

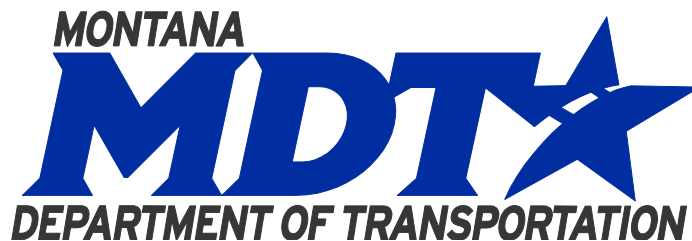


The State of Montana
DEPARTMENT OF TRANSPORTATION
Rail, Transit, and Planning Division

TITLE VI PLAN

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September 2021

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INTRODUCTION

It is the policy of the Montana Department of Transportation (MDT) to comply with the requirements of the Title VI Civil Rights Act of 1964 and all related nondiscrimination statutes, regulations, and laws (49 CFR part 21). All recipients of federal funds, including divisions within MDT and subrecipients must ensure that they are in full compliance with Title VI and all related regulations and directives in all programs and activities. To that end, no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under any of MDT's programs, policies, or activities. In addition, MDT also recognized further protections and protected classes outside of Title VI as expressed in Montana State Code annotated. These additional protections while outside of the scope of Title VI, receive equal protection in Montana. As such MDT requires MDT employees, contractors, and subrecipients to additionally not exclude from participation, deny benefit, or otherwise discriminate under any of MDT's programs, policies, or activities.

MDT intends to integrate into their programs and activities the consideration expressed in Federal Transit Administration (FTA) Circular C 4702.1B, Title VI Guidelines for Federal Transit Administration Recipients (October 1, 2012), and all applicable Executive Orders. MDT intends to fully comply with requirements of Executive Order 12898, Environmental Justice in Minority and Low-income Populations, to identify and avoid disproportionately high adverse effects on minority, low-income, low-income populations, and human health. MDT intends to fully comply with the requirements of Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), which sets forth compliance standards that recipients of federal funds must follow to ensure that the program and activities they normally provide in English are accessible to LEP persons and thus does not discriminate on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964, as amended, and its implemented regulations.

MDT is committed to ensuring that projects, programs and services are performed without discrimination, under Title VI. TO accomplish this, MDT functional units are responsible for ensuring nondiscrimination within their activities and programs. This is accomplished by:

- Incorporation of Title VI/Nondiscrimination requirements into appropriate manuals, directives, and regulations relating to the function unit's area of operation.
- Incorporation of Title VI/Nondiscrimination requirements into the designing and planning components of project development.
- Development of procedures to advise beneficiaries of all nondiscrimination laws.
- Maintain documents of beneficiaries of all non-discrimination activities.
- Ensure that manpower and budget appropriations are adequate to accomplish nondiscrimination commitments.
- Ensure that federally funded contracts contain Title VI/Nondiscrimination assurances, and the contractors comply with the assurances.

The Title VI/Nondiscrimination plan and program responsibilities include:

- Monitor Title VI/Nondiscrimination compliance by conducting Title VI reviews of subrecipients of Federal financial assistance.
- Conduct Title VI investigations when necessary
- Submit an annual update summarizing nondiscrimination accomplishments and planned activities to Federal Agencies.
- Conduct Title VI investigations, as needed.
- Provide technical assistance to department personnel, contractor, and subrecipients.
- Provide training to all MDT staff and contractor, and subrecipients on Title VI and nondiscrimination law and procedures.
- Review the Title VI/Nondiscrimination activities of each program to ensure compliance with nondiscrimination requirements.
- Consult with and keep the Director of MDT informed on Title VI/Nondiscrimination Programs and activities.

MDT has seven divisions that makeup Central Office and five districts. While the overall responsibility for MDT's Title VI Program lies with the Director of the agency, daily operations are coordinated through the Office of Civil Rights. The Office of Civil Rights Operations Chief has easy access to the Director of MDT and is responsible for the monitoring of the Department's Title VI activities and well as preparing and submitting required reports.

TITLE VI POLICY STATEMENT

Rail, Transit and Planning Division

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall on the grounds of race, color, or national origin be discriminated against under any program or activity receiving Federal financial assistance. The Federal Aid Highway Act of 1973 (23 U.S.C 324) added “sex” as a protected status in all Federal Highway Administration (FHWA) activities. The Title VI Program also refers, where appropriate, to other Federal civil rights statutes. The State of Montana forbids discrimination in many areas through its Constitution, codes and rules.

Title VI was amended by the Civil Rights Restoration Act of 1987 (P.L. 100-259), effective March 22, 1988, which added section 606, expanding the definition of the terms “programs and activities” to include all of the operations of an educational institution, government entity, or private employer that receives federal funds if any one operation receives federal funds.

The Montana Department of Transportation (MDT) is a State governmental entity. It is the policy of MDT to ensure compliance with Title VI of the Civil Rights Act of 1964 and all related statutes of regulations in all programs and activities. Additionally, the State of Montana Department of Transportation commits to comply with US DOT’s Title VI Regulations 49 CFR Part 21 and 49 CFR Part 303 and hold all recipients and sub-recipients responsible and accountable to also comply.

MDT assures that no person shall, as provided by Federal and State civil rights laws, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. MDT further ensures every effort will be made to ensure non-discrimination in all programs and activities, whether these programs and activities are federally funded or not.

MDT recognizes the need for continuous Title VI training for MDT personnel. When MDT distributes federal-aid funds to another governmental entity, MDT will include Title VI language in all written agreements and will monitor for compliance.

Title VI activities are delegated by the Office of Civil Rights (OCR). Title VI responsibilities are delegated to the appropriate District/Division program managers. The OCR charges them with the responsibility to develop and implement procedures and guides to adequately monitor their programs. In turn, the OCR conducts periodic compliance reviews to assure implementation is adequate.

The MDT Director has delegated the authority to administer and monitor the Title VI Program as promulgated under Title VI of the Civil Rights Act of 1964 and any subsequent legislation to the OCR Operations Chief. The Equal Employment Opportunity Specialist Supervisor will provide technical assistance on an agency-wide basis.

Mike Tooley

Original signature on file with the Office of Civil Rights

November 16, 2020

date

STANDARD TITLE VI/NON-DISCRIMINATION ASSURANCES

The United States Department of Transportation

DOT Order No. 1050.2A

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

Statutory/Regulatory Authorities

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

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

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

http://www.fhwa.dot.gov/environment/environmental_justice/index.cfm

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

General Assurances

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

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

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

Specific Assurances

More specifically, and without limiting the above general Assurances, the recipient agrees with and gives the following Assurances with respect to its Federally assisted **Rail, Transit, and Planning Division** programs and activities:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in 49 C.F.R. §§ 21.23 (b) and 21.23 (e) will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by or pursuant to the Acts and the Regulations;
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the FTA Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The **(Montana Department of Transportation)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner’s race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.”;*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;
5. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;
6. That where the Recipient receives federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the access to records, accounts, documents, information, facilities, and staff. The recipient also recognize that the recipient must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FTA**. The recipient must keep records, reports, and submit the material for review upon request to **FTA**, or its designee in a timely, complete, and accurate way. Additionally, the recipient must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance. MDT 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 Montana Department of Transportation under the Rail, Transit, and Planning Division. This ASSURANCE is binding on the Montana Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **Rail, Transit, and**

Planning Division. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

The Montana Department of Transportation
(Name of Recipient)

by Mike Tooley
(Signature of Authorized Official)
Original signature on file with the Montana Department of Transportation Office of Civil Rights

DATED _____ November 16, 2020 _____

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 Transit Administration (FTA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
3. **Solicitations for Subcontracts Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FTA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FTA, 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 FTA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FTA 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.

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

APPENDIX B

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

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

(HABENDUM CLAUSE)

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

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

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

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

APPENDIX C

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

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above non-discrimination covenants, (**Title of Recipient**) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above non-discrimination covenants, the (**Title of Recipient**) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (**Title of Recipient**) and its assigns. *

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

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

APPENDIX D

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

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

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

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

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

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:

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

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

OVERVIEW

Purpose

To provide guidelines for:

1. Implementing Title VI compliance programs under Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations.
2. Conducting Title VI program compliance reviews.
3. Processing Title VI complaints.

Application

The provisions of this Title VI Plan apply to all recipients of federal assistance with and through MDT. A “recipient” includes any public or private entity or any individual receiving the benefits of any federal-aid highway assistance, transit, or aeronautics program and to all phases of MDT operations.

Authorities

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d-4; Uniform Relocation Assistance Act of 1970, 42 U.S.C. 4601 to 4655; 23 U.S.C. 109h; 23 U.S.C. 324; 49 CFR 21; US DOT Orders 1050.2, 1000.12; and 23 CFR 200; FAA Advisory Circular 150/5100-15A; DOT Orders 1000.12 and 1050.2.

Other federal statutes with related authority that may apply:

Title VII of the 1964 Civil Rights Act as amended;
Age Discrimination in Employment Act (45 CFR 90)
The Americans with Disabilities Act of 1990; ADA Amendments Act of 2008
Environmental Justice Act, Executive Order 12898
Civil Rights Restoration Act of 1987 (P.L. 100-259)
Limited English Proficiency, Executive Order 13166
Executive Order 13672

