a program for effective reporting by the public of gas pipeline emergencies to the operator or public officials, also providing that the program must be conducted in English and other common languages.¹⁵ We recommend that recipients consider

¹³ The evening hours permit people from the West Coast (where a significant number of LEP persons reside) to call after work, providing an option for instructions in Spanish, a separate queue, and Spanish-speaking operators.

¹⁴ Notifications should be delivered in advance of scheduled meetings or events to allow time for persons to request accommodation and participate.

¹⁵ "Each [pipeline] operator shall establish a continuing educational program to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator or the appropriate public officials. The program and the media used should be as comprehensive as necessary to reach all areas in which the operator transports gas. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area." 49 CFR § 192.616. Section 195.440 of title 49, Code of Federal Regulations, imposes similar requirements in the case of hazardous liquid or carbon dioxide pipeline emergencies.

the appropriateness of such an approach to meet their individual service provision needs.

- DOT's National Highway Traffic Safety Administration (NHTSA) has translated the National Standardized Child Passenger Safety Training Program curriculum into Spanish. The course, designed to help communities work with parents and caregivers on the proper installation of child safety seats, has been pilot tested and is scheduled to be available to the public by early 2006 through many national Latino organizations and State Highway Safety Offices.

- DOT's Federal Motor Carrier Safety Administration (FMCSA) division offices in California, Arizona, New Mexico, Texas, and Puerto Rico employ personnel conversant in Spanish to communicate the agency's critical safety regulations.

- The Del Rio, Texas, Police Department implemented the El Protector program in Del Rio and developed public service broadcasts in Spanish about traffic safety issues such as loading and unloading school buses, drinking and driving, and pedestrian safety.

- Emergency Medical Services (EMS) staff in Los Angeles reported that their system is equipped to receive calls in more than 150 languages, although Spanish is the most frequent language used by 911 callers who do not speak English.

- District of Columbia DMV information, forms, and support material are available in German, Spanish, French, Russian, Dutch, and Portuguese and can be downloaded from the division's Web site. The DC DMV also provides a "City Services Guide" in Chinese, Korean, Spanish, and Vietnamese. DC's "Click It or Ticket" program material and information on child safety seat loaner programs and fitting station locations are available in Spanish.

- The New Jersey Department of Motor Vehicles administers driver's license tests in more than 15 languages, including Arabic, French, Greek, Korean, Portuguese, and Turkish.¹⁶

- In North Dakota, while the Traffic Safety Office acknowledges a limited minority population requiring assistance with translation, the Driver Licensing Unit offers the option of an oral test in Spanish.

- The Iowa Department of Transportation (IDOT) provides a Spanish version of the Commercial

¹⁶ DOT recommends that state agencies share such information, to avoid the necessity of each agency performing every translation.

Driver's License knowledge test using a touch screen computer, and study guides of the Iowa Driver's Manual in Albanian, Bosnian, Russian, Vietnamese, and Korean. IDOT established a liaison with a local community college to provide education for Bosnian refugees concerning the Commercial Motor Vehicle driving course.¹⁷

- The Wisconsin DOT created a 3rd grade level study guide, the Motorist Study Manual Easy Reader, which was translated by the Janesville Literacy Council into Spanish. Wisconsin DOT also provides the regular 6th grade level version of the Reader in English, Spanish, and Hmong; a Motorcycle Study Manual in English and Spanish; and a CDL (Commercial Driver's License) Study Manual in English and Spanish. In addition, Knowledge and Highway Sign Tests are written in 13 languages other than English, recorded on audiocassette tapes in English and Spanish, or orally interpreted by bilingual staffers obtained from a roster of Wisconsin DOT employees who speak, read, or write foreign languages.

- The Idaho Office of Traffic and Highway Safety implemented a Spanish-language safety belt media campaign to educate its Hispanic community on the statewide "Click It, Don't Risk It!" program to boost seat belt use. Information appears in *Unido*, Idaho's largest Spanish-language newspaper, and warns all motorists to buckle up or risk receiving a safety belt citation.