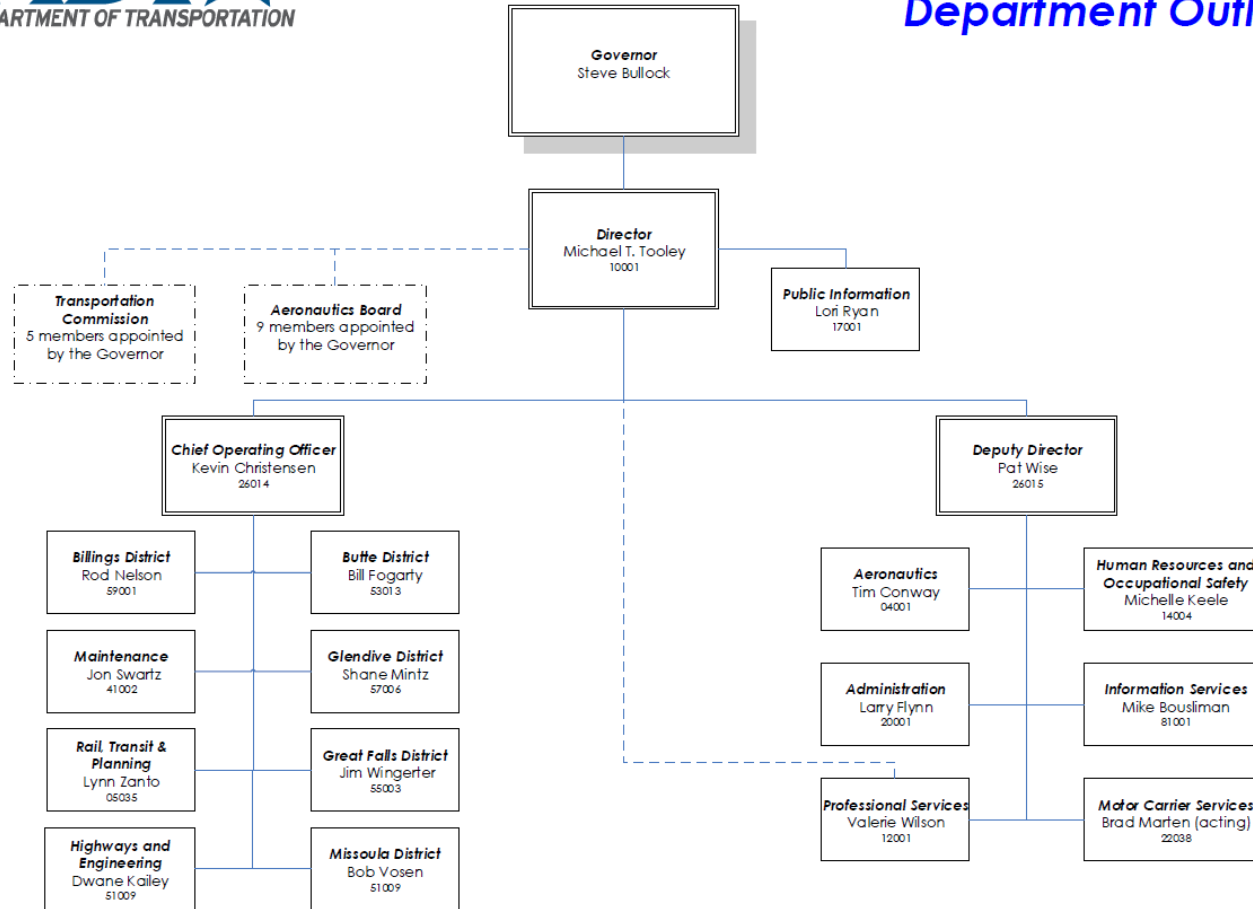
Applicable Montana non-discrimination statutes include:

The Montana Human Rights Act, Title 49, Chapter 2, M.C.A.;
Governmental Code of Fair Practices, Title 49, Chapter 3, M.C.A.
Montana Executive Order 04-2016

MDT Organizational Chart



Montana Department of Transportation Department Outline



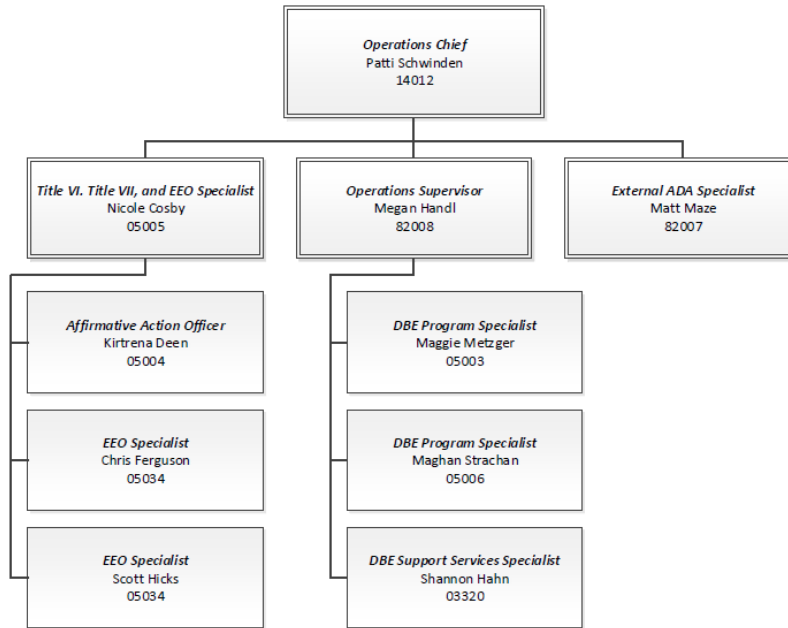
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September 23, 2020

Office of Civil Rights Organizational Chart



Office of Civil Rights



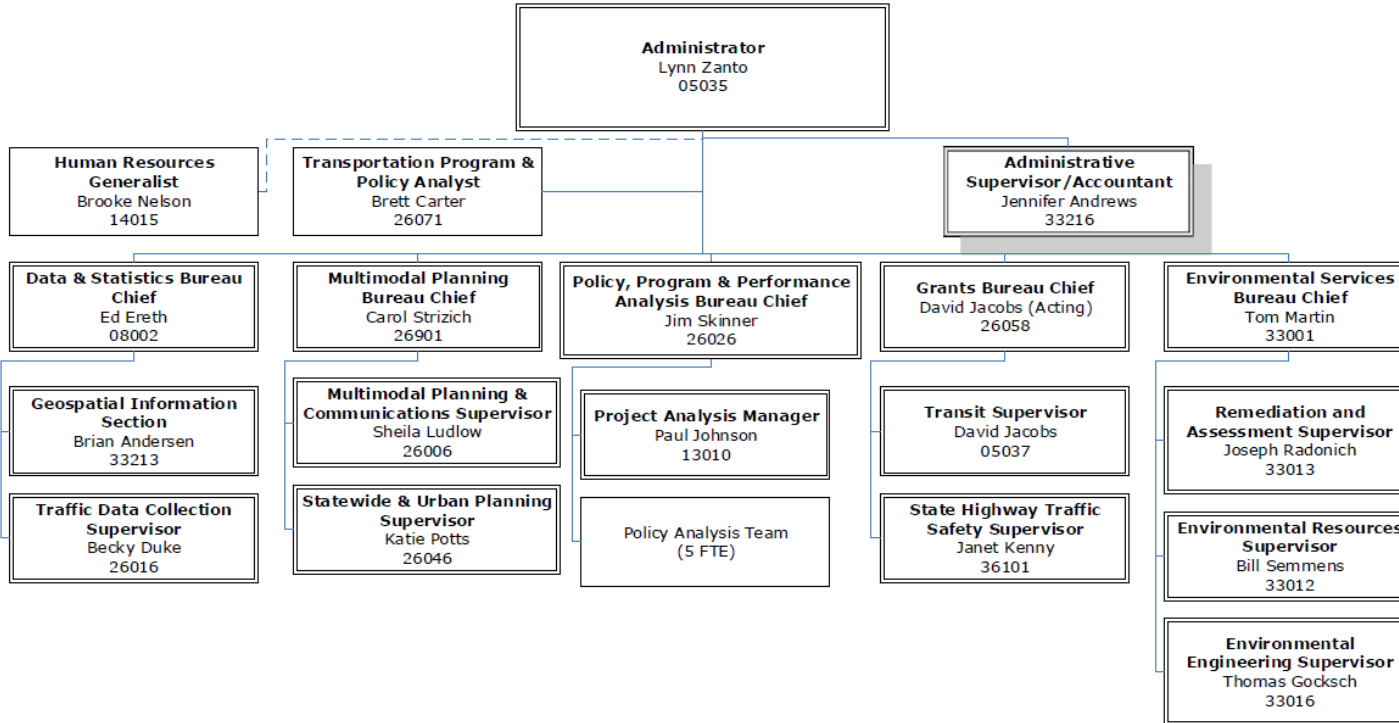
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September 23, 2019

Rail, Transit, and Planning Division Organizational Charts



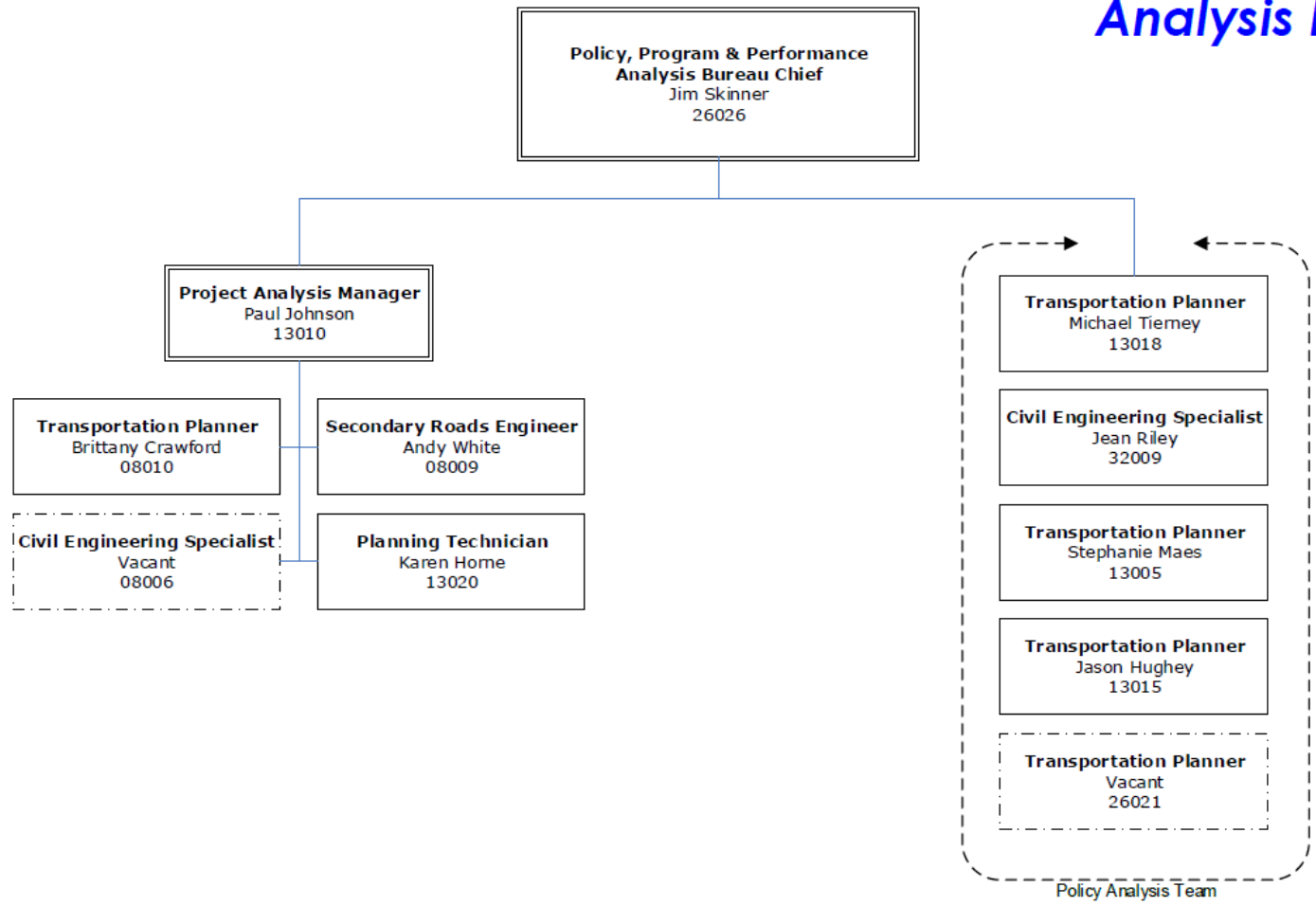
Rail, Transit & Planning Division Outline

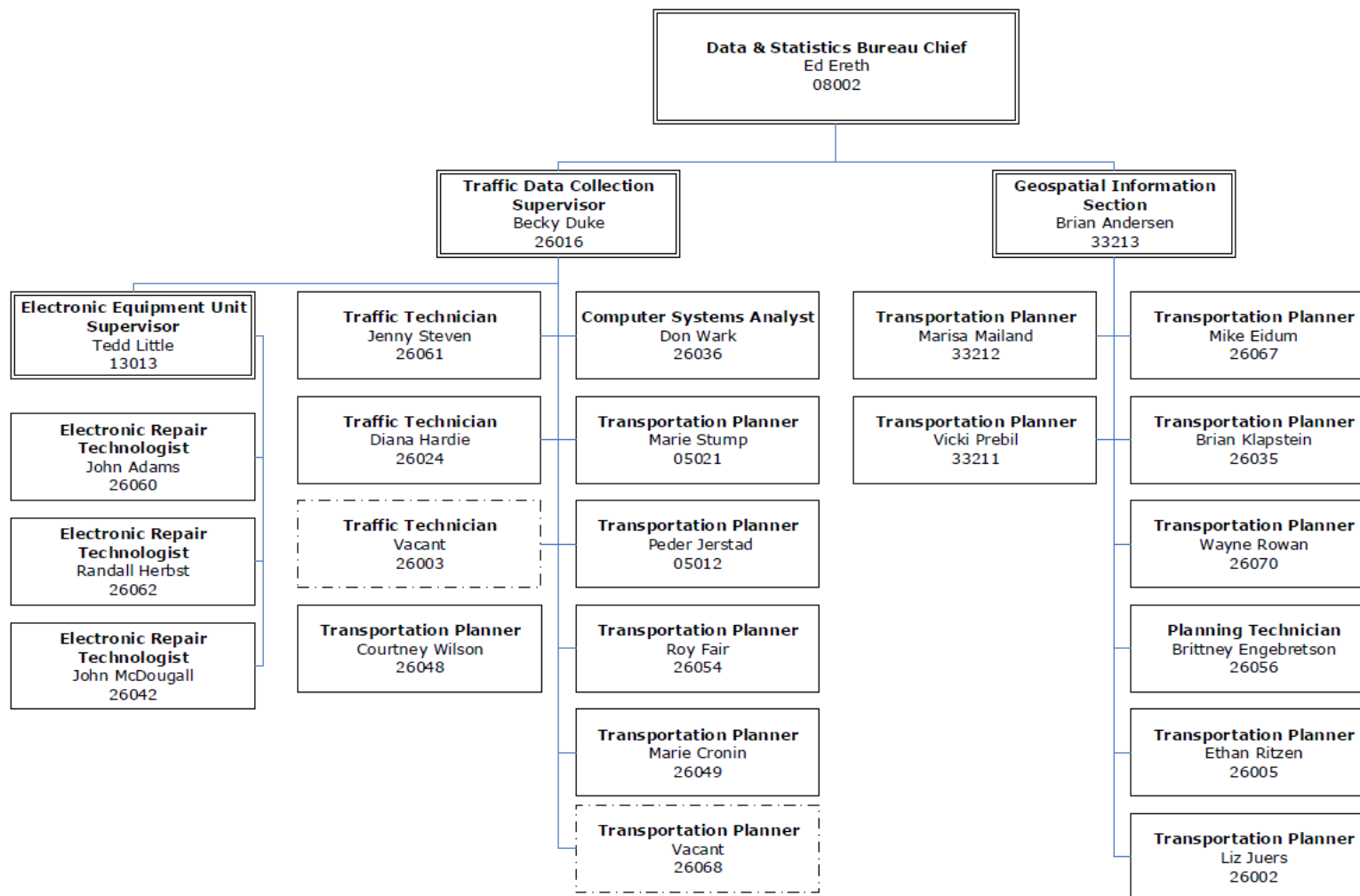


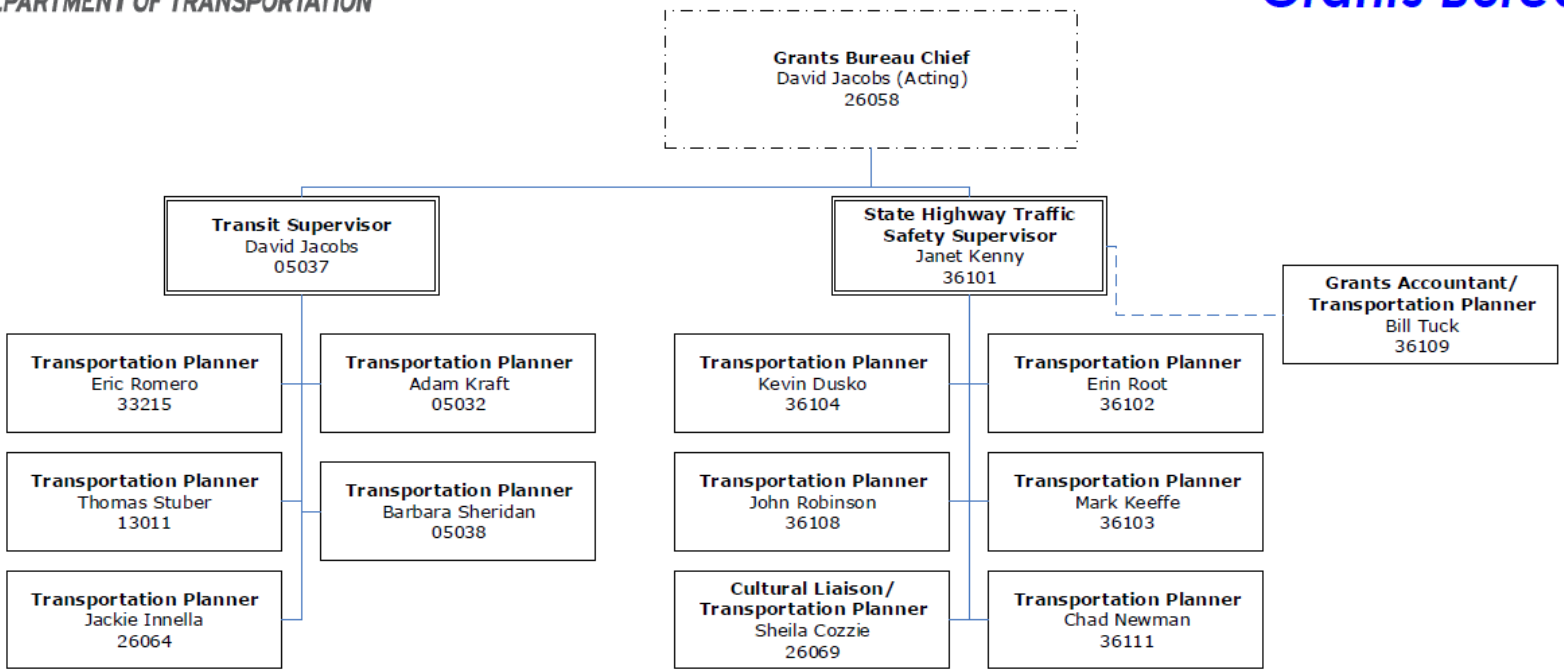
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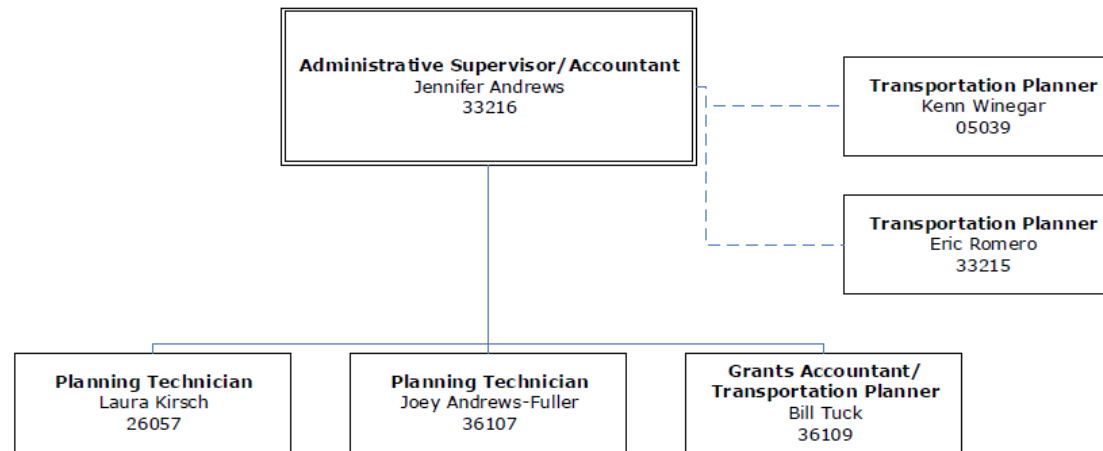
October 22, 2020