- The New Mexico State Highway and Transportation Department, with Federal Highway Administration (FHWA) support, provides Spanish-language translations of its Right-of-Way Acquisition and Relocation brochures and also employs bilingual right-of-way agents to discuss project impacts in Spanish.

- The State of Oregon developed a report on multilingual services provided by state agencies. State agencies will use the final document to enhance their existing programs, including expanding communication efforts to serve and protect all Oregonians.

- The Texas DOT utilizes bilingual employees in its permit office to provide instruction and assistance to LEP Spanish-speaking truck drivers when providing permits to route overweight trucks through Texas. In its "On the Job Training Supportive Services Program" Texas DOT has used Spanish-language television to inform people who have

difficulty reading English of opportunities in the construction industry.

- When the Virginia DOT (VDOT) became aware that several Disadvantaged Business Enterprise (DBE) firms were about to be removed from construction projects in Northern Virginia because they required certified concrete inspectors, and that they could not comply because the concrete inspection test was only offered in English, it used supportive services funding from the Federal Highway Administration to translate the training manual and test material into Spanish. VDOT also provides tutoring for the DBE firms. The Virginia State Police maintains a written list of interpreters available statewide to troopers through the Red Cross Language Bank, as well as universities and local police departments.

- The Colorado State Patrol produced safety brochures in Spanish for farmers and ranchers. It has also printed brochures in Spanish pertaining to regulatory requirements for trucking firms.

- In preparation of its 20-year planning document, the Transportation Concept Report, the California DOT (Caltrans) held a public meeting titled "Planning the Future of Highway 1" in the largely Hispanic city of Guadalupe, through which Highway 1 runs. The meeting was broadcast on the local public access channel since many of the Spanish-speaking residents potentially affected by Highway 1 projects rely on the channel to receive public affairs information. Caltrans provided a Spanish-language interpreter during the meeting and also made its Spanish-speaking public affairs officer available to meet with participants individually.

- During project planning for interstate improvements along Interstate 710 in California, engineers presented "good" alternatives to the affected communities; however, the proposed highway expansion would have removed low-income homes in communities that are 98% Spanish speaking. To ensure that their concerns were heard, California identified the affected communities and facilitated the establishment of Community Advisory Committees that held bilingual workshops between engineers and the public.

- The Minnesota DOT authored a manual detailing its requirements to provide access to all residents of Minnesota under environmental justice standards, which included ideas such as publishing notices in non-English newspapers, printing notices in

appropriate languages, and providing interpreters at public meetings.

- In New Mexico, the Zuni Entrepreneurial Enterprises, Inc. (ZEE) Public Transportation Program designed the Zuni JOBLINKS program to develop, implement, and maintain a transportation system to link Native Americans and other traditionally unserved/underserved persons in the service area to needed vocational training and employment opportunities. Outreach for the program included radio announcements and posting of signs in English and Zuni that described ZEE's services and provided ZEE's phone number.

- Washington, DC's Metropolitan Area Transit Authority (WMATA) publishes pocket guides regarding its system in French, Spanish, German, and Japanese, and has a multilanguage website link.

- In North Dakota, Souris Basin Transportation (SBT) started using visual logos on the sides of the vehicles to help illiterate passengers identify the bus on which they were riding. Although the illiteracy rate has dropped among seniors, SBT kept the logos on its vehicles for use by the growing LEP population and also added volunteers who speak languages other than English (such as Spanish, German, Norwegian, Swedish, and French) available by phone to drivers and staff.

- New York City Transit MetroCard vending machines are located in every station and contain software that allows them to be programmed in three languages in addition to English, based upon area demographics. Currently, these machines are capable of providing information in Spanish, French, French Creole, Russian, Chinese, Japanese, Italian, Korean, Greek, and Polish.