Rail, Transit & Planning Policy, Program & Performance Analysis Bureau



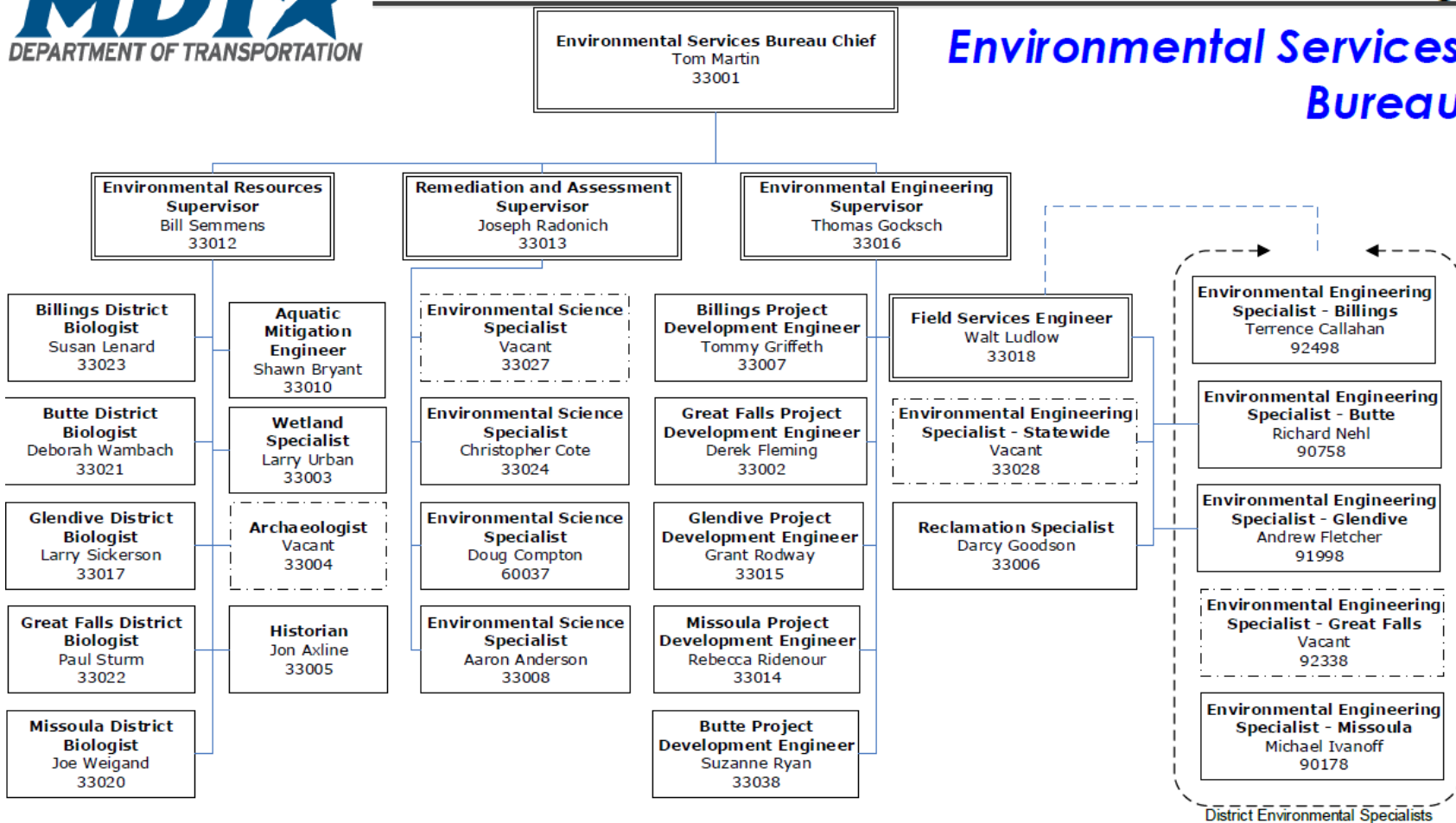






Rail, Transit & Planning

Environmental Services Bureau



MDT Administrative Responsibilities Required by 23 CFR Part 200

1. "Establish a Civil Rights Unit and designate a coordinator who has a responsible position and easy access to the Director. The Coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports."
2. The Civil Rights Unit must be "adequately staffed to effectively implement the requirements."

Office of Civil Rights (OCR) EEO Specialist Supervisor Responsibilities

1. Develop procedures for prompt processing and disposition of Title VI complaints.
2. Conduct Title VI reviews of program areas.
3. Conduct annual reviews of special emphasis program areas to determine effectiveness.
4. Review MDT program directives and include Title VI and related requirements.
5. Conduct Title VI training for State program staff.
6. Prepare an annual Title VI accomplishments report and work plan by October 1.
7. Submit an updated Title VI plan within time frames for each federal agency.
8. Disseminate Title VI information to the public.
9. Establish procedures for pre-grant and post-grant approval reviews of MDT programs and applicants; i.e., highway location, design and relocation, and persons seeking contracts with MDT.
10. Establish procedures to identify and eliminate discrimination when found to exist.
11. Establish procedures for promptly resolving deficiency status through voluntary means, if possible.

Division / Unit / District Title VI Representative Responsibilities

1. Complete Title VI Public Meeting Form or ensure form is completed by meeting organizer for each public meeting not already covered and submit electronically to EEO Specialist Supervisor. (For purposes of this requirement, a "public meeting" is any meeting or hearing for which there is an open invitation [via news release, paid advertising and/or letter of invitation] to the public [not just contractors] to attend for the

purpose of informing the public and/or soliciting input from the public.)

2. Report all written Title VI complaints immediately to EEO Specialist Supervisor.
3. Seek opportunities to train staff/public on Title VI and notify EEO Specialist Supervisor.
4. Attend Title VI Representative training opportunities.
5. Ensure current Title VI pamphlets are available at all unit public meetings and hearings and in unit area.
6. As necessary, work with consultants to ensure all public meetings and hearings have Title VI pamphlets and a public meeting form will be completed by consultant or MDT staff present at meeting/hearing and submitted to the EEO Specialist Supervisor.
7. Monitor Division activities for potential Title VI impact and consult with MDT EEO Specialist Supervisor as necessary.

GENERAL PROGRAM AREA RESPONSIBILITIES

Director's Office

Ensures Title VI compliance in media contact, public informational meetings and hearings, and response to citizen complaints. Internal Audit Unit ensures facilitation of public audits in a fair and equitable manner. Through the Office of Civil Rights, the Director's Office, ensures Title VI compliance in the implementation of agency wide Title VI requirements including but not limited to the Disadvantaged Business Enterprise (DBE) program, Americans with Disabilities Act (ADA), training activities, and complaint activities.

Administrative Rule of MT changes are noticed for public hearing as required by state statute. MDT is required to conduct a small business analysis if a proposed rule change significantly and directly impacts small businesses. Informal meetings are conducted to solicit information pertaining to proposed legislation or rule changes and to inform and explain the proposed changes.

Administration Division

Ensures Title VI compliance with MDT's financial management, fuel tax administration, and the procurement of supplies and services. Also ensures Title VI compliance in administration of the International Fuel Tax Agreement (IFTA) tax processing and collection procedures, dealer and distributor licensing, fuel tax refund program and mail services.

Aeronautics Division

Ensures Title VI compliance that relates to maintenance and operation of state-owned airports and the various components of airport infrastructure.

Construction Program

To survey, design, acquire the right-of-way, and construct safe, cost effective highway improvement projects in order to develop and maintain a cost effective, efficient and safe transportation system and ensure Title VI compliance in the construction of all MDT projects.

- 85% of projects planned for the fiscal year are ready for contract.
- Maintain statewide average construction engineering costs under 10% of total contract costs.
- Maintain statewide final costs under 7% above award amount.
- 90% of all contracts with final estimate paid within 90 days of final acceptance.
- Obligate 100% of available federal funds.
- Maintain Federal-aid overrun under \$2 million.
- Maintain Inactive projects to not exceed 12 months.

District Operations

Rely upon Accounting Controls Bureau, Procurement Services Section, to ensure Title VI compliance in the purchase of goods and services and in contract requirements. District staff ensures Title VI compliance in public meetings/hearings and response to citizen complaints.

Engineering Division

Ensures Title VI compliance in all activities including contractor recruitment (e.g. Contract Plans), Pre-construction (e.g., Right of Way), Consultant Design including the Community Transportation Enhancement Program (CTEP), Construction (e.g., bid advertising and contracting); and Research

Human Resources and Occupational Safety Division

Ensures Title VI compliance in agency wide Title VI requirements including but not limited to recruitment and selection, training activities, and complaint investigations (employee complaints not falling under Title VI, Title VII, Affirmative Action, or the ADA). The Internal ADA program resides inside of this division and they administer the program. Oversight and compliance of the Internal ADA program is conducted by the Office of Civil Rights staff.

Information Services Division

Ensures Title VI compliance in Implementing IT solutions to meet customer needs implementing IT service Improvements, improving ISD processes, researching and developing new technologies and services, and developing the IT workforce.

Maintenance Division

Ensures facilitation of the summer and winter maintenance of Montana's highway infrastructure in a fair and equitable manner and ensures Title VI compliance in all activities including training

Motor Carrier Services Division

Ensures Title VI compliance in all commercial vehicle licensing, registration, and permit issuance, enforcement, commercial vehicle safety, and response to citizen complaints.

Professional Services Division

Administers, manages, provides and ensures compliance with Title VI, Federal and State laws, and guidance in the following programs;

Affirmative Action, Contractor Compliance, Disadvantaged Business Enterprise, (DBE) Supportive Services, Americans with Disabilities Act, Non-Discrimination, Equal Employment Opportunity, National Summer Transportation Institute, and On-the-Job Training programs.

Provides oversight to ensure MDT conducts business in an environment free of discrimination, harassment and retaliation based on both Federal and State protected classes which includes: race, color, national origin, parental/marital status, pregnancy, childbirth, religion/creed, social origin or condition, genetic information, sex, sexual orientation, gender identification or expression, ancestry, age, disability (mental or physical), political or religious affiliations or ideas, military service or veteran status, and Limited English Proficiency.

Provides MDT management and employees with support, technical expertise and training through its program administration.

Rail, Transit, and Planning Division

Ensures Title VI compliance in the transportation planning process and in related programs such as rail, transit, and state highway traffic safety. This includes necessary environmental documentation to meet the requirements of the National Environmental Policy Act (NEPA) and the Montana Environmental Policy Act (MEPA), including Community Impact Assessments and Title VI reviews of appropriate cities, counties, rail and transit providers and consultant contracts.

SPECIFIC AREA RESPONSIBILITIES

Director's Office

The Director's office is responsible for ensuring compliance with Title VI in all programs and services throughout the agency. Additionally, the Director's Office houses the Public Information/Public Involvement Units.

The Office of Civil Rights is also administratively attached to the Director's Office, and the Office of Civil Rights Operations Chief has complete and open access to the Director at all times to discuss and review all business matters related to Title VI. Specific areas of responsibilities for the Director's Office are listed below:

1. Promoting long-term fiscal stability within the department.
 - MDT has submitted and is managing its biennium budget.
 - MDT has recently completed the Tentative Construction Plan through 2021 which outlines how MDT will utilize all federal aid authority through the next five years. This allows fiscal management and constraint over the long term for both state and federal funds.
2. Maximizing utilization of Federal Highway Funds.
 - MDT continues to utilize all available federal highway funding and will apply for additional funds through earmarks and redistributions.
3. Ensuring that all available Federal Funds are obligated.
 - All federal funds will be obligated to the extent that state matching funds are available.
4. Delivering an environmentally responsible highway construction program.
 - MDT will comply with federal and state requirements under NEPA and MEPA.
5. Promoting department operations in a streamlined, efficient manner.
 - MDT continues to promote department operations in a streamlined, efficient manner.
6. Promoting coordination between entities for highway traffic safety programs.
 - MDT manages a highway traffic safety grants program and place priority towards traffic safety when allocating financial resources

Public Information/Public Involvement Units

This section provides a brief overview of the Department's public involvement activities.

For more information about MDT's Public Involvement Initiatives please visit: <http://www.mdt.mt.gov/pubinvolve/> which includes a Draft Public Involvement Plan.

The Public Information / Public Involvement Units are responsible for ensuring that Montana citizens are aware of transportation issues/ projects and are afforded the opportunity to participate in public involvement activities (public informational meetings, public hearings, i.e. Environmental Assessment hearings, comment periods, etc.).

The Public Information Unit provides media support for the department. The Public Information Officer (PIO) acts as the Director's spokesperson and coordinates marketing activities; manages media contacts, writes speeches and press releases, and assists staff when media issues arise. In addition, the PIO coordinates publication of the MDT Interchange, MDT's online employee newsletter.

The Public Involvement Unit works to increase public awareness of upcoming projects and to provide the public with ample opportunity to become involved in shaping project design and development.

This is primarily accomplished through two mechanisms:

1. Public meetings

The Public Involvement Coordinator organizes certain public meetings for upcoming road projects throughout the state, working with district staff and MDT consultants to ensure that MDT provides ample opportunity for public input and comment. Notice of public meetings/hearings (display ads) are also created within the Public Involvement Unit and submitted via e-mail to the various media outlets (newspapers, television and radio stations) within the project's area announcing the upcoming meeting/hearing. Display ads are usually run twice in the regional newspapers. Community officials, i.e. county commissioners, city commissioners, tribal transportation planners, etc. are notified within this e-mail distribution list as well. The Coordinator ensures that provisions are made for special meeting accommodations for protected groups or individuals (with sufficient notice, ideally 48 hours). Accommodations provided include, but are not limited to, alternative format documents, translators, sign language interpreters, etc. The Coordinator will frequently moderate or facilitate public meetings/hearings along with the project manager.

2. News releases

The Public Involvement Coordinator prepares and distributes news releases to the region's public media outlets and community/county officials announcing proposed projects such as: total reconstructions, paving or overlay projects, railroad crossings, bridge replacements, temporary detours, etc. as well as public informational meetings and public hearings. Special formats of all written documents are provided on request.

Direct mail (letters and/or postcard)s may also be used to notify interested/affected parties regarding upcoming public meetings or hearings. The Office of Civil Rights sends email notice to all areas that have been identified through the US Census in the LEP with

minority or low income populations via email. These emails are sent to local schools, school districts, churches, colleges, universities, mental health facilities, senior centers, community centers, local health care clinics, minority service providers, and other common gathering areas for disbursement to their served populations. All Transit related projects require the provider to publish public notice of the project in the local newspaper and on the organizational website. Additionally, providers are required to hold a public meeting where community members can voice concerns and or support or write in public comment for project consideration.

Administration Division

The Administration Division consists of three bureaus:

Accounting Controls Bureau

The Accounting Controls Bureau (ACB) is responsible for establishing internal control structures, developing, and implementing accounting policies, ensuring proper accounting treatment of transactions, developing and implementing MDT's accounting structure, and providing technical oversight to departmental financial functions.

Accounting Treatment Section

The Accounting Treatment Section engages specific positions such as District Financial Officers and Financial Contacts to aid in managing the accounting treatment and oversight for MDT's programs and assists with the complex programs of the department.

Commitment Management Bureau

Maintains financial planning processes and systems for MDT divisions to conduct financial analyses. The primary functions of the Bureau are department wide budget development and fiscal programming. The Bureau has two distinct sections to meet the above responsibilities. Staff members from both sections are available to answer questions and provide training as needed.

Procurement Services Section

Ensures all formal solicitations include approved Title VI language. The Section ensures solicitations are posted to the Department of Administration (DOA) website as prescribed by Montana law. Letters are sent to interested vendors who may be interested. Vendors may be selected from the DOA vendor list, the MDT vendor list, the DBE Directory, Chamber of Commerce referrals, the phone book, or local business advertisements. Solicitations are available on the DOA website. Alternative accessible formats are available upon request to the Section.

State Appropriations Management Section

Responsible for the development and monitoring of the Department's operating budget, tentative construction plans, director reports, long-range financial planning, and setting budget procedures for the agency. The section is involved firsthand with the executive planning processes (EPP); fiscal note development and financing; and funding structures and models for MDT programs.

The State Appropriations Management Section utilizes a variety of development and monitoring systems to assist in these processes such as the:

- Budget Development System (BDS),
- Personal Service Budget Monitoring System (PSBMS),
- Personal Service Administration (PSA),
- Statewide Accounting, Budgeting, and Human Resource System (SABHRS), and
- Montana Budget Analysis and Reporting System (MBARS).

Federal Funds Management Section:

Responsible for developing, obtaining approval, and monitoring the fiscal aspects of implementing the Transportation Construction Program (TCP) for the State of Montana. The Section also develops and maintains various financial information systems; coordinates MDT's use of these systems, and uses the information from these systems to analyze, report, and frame departmental recommendations regarding the use of available fiscal resources.

Fiscal Operations Bureau

This Bureau consists of the Accounting Systems Operations Section, Collections Section, Motor Fuels Section, and Payroll Section.

The Bureau is responsible for establishing and maintaining a variety of accounting functions for MDT such as payroll and benefits, accounts payables/ receivables/ collections, and management of the gasoline and special fuel tax. The Bureau develops and implements accounting policy and procedure, conducts financial monitoring, and ensures the department's internal accounting and financial information systems comply with state and federal regulations and align with the Division's accounting operational goals, objectives and priorities.:

Motor Fuels Section:

- Ensures that all fuel taxes legally owed to the state by licensed and unlicensed distributors are properly collected and remitted.
- Processes and approves licenses for gasoline and special fuel distributors, compressed natural gas dealers and liquid petroleum gas dealers.

- Provides education and training services for both internal and external customers on motor fuel tax laws.
- Administers the Alcohol Tax Incentive Administration Act of 1983 that provides for payments to Montana ethanol producers.
- Coordinates the administrative rule process that pertains to motor fuels.
- Coordinates the dyed fuel enforcement program.
- Verifies refund requests of fuel tax from aviation and railroad users prior to issuance.
- Coordinates the first step in the dispute resolution process, which conducts reviews involving motor fuel appeals.

Collection Section

- Reports according to the International Fuel Tax Agreement which includes distribution and processing of motor fuel tax returns; and
- Distributes fuel tax refund applications, processing and payment of the refunds.

Monitoring

- The Procurement Section ensures that all solicitations include approved Title VI language.
- The Procurement Representative participates in periodic revisions of the FHWA Title VI plan and Title VI meetings/ trainings as scheduled.

Aeronautics Division

The Aeronautics Division oversees the maintenance and operation of state-owned airports and the various components of airport infrastructure, including visual and electronic navigation facilities and flying aids; fosters and promotes aviation and aviation safety through educational efforts and programs; is responsible for all airport inspections; provides technical and engineering assistance as requested; produces aviation publications for pilot use; registers aircraft and pilots in accordance with Montana laws and regulations; and coordinates and supervises statewide aerial search and rescue operations. In accordance with the maintenance and safety aspects of the Division's overall mission, it administers a loan and grant program to municipal governments to fund airport development projects.

The Division serves in a liaison capacity between the State of MT and various entities including the U. S. Department of Transportation, other federal and state entities and

commercial airlines to assure the retention and continuation of airline services to the rural communities of the State.

Monitoring

Aeronautics relies upon:

- Procurement Services Section and Public Involvement Unit to ensure public meetings are advertised in accordance with MDT policy.
- Consultant Design Bureau to ensure Title VI requirements are met in consultant contracts.;
- OCR to ensure all proposals conform to Title VI requirements: and
- The Engineering Division (headed by the Chief Engineer) is comprised of three parts that have significant potential Title VI impact: Preconstruction, Construction, and Research Section. Preconstruction is comprised of Bridge Bureau, Consultant Design Bureau, Highways Bureau, Right-of-Way Bureau, and Traffic Safety Bureau. Construction is comprised of Contract Plans Bureau, Construction Administration Services Bureau, Construction Engineering Services Bureau, and Materials Bureau.

Preconstruction

Consultant Design Bureau - Consultant Selection Procedures

- Consultant Selection Procedures are administered by Consultant Design and intended to eliminate unfair advantage and provide equal economic opportunity for all qualified consultants.
- Consultant Design contracts are not awarded to the lowest bidder as are construction contracts because they are governed by different laws. Consultant Design contracts are awarded based on the "Brooks Act" in federal law that requires open competition based on demonstrated competence and qualifications at a fair price.
- Consultant Selection procedures allow for two separate selection processes: the biennial Pre-Qualification process (used since 1999) and the Request for Qualifications/ Request for Proposal (RFQ/RFP) process. The Pre-Qualification process is used for most consultant selections. It greatly speeds up the time required to select consultants, especially when a large number of projects is involved; the RFQ/RFP process is generally used for large, complex projects or projects that are not compatible with the categorized disciplines in the pre-qualification process.
- The pre-qualification process compiles a rating for each respondent consultant in each discipline and the consultants are then ranked on a roster. The Consultant Selection Board (CSB) then meets and uses the discipline-specific rosters to select consultants for projects throughout the year. As the need for projects come up, the

CSB short-lists three consultants from the appropriate pre-qualified roster and selects one with which to enter contract negotiations. MDT then enters negotiations with the top-rated firm. If a fair and reasonable price cannot be agreed upon, MDT begins negotiations with the next highest qualified firm.

- The RFQ/RFP process solicits statements of qualifications for specific projects through letters to consultants who have requested to be on a mailing list and on the MDT website at <http://svc.mt.gov/gsd/OneStop/SolicitationDefault.aspx>. RFQ/RFPs are sent to some or all consultant firms on MDT's mailing list, depending on the subject work type. Then the top ranked consultants from the RFQ may be asked to provide final proposals (RFP) that are then rated and used to select a firm for contract negotiations. The Consultant Selection Board has final approval in the RFQ/RFP process also.
- A firm is placed on the mailing list when they submit a standard Form 330 which can be done at any time. Interested parties may request inclusion on the mailing list by accessing <http://www.mdt.mt.gov/business/contracting/maillinglist.shtml>.
- Both processes rate responses on the same criteria which are typically: quality of firm and personnel (30%), capability and capacity of firm (35%), and record of past performance (30%). The remaining 5% for location is incorporated later in the prequalification process and as needed in the RFQ/RFP process, after project needs have been identified, and location can be factored in.
- Consultant selection is dependent upon both state and federal requirements. Title VI requires that "all persons" have a right to participate in federal aid programs. MDT has chosen to deal with this requirement by assigning a minimal weight (5%) to location as a consideration in the selection process.
- DBE goals are established as required in proposed contracts prior to RFP announcements. Specific Title VI Assurances are included in all RFPs and in all executed consultant contracts.

Monitoring

- The MDT Title VI Coordinator reviews consultant contractors periodically to ensure that all Title VI requirements are met. OCR reviews consultant contracts to determine compliance with Title VI contract specifications.

Right-of-Way Bureau (ROW)

- ROW ensures that appraisals, acquisitions, relocations, and land sales are conducted on a non-discriminatory basis by standardization of procedures, uniformity of administration, and published information that concerns Title VI considerations in brochures and public notices.

- When language or other barriers, such as age, are identified, ROW personnel (including contractors) employ interpreters, tribal members, relatives and/or friends of the client to assist with negotiations and other issues.
- EEO training is regularly provided to all ROW staff at the annual ROW academy or other MDT training venue.

ROW Real Estate Appraisals

- When it becomes necessary to hire fee appraisers, MDT uses the State required contracted services procedures. Certified DBE appraisers are solicited for these projects.

ROW Real Estate Acquisitions

- MDT and Consultant Acquisition agents exclusively handle real estate acquisitions and an acquisition history is completed for every contact with landowners. Field ROW Supervisors and Headquarters ROW staff review completed acquisition documents to ensure all customers have been given fair and equal treatment. Acquisition brochures are made available at public meetings and at the beginning of negotiations. Alternate accessible format statements are included on the brochures.