- The Metropolitan Atlanta Rapid Transit Authority (MARTA) advertises upcoming service and fare changes in Spanish, Korean, Vietnamese, and Chinese language newspapers. MARTA also produces a bilingual (Spanish/English) service modifications booklet.

- The Fort-Worth Transportation Authority communicates information about service and fare changes in Spanish and English. It recruits Spanish-speaking customer service representatives and bus operators and has a community outreach liaison who is bilingual. The transit provider also provides a Spanish-language interpreter at all public meetings.

- The Salt Lake City International Airport maintains a list of 35 bilingual and multilingual employees who speak one of 19 languages (including three dialects of Chinese) and their contact information. The list is published in the

¹⁷ DOT especially recommends the idea of working with local community colleges to educate the LEP community in transportation matters.

Airport Information Handbook and provided to all airport employees. The airport also contracts with a telephonic interpretation service to provide on-demand telephone interpretation services to beneficiaries.

- The Port of Seattle has 16 "Pathfinders" on staff who act as guides and information sources throughout the Seattle Tacoma International Airport. A key selection criterion for Pathfinders is multilingual ability. The Pathfinders collectively speak 15 languages and are often called on to act as interpreters for travelers who do not speak English. Pathfinders greet all international flights and are assigned to do so based on language skills.

- Seattle Tacoma International Airport's trains carry announcements in English, Japanese, and Korean. The Port of Seattle contributed \$5,000 to the creation of the City of Tukwila's "Newcomers Guide," which is published in six languages and includes information about the airport and Airport Jobs, a referral service for employment at the airport.

The following is a sample notice that would be useful for recipients to add to the publications or signs for their programs, services, or activities, in order to notify LEP individuals of the availability of materials and services in other languages.

Sample Notice of Availability of Materials and Services

FOR FURTHER INFORMATION CONTACT: For hearing-impaired individuals or non-English-speaking attendees wishing to arrange for a sign language or foreign language interpreter, please call or fax [name] of [organization] at Phone: xxx-yyy-zzzz, TTY: xxx-yyy-zzzz, or Fax: xxx-yyy-zzzz."¹⁸

Appendix A to DOT Guidance

DOT's Title VI regulation (49 CFR part 21) states the following, in relevant part:

Sec. 21.5 Discrimination prohibited.

(a) General. 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 to which this part applies.

(b) Specific discriminatory actions prohibited:

(1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the grounds of race, color, or national origin.

(i) Deny a person any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject a person to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Deny a person an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program; or

(vi) Deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of person to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program; may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

* * * * *

(5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

* * * * *

(7) This part does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Aiken Municipal Airport, Aiken, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. 47153(c), notice is being given that the FAA is considering a request from the City of Aiken to waive the requirement that approximately 94 acres of surplus property, located at the Aiken Municipal Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before January 13, 2006.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Paul Lo, Program Manager, 1701 Columbia Ave., Suite 2-260, Atlanta, GA 30337-2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Larry G. Morris, P.E., Public Works Director of the City of Aiken at the following address: City of Aiken, Post Office Box 1177, Aiken, SC 29802.

FOR FURTHER INFORMATION CONTACT: Paul Lo, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2-260, Atlanta, GA 30337-2747, (404) 305-7145. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the City of Aiken to release approximately 94 acres of surplus property at the Aiken Municipal Airport. The property consists of several parcels roughly located East of Palmetto Farms Road, North of Reynolds Pond Road, and to the West of U.S. Highway 1. This property is currently shown on the approved Airport Layout Plan as aeronautical use land; however the property is currently not being used for aeronautical purposes and the proposed use of this property is compatible with airport operations. The City will ultimately sell lots on the property for future industrial and commercial use with proceeds of the sale providing funding for future airport development.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the request, notice

¹⁸ If there is a known and substantial LEP population that may be served by the program discussed in the notice, the notice should be in the appropriate non-English language.