ROW Relocation Assistance and Advisor Services

- When relocation actions are necessary, affected individuals are informed of their rights at public hearings prior to the acquisition phase of project development. Relocation brochures and formal written notices are provided at public hearings, at the beginning of negotiations and during the vacancy phase. Alternate accessible format statements are included on the brochures.
- All relocated persons are given assistance on an individual basis according to ROW manual procedures. Documentation is maintained on all relocation assistance activities. This documentation is reviewed by Field ROW Supervisors and Helena Acquisition Section to ensure all customers have been given fair and equal treatment.
- Issuance of 90-day notices, final notices, and extensions of occupancy are uniformly applied to all persons being relocated by a project.
- Fair housing requirements are covered in detail in MDT's relocation brochure, discussed with Realtors, and explained to affected individuals when offers are made.

ROW Property Management

- Property Management policies, procedures, and statutes are uniformly applied to ensure customers are given fair and equal treatment.

Monitoring

- The ROW Title VI Representative periodically reviews randomly-selected files to assure compliance with all required regulations.

Community Transportation Enhancement Section (CTEP)

- The Community Transportation Enhancement Program (CTEP) is a section within the Consultant Design Bureau. CTEP sub-allocates funds to all local units of government including counties, first-, second-, and third-class cities and tribal governments to design and construct transportation enhancement projects.
- Currently this includes all 56 counties and 49 cities, and the 7 Indian Reservations within the state. This program places the responsibility for compliance with all federal, state and local requirements upon local government, the final federal fund recipient. Title VI reviews are conducted by the Title VI Coordinator at selected local governments annually.

Construction

The Construction Bureaus (which are under the Construction Engineer), principally through Contract Plans Bureau, ensure that open, free and competitive bidding processes are in place by providing accessible locations and by assuring construction contracts are awarded on the basis of low bid, responsibility, responsiveness, bonding, insurance and DBE requirement compliance.

When applicable, race conscious DBE goals are established by the OCR in all federal-aid contracts prior to bid letting.

The Construction Bureaus comply with Title VI by reviewing all sub-contracts submitted by prime contractors for the FHWA Form PR-1273 and the appropriate wage decision.

Contract Plans Bureau

Contract Plans Bureau edits, compiles and distributes bid packages for highway construction projects across the state. Advertising is accomplished via the Internet and newspapers having major circulation throughout the State, via a mailing list which anyone can request to be put on, and to out-of-state plan rooms as requested.

Contract Plans' staff provides support and training in the use and implementation of the mandatory electronic bidding system (Expedite™ Bidding software). Special efforts have been made to provide training to Indian reservations. Accessible computers and printers

are available for public use in the Contract Plans Bureau office. Staff members allow the public to access their computers. Desk arrangements allow handicapped access. Staff members contact Office of Civil Rights staff if any unique accommodations requests arise.

Monitoring

To determine Title VI compliance, Contract Plans' administrative staff evaluates the activities and practices of the bidding, advertising and distribution process by reviewing:

- Special efforts to accommodate protected groups with regard to the physical location of the bid opening;
- Training practices in the use and implementation of the mandatory electronic bidding system (Expedite™ Bidding software);
- State and federal mandates that address legal advertising, with emphasis on communicating project information to protected groups;
- That all Title VI related documents are included in bid packages, publications and legal advertisements. Prime contracts are reviewed pursuant to federal aid regulations for detail including the PR-1273, wage rates, and appropriate DBE goals.
- Emerging technological advances to provide for more equitable access for both handicapped and non-handicapped individuals to project information and support data using electronic communication. MDT capability to provide Braille documents is currently limited by available equipment and funds.
- As Read and Transportation Commission Award reports, for potential Title VI impact.

Research Section

The Research Section is responsible for contracting research projects through its Research Program, conducting an Experimental Projects Program, and performing technology transfer activities related to both programs.

Solicitations for research projects are distributed to tribal governments, universities, public and tribal colleges, private consultants, and any group or individual who has either submitted an idea in the past or expressed an interest in being placed on the mailing list.

The Research Section contracts with various government and private entities to conduct research projects and with Montana State University to conduct the Local Technical Assistance Program (LTAP). LTAP provides training and various educational materials to local governments in Montana. (The Tribal Technical Assistance Program (TTAP) is administered through another agency.)

MDT Procurement Services Section or Consultant Design Bureau requirements are used to solicit and select private contractors to perform research projects. MDT Research requirements are used for contracting with various public entities to perform research projects.

Monitoring

The Research Title VI Representative monitors mailing lists and conducts periodic reviews to ensure that protected groups have equal access to research opportunities information.

District Responsibilities

Each of the five MDT Districts relies upon the Procurement Services Section to administer MDT's Procurement procedures connected with procuring items and equipment costing greater than \$5,000 purchased by MDT. District Procurement policy adheres to the Headquarters' Procurement Bureau's Procedures Manual. In cases when leasing is required, the District utilizes a format provided by MDT's Procurement Services Section that includes the necessary Title VI language.

Schedules of public meetings, open houses and forums should be coordinated between the MDT Public Information Office and either the District Preconstruction Engineer, Area Engineer, Project Design Engineer, Consultant Project Engineer, or the appropriate MDT Design Project Manager. The nearest location or town offering accessible facilities for all protected groups is selected. Consideration for meeting time and location is given to assure all protected groups have an opportunity to participate. Documentation is maintained to assure these considerations have been accomplished.

Monitoring

1. Either the Administrative Support Supervisor, District Financial Officer, District Procurement Agent, or District Preconstruction Engineer is responsible to report any Title VI compliance issues as they relate to purchase orders and agreement requirements.
2. District Construction personnel are responsible to report any Title VI compliance issues regarding construction documents (state and contractor) and operations.
3. Persons scheduling public meetings, open houses, and forums are responsible for Title VI compliance. The District Title VI Representative is responsible for periodic reporting of this activity.
4. Procurement Services Section ensures appropriate Title VI language is contained in contracts issued by the District. The District Title VI Representative reports any Title VI compliance issues.

5. Specific duties of District Title VI Representatives are included in this Plan under the section entitled "Division/ District Title VI Responsibilities".

Engineering Division

The Engineering Division (headed by the Chief Engineer) is comprised of three parts that have significant potential Title VI impact: Preconstruction, Construction, and Research Section. Preconstruction is comprised of Bridge Bureau, Consultant Design Bureau, Highways Bureau, Right-of-Way Bureau, and Traffic Safety Bureau. Construction is comprised of Contract Plans Bureau, Construction Administration Services Bureau, Construction Engineering Services Bureau, and Materials Bureau.

Human Resources and Occupational Safety (HROS) Division

Human Resources Bureau

The Workforce Planning Bureau administers MDT's training programs and administers recruitment, selection, and succession planning processes in a non-discriminatory, fair, and consistent manner. The Bureau works with District and Divisional Human Resource staff to proactively recruit qualified applicants. The Human Resources Bureau is responsible for:

- Serves as a resource to assist with EEO and Affirmative Action activities, events and in the development of educational materials.
- Develop, coordinate, and implement developmental programs/activities to recruit and retain underrepresented groups.
- Provide reasonable accommodations to known physical or mental limitations of otherwise qualified employees or applicants with disabilities unless doing so would create an undue hardship.
- Periodically review and update, as needed, reasonable accommodation and equal access rules, processes, and procedures.
- Develop and monitor processes to measure progress, remedy deficiencies and create tangible deliverables in all business operations of the Human Resource Division.
- Develop and utilize current recruitment aids such as brochures, exhibits, posters, videos, etc. for training, recruitment, and retention needs.
- Maintain contact and association with other government agencies, communities, and organizations to exchange ideas and obtain cooperation and support for improving recruitment techniques and procedures.

- Participate and actively recruit in career fairs at educational institutions and with organizations that have substantial representation of under-represented groups.
- Provide a quarterly recruitment update to the Affirmative Action Officer to include recruitment, recruitment challenges and terminations, promotions, dismissals, disciplinary actions, trainings, and track and document all affirmative action hires.
- Create and implement a uniform recruitment file to securely document every action throughout the entirety of every hiring process including using the State Job Application system to its full capabilities.
- Review and accurately classify job descriptions and hiring criteria prior to posting of the position to ensure EEO/AA considerations and requirements are met.
- Provide a copy of all policies relevant to Affirmative Action, EEO, and Nondiscrimination to all employees upon hire.

Occupational Safety & Health Bureau

The Occupational Safety & Health Bureau administers MDT's safety and occupational safety and health programs. The Bureau develops and presents safety training; formulates and implements policies for protection for the public and reducing costs associated with accidental losses, tort liability and compliance with regulations.

Both Bureaus contract for training products/ services and professional services using public and private sector providers (including the National Highway Institute). The Procurement Services Section in the Administration Division handles requests for quotes and requests for proposals. All contracts are approved by OCR as containing the appropriate language for Title VI compliance.

Monitoring

The Agency Director has delegated the EEO Specialist and Affirmative Action oversight and support duties to the Office of Civil Rights. Those responsibilities are then delegated by the Operations Chief to various programs and positions within the Office of Civil Rights and are detailed below.

Affirmative Action Officer:

- Develop policy statements, affirmative action programs, and relevant internal and external communication techniques and practices.
- Assist in the identification of problem areas, such as in areas of underutilization, apparent adverse impacts for certain activities, potential barriers to employees, etc.
- Assist line management in arriving at solutions to the identified problems.
- Design and implementing audit reporting systems.

- Serve as a liaison between MDT and minority, female, and community-based organizations concerned with employment opportunities of minorities and females.
- Keep management informed of the latest developments in the equal employment opportunity area.
- Oversight and reporting of EEO and Affirmative Action activities within the agency.

EEO Specialist Supervisor:

- Provide training on Nondiscrimination, EEO, and affirmative action to MDT employees.
- Provide training specific to the discrimination complaint procedures at MDT, and the options and avenues both complainants and respondents have.
- Oversee the informal mediation activities at MDT.
- Conduct investigations into complaints alleging discrimination, harassment, or retaliation.
- Develop policy statements and relevant nondiscrimination-related internal and external communication techniques and practices.

Procurement Services Section

- Ensures that all contracts contain the Title VI provisions.

Maintenance Division

Service level guidelines are established by Maintenance Chiefs, District Administrators, and the Maintenance Division Administrator. These guidelines prescribe uniform service levels and winter hours of service for the traveling public.

Winter road reports are provided to the traveling public. Telecommunication Devices for the Deaf (TDD) are available for public use and are included at rest area locations along interstate highways.

Procurement Services Section requirements are utilized when maintenance contracts are advertised and awarded.

Monitoring

Each District's Maintenance Supervisor(s) monitors written reports, public comments, and performs road inspections to ensure all members of the public receive equal road maintenance services.

Motor Carrier Services Division

The Motor Carrier Services Division (MCS) is responsible for commercial vehicle licensing, registration, permit issuance, and commercial vehicle safety and enforcement of federal and state motor carrier laws and regulations. MCS's customers include interstate and intrastate commercial motor carriers, contractors, loggers, and farm trucking operations. This division issues commercial vehicle registrations, licenses, safety credentials, over-dimensional, overweight, and other permits.

Instructional manuals are provided to the public and are available in alternate formats. Language explaining the availability of accommodations, including the Telecommunication Devices for the Deaf (TDD) phone number (TTY (800) 335-7592, or by calling Montana Relay at 711), is printed on all public documents. The Trucker's Handbook provides an overview of motor carrier regulations and lists sources for obtaining additional information such as telephone and cell-phone numbers of permanent weigh stations and areas patrolled by each MCS Patrol Officer. The handbook is available in both hard copy and on the Internet.

The Getting Started booklet provides new and existing commercial motor carriers with information about federal safety and hazardous materials regulations, state safety laws, and rules required to safely and legally operate on Montana highways. The booklet is available in hardcopy, CD, and MDT's web site via the Internet. MCSAP also conducts carrier training upon request from the industry.

Administrative Rules of Montana changes are noticed for public hearing as required by state statute. MDT is required to conduct a small business analysis if a proposed rule change significantly and directly impacts small businesses. Informal meetings are conducted to solicit information pertaining to proposed legislation or rule changes and to inform and explain the proposed changes.

MCS Officers ensure that the motor carrier industry complies with all State and Federal vehicle licensing, oversize, and overweight regulations by inspecting documents and weighing vehicles at permanent weighing facilities and by random stops by MCS Patrol. MCS Officers and Motor Carrier Safety Assistance Program (MCSAP) Inspectors also conduct commercial vehicle and driver safety inspections. Concentrated special assignments are also conducted in areas where no permanent weigh station facility is located or where a weigh station is easily bypassed.

Monitoring

The Division Title VI Representative periodically reviews procedures to assure proper compliance with regulations and works with staff to ensure all public meetings, weigh stations, MCS headquarters and district offices, and MCSAP offices have current Title VI pamphlets.

Professional Services Division

Audit Services

Audit Services exists to protect the assets of MDT, the State of Montana and its citizens. We do this principally by:

- promoting compliance with laws, rules, policies, and controls that protect employees of MDT, the Director's Office, and the citizens of Montana;
- investigating internal problems and disputes as requested by the Director;
- providing accurate and unbiased information;
- deterring and eliminating fraud, collusion, and other activity;
- recommending solutions to problems and providing guidance to personnel and management;
- providing reliable, detailed and accurate information and reports to MDT management.

Legal Services

The Legal Services Unit consists of one chief counsel, nine staff attorneys, one paralegal, and one legal secretary at Helena Headquarters. The areas of practice are eminent domain, real estate, contracts, outdoor advertising control, rail and transit, motor fuels tax, motor carrier services, administrative law, environmental review and litigation, legislation, collection of accounts receivable for damage to MDT property, and labor/employment.

The unit:

- represents MDT in litigation in trials and hearings before administrative boards, arbitrators, and state, federal, and appellate courts;
- drafts, reviews, and may provide testimony on legislation, rules and policies;
- reviews contracts;
- represents MDT in claims and litigation involving its contracts;
- coordinates and negotiates with Montana's seven Indian Reservations in all matters involving MDT;
- provides legal opinions to the director and agency managers;
- assures MDT compliance with the administrative, state, and federal constitutions,

laws, rules, and regulations; and provides direct legal advice to the Montana Transportation Commission;

- reviews environmental documents and represents MDT in environmental litigation;
- and functions as a resource for units of local government.

Office of Civil Rights

The Office of Civil Rights is responsible for developing and implementing the agency- wide Title VI Plan, enforcing requirements of the ADA (both internal and external,) conducting Division/District Title VI reviews (including recipients of pass through funding). All corrective actions necessary as a result of review findings will be reduced to writing and delivered to the entity reviewed within 90 days of the review. All non-construction contracts will be reviewed and approved by OCR to ensure incorporation of appropriate Title VI language. Complaints will be processed in accordance with 49 CFR §21.11, subject to individual agency (FHWA, FTA, or FAA) requirements. The EEO Specialist Supervisor monitors contracts and other activities for Title VI compliance.

The Office of Civil Rights sends out additional public involvement notices for all upcoming public meetings and public notices to targeted community partners (schools, senior centers, low-income medical providers, drug and alcohol treatment centers, corrections facilities, minority group and civil organizations) to ensure all interested persons have the opportunity to participate and provide public comment. Additionally, for all building/remodel projects, OCR requires providers to place public notice on their website and submit a complete listing of all public notices that were made to help further ensure that all interested parties receive the opportunity to comment.

Grant and sub-grant programs for non-governmental organizations are publicized through the State to assure that protected groups receive appropriate notification and are able to fully participate in identified programs.

Equity Analysis are completed by the Office of Civil Rights EEO Specialist for all new transit construction and or remodeling. These analyses measure all possible impacts on protected groups and measure mitigating measures to offset any impact prior to construction beginning or the release of funding.

Title VI, ADA, and Non-Discrimination, notices are posted on the MDT website, all transit providers websites, and displayed prominently in all transit buses and provider lobbies. MDT furnishes these notices directly to providers that then post notices within 48 hours of receipt.

Additionally, oversight and compliance of the Internal ADA program is conducted by the Office of Civil Rights Staff. The External ADA Program and ADA Transition Plan as it applies to MDT's external business is managed by the Office of Civil Rights staff. The ADA (1990) prohibits discrimination against people with disabilities including

transportation, public services, and public accommodations. The MDT EEO Specialist works to ensure organization wide compliance with ADA requirements.

ADA requires:

- Nondiscrimination based on disability;
- That MDT will provide a fully accessible transportation system. MDT transportation facilities are planned, designed, constructed, and maintained with accessibility in mind;
- MDT's state and local partners have accessible programs and services;
- Transportation-related public meetings will be accessible and public announcements offer reasonable accommodation when the meetings pertain to a project that receives federal aid or is federally mandated.

Office of Civil Rights staff also manage the DBE Program, which encourages and supports the participation of companies owned and controlled by socially and economically disadvantaged individuals in transportation contracts. The DBE Program Plan documents MDT's policies and procedures for implementing the program. To ensure non-discrimination, MDT reviews all contracts for the DBE contract assurance requiring non-discrimination. Any discrimination complaints or inquiries are forwarded to the EEO Specialist and are handled through the process described in Appendix A.

Rail, Transit, and Planning Division

Rail, Transit, and Planning Division (RTPD) is subject to both FTA and FHWA Title VI responsibilities. RTPD provides a broad range of multi-modal transportation planning functions and analyses to enable project selection and programming for MDT's short and long-range transportation and grant programs. The principal duties in this Division which have Title VI impacts are planning, public involvement, contractual/consultant services procurement, grant/sub-grant recipients, equipment procurement, rail transit, special studies and sub allocated pass-through funding to governmental subdivisions.

The impacts of these areas are incorporated in the Process Handbook for Transportation Planning program description. At a minimum, RTPD ensures that:

- Grant and sub-grant programs for non-governmental organizations are publicized through the State to assure that protected groups receive appropriate notification and are able to participate in identified programs;
- Existing statistical data identifying concentrations of protected group populations is used in the development of MDT Public Involvement Strategies; and
- Procurement of consultant services and equipment will be accomplished in accordance with State and Federal law (see Procurement section of this Plan).

The statewide transportation planning process includes the development, administration, and update of highway, transit, rail and bicycle/pedestrian plans and programs in accordance with federal and state laws, regulations, and policies. The process relies heavily on cyclical and ongoing public involvement efforts to involve stakeholders, the public, and other state, tribal and local agencies, and governments in the decision-making process. Products include plans, reports, and studies that guide MDT decision makers in carrying out MDT's statutory responsibilities as the Montana agency responsible for comprehensive statewide transportation planning and policy.

One of several MDT public involvement processes is the telephone survey, which provides MDT policy-makers and planners a statistically valid sample of different groups of Montanans and their transportation needs and preferences. The race and gender percentages of survey respondents are within the sampling margin of error of the corresponding percentages from the 2010 Census. Age, income distribution, and MDT region are also factors within the survey. The survey and other public involvement activities ensures that all Montanans, including minority and lower income populations, are able to identify current needs of Montana's transportation system as well as future demands. More information on MDT's planning public involvement process and that feedback is incorporated into the transportation planning process can be found in Appendix E.

FTA regulations governing Section 5310 funds (elderly and disabled transportation) and Section 5311 funds (non-urban transportation) require that the state management plan include:

- A description of the process by which the state develops the annual program of projects submitted to FTA as part of its Section 5311 grant application, especially the method used to ensure fair and equitable distribution of funds, including to Native American tribes where present.
- A description of the state's efforts to assist sub-recipients¹ in applying for Section 5311 funds, especially any efforts made to assist minority applicants.
- A description of the state's criteria for selecting transit providers to participate in the program, especially its efforts to include sub-recipients serving significant minority populations.
- A description of the state's ongoing process to monitor sub-recipient's compliance with Title VI, such as ongoing site visits to each sub-recipient, review checklists, etc.

Transit Section and Rail Planner

The Transit (Urban) Section, and the MDT's Rail Planner are responsible for ensuring that Montana residents are aware of transit and rail issues and programs and that the benefits

¹ "Sub-recipient" is a local government or other entity receiving pass-through federal funds from MDT.

of MDT's services are equitably distributed. This is accomplished by publicizing the availability of assistance in regional, local and minority newspapers, the MDT newsletter, and direct mail. Staff solicits participation from throughout Montana including the seven Indian reservations.

Staff also provides opportunities to participate in the transit and rail planning and decision-making processes through public meetings, surveys, toll-free telephone numbers, online zoom meetings (when appropriate and especially during the COVID-19 Pandemic,) and consultant studies. Interpreters will be used to aid those with special needs.

The Transit (Urban) Section, and the MDT's Rail Planner are responsible for ensuring that Montana residents are aware of transit and rail issues and programs and that the benefits of MDT's services are equitably distributed. This objective is accomplished by publicizing the availability of assistance in regional, local and minority newspapers, the MDT newsletter, and direct mail. Staff solicits participation from throughout Montana including the seven Indian reservations. The Office of Civil Rights sends email notification to minority, low-income, and community partner agencies across the state of funding opportunities and proposed building etc. projects to ensure that these populations have received public notice and an opportunity to participate and apply for any available funding stream. Staff also provides opportunities to participate in the transit and rail planning and decision-making processes through public meetings, surveys, toll-free telephone numbers, and consultant studies. Interpreters will be used to aid those with special needs.

To prevent discriminatory treatment of protected groups, staff ensures that applicants and recipients of assistance have access to processes for corrective or remedial actions. Complaint procedures are in place that will facilitate a resolution of problems at the lowest possible level. Staff also ensures that decisions on locations of services and facilities and the level and quality of transit services comply with Title VI requirements.

MDT is committed to conducting all its business in an environment free of discrimination, harassment, and retaliation. The procedure MDT follows to provide FTA financial assistance to sub-recipients is detailed further in the Montana State Management Plan. Applications are scored on items such as need for transportation services, compliance with state and federal regulations, and coordination plans; and not based on any protected statuses. Applicants that satisfy program minimum requirements are considered as potential grant candidates. Transit Section staff assist applicants and recipients, including those that may serve predominantly minority populations, on requirements of the Programs to ensure compliance with state and federal regulations. Besides providing assistance to applicants and recipients, the Transit Section also conducts triennial compliance reviews, which among many items, includes non-discrimination requirements. Complaint procedures are in place that will facilitate a resolution of problems at the lowest possible level.

Staff also ensures that decisions on locations of services and facilities and the level and quality of transit services comply with Title VI requirements.

Transit (Urban) Section staff and the Rail Planner are also involved in the following activities:

- Review data to determine if concentrations of Title VI protected populations exist and may affect decision-making;
- Review (by Urban) of Metropolitan Planning Organization (MPO) Title VI plans to ensure the plans effectively address and comply with Title VI requirements;
- Review of FTA Section 5310 and 5311 transportation providers on a three-year rotational basis with one-third being reviewed each year;
- Reviews of MPOs (by Urban) on a three-year rotational basis to ensure compliance with Title VI requirements;
- Review of urban areas without formal transportation plans as appropriate or as changes in federal-aid property projects may dictate; and
- Other RTPD Title VI activities.

The Bicycle and Pedestrian Transportation Program is a part of the RTPD. It is tasked with institutionalizing bicycle and pedestrian modes and to target bicycle-related and pedestrian improvements.

The Transit Division utilizes a Capital Assistance Review Committee. Members are selected from across the state. The Committee consists of eight persons from Helena, Great Falls, Butte, Pablo, Sidney, Lewistown, and Billings. It is made up of range of transit providers, riders, and individuals working in the fields of Ageing Services and Disability Services. The board consists of four women and four men, and their ethnicities are seven Caucasians and one Native American. As members of the Committee retire/change we ask the disability services and ageing service state agencies to provide replacements. MDT also has Section 5311 and 5307 providers take turns on being on the Committee. MDT consulted with the State of MT Governor's Office on Indian Affairs to ensure equal representation for Native American on the Committee. The Office of Indian Affairs instructed MDT to select a member from one of the Tribes that is currently receiving funding though our programs to represent the Native American Tribal interest on the Committee. The Office of Civil Rights also attends these meetings in an observatory role to help ensure the fair and equitable distribution of funding.

The Committee assignments were established based off of MDT's State Management Plan. MDT established the agencies involved in specialized transportation as well as the public partners based on clientele and who they serve.

The MDT Director reviews and approves all Capital Assistance Review recommendations that come from the Capital Assistance Review Committee. The Director ensures that all capital is spread equitably across the state throughout the regions based on the amount of

available funding. In the event that the Capital Assistance Review Committee coincidentally awards no capital to an area or region of the State, the Director can direct the Transit staff to make equitable changes in order to place capital funding in the missed areas.

These funding opportunities along with all available funding opportunities are published on the MDT website and discussed at transit related conferences, and workshops. All Capital funding requires public notices. MDT ensures that all applicants provide public notice of funding in their annual application. Lack of public notice disqualifies an applicant. All applicants are made aware of this requirement per the application guidelines, conferences, and workshops. All sub recipients are provided information regarding public involvement at the Montana Transit Association Spring Conference as well as the MDT Fall Transit Management Workshop. Emails are also provided throughout the year to save the date and provide discussions items that will be covered. As with CAR Meeting the public is not invited to these meetings due to being able to provide comment per public notice put out by each agency during the application period. The public can attend the Montana Transportation Association Spring Conference and MDT Fall Workshop, but they are required to pay the fee associated with the meetings. A complete listing of all applicants for the CARES ACT funding can be seen in Appendix J.

Transit staff is made readily available to assist any applicant that needs addition assistance applying for available funding streams. Contact information is included on each public notice, and applicants are directed appropriately to the planner that oversees and works directly with their providers region. The Office of Civil Rights also provides providers with county maps, and upon request city maps to help assist in the identification of minority and low-income populations in their geographic area.

Facility Site Equity Analysis

From October 1, 2017- September 30, 2020 MDT submitted two Equity Analyses to FTA for site approvals. These analyses included demographics that identify minority and or low-income residents and take into account how actions can potentially impact these residents. Additionally, the analyses takes into account the transportation needs and ability for these persons to utilize transportation services. Analyses were conducted on the following sites: Whitehall and Malta. Complete copies of these Equity Analyses are located in Appendix K.

Monitoring

The Transit Section retains a Title VI Representative on staff. This Representative monitors Title VI and DBE compliance in applicable areas by submitting Periodic Reports and conducting Division internal reviews and external compliance reviews (which include metropolitan planning organizations (Urban), transit providers, and urban areas) as necessary.

In addition, to comply with FTA Circular 4702.1B, Chapter V, MDT compiles demographic

information about the State of Montana, the locations of minority populations, and the distribution of funding. Based on this information, MDT analyzes the impacts of the funding distribution and identifies if there were disparate impacts based on any protected status.

Maps to identify Montana's Census Population of Minorities and Funding are available in Appendix F. As shown in these maps, Montana is more populated in the western half of the state and the 7 reservations have the highest minority populations. Although 2 reservations did not apply for funding, service is still provided through these areas. Based on the review of the information, MDT determined there are no disparate impacts based on any protected status and the distribution of funds coincides with the locations of Montana's more populated areas, including minority populations.

Environmental Services Bureau

The Environmental Services Bureau is responsible for all environmental documentation. The documentation meets the requirements of the National Environmental Policy Act (NEPA) and Montana Environmental Policy Act (MEPA) for transportation highway projects including Community Impact Assessments.

In Montana, the areas of concern for Title VI issues are primarily on Indian reservations and urban areas, which are categorized as follows:

- 1) Reservation lands
- 2) Tribal lands outside a reservation
- 3) Minority/low-income neighborhoods

Potential impacts of transportation projects and alternatives are evaluated. Potential for adverse impact is rare since most projects follow existing transportation corridors or are in rural non-developed areas.

After appropriate analysis, evaluation, and determination of appropriate mitigation for the impacts of a transportation project and alternatives on neighborhoods, the following statements with appropriate explanations and documentation will be incorporated into the final environmental report when applicable. The statements will be included for Categorical Exclusions.

"This project will not induce significant land use changes or promote unplanned growth. There will be no significant effects on access to adjacent properties or present traffic pattern.

This project will not create disproportionately high and adverse human health or environmental effects on minority and low-income populations (**E.O. 12898**) and complies with Title VI of the *Civil Rights Act of 1964* (**42 U.S.C.2000d**)."

Procedures for studying neighborhood impacts are included in the environmental manual at <http://www.mdt.mt.gov/publications/manuals.shtml#env>.

The Engineering, Resource, and Hazardous Waste Sections of Environmental Services Bureau all contract for additional services to complete transportation projects. These contracts are normally awarded through the Consultant Design Bureau, Procurement Services Section, or the DOA Procurement Bureau (larger projects).

Monitoring

The Environmental Services Engineering Section Supervisor or the Environmental Services Bureau Chief reviews all Section work. The review covers the completeness, accuracy, and documentation of all studies relating to Title VI issues and their relationship with each project.

Major transportation project environmental documentation is also reviewed for overall content by Legal Services and various design sections of MDT. The Title VI Coordinator will review selected draft environmental documents for Title VI compliance.

State Highway Traffic Safety Section

The State Highway Traffic Safety Section's (SHTSS) mission is to reduce the number and severity of traffic crashes, injuries and fatalities on Montana highways. SHTSS conducts several programs with multiple projects that focus primarily on impaired driving prevention and occupant protection, and other traffic safety related problem areas using National Highway Traffic Safety Administration (NHTSA) funds.

Using federal funds, the SHTSS contracts with other state government agencies, local government agencies, and non-governmental entities to provide highway traffic safety, enforcement, and education programs within the state. At least 75% of all federal funds apportioned to Montana under 23 USC §402 are expended annually. The SHTSS invites law enforcement agencies to conduct overtime activities for highway traffic safety programs. Funding is distributed to local agencies based upon population size and crash rates, with areas having the highest crash rates/fatalities assigned priority. Funding is not distributed based upon sex, race, color, or national origin.

Traffic safety related funds not involving law enforcement are awarded based upon selection of grant applications that contribute to reducing traffic fatalities and injuries that meet the goals and objectives of the Comprehensive Highway Safety Plan. This is done without regard to sex, race, color, national origin, or any other protected class recognized federally or in the State of MT. The Contractor funded with NHTSA monies will not participate either directly or indirectly in discrimination that is prohibited by 49 CFR §26.5. Applications are made available on the MDT website (<http://www.mdt.mt.gov/safety/safetyprg.shtml>) that allows all interested parties equal opportunity to apply. The website is advertised on SHTSS's written material, public announcements, and by staff contacts with the public.

All contracts provided to those receiving NHTSA funds include assurances and certification

notices to the contractor that consist of contract language on compliance with Title VI of the Civil Rights Act of 1964 for Federal-aid contracts. Grant recipients are responsible for compliance with all federal, state and local requirements.

Monitoring

The Title VI Representative will ensure that Title VI language is added in SHTSS's Operating Procedures as it relates to the allocation of grant funds and grant management.

The RTPD Title VI Representatives will assist in conducting formal complaint investigations of program participants. Formal complaints against a local government and sub-recipients will be referred directly to the OCR. The OCR Operations Chief will approve finalizations of investigations.

Transit related formal complaints filed against MDT will be investigated by MDT and a written report will be sent to FTA. Formal complaints related to FHWA funding will be investigated immediately with a written report subsequently sent to FHWA. Listings of all received complaints are recorded in Appendix G Sub-Recipient Database and list the complaints and submission of all Sub-Recipients EEO Title VI Program Plan Submission dates.

Sub-recipient Review Procedures

Each year, the Title VI Coordinator, EEO Specialist, and or the Title VI Transportation Regional Planner conducts reviews to ensure sub-recipients are implementing programs that comply with Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations. There are three Metropolitan Planning Organizations (MPOs) in Montana; each MPO is reviewed every three years with one review occurring each year. The review procedures are outlined in Appendix D. Federal funding expenditures (H) are also reviewed to look for disparities and assure equitable funding throughout the state. Transit providers that are not MPO are also reviewed on a tri annual schedule and are reviewed by MDT Office of Civil Rights EEO The EEO Specialist Modifies the review procedures from in Appendix D to meet the review needs of providers that rare not MPOs. The Specialist, at a minimum, conducts tri-yearly with onsite visitations to review their programs and ensure they are in compliance with all non-discrimination, Title VI, and ADA provisions. While onsite, the EEO Specialist ensures that Title VI Notice is publicly visible and posted in the facility buildings and busses, and that complaint forms are prominently displayed for easy access to all persons wishing to file a complaint. The EEO Specialist also ensures that copies of the I Speak Cards are readily accessible for staff in the event they are needed to speak to a customer with Limited English Proficiency. Prior to the onsite visit, Office of Civil Rights EEO Specialist do a desk review of provider policies and procedures, and review the provider's website to ensure a Title VI notice is posted. Should a deficiency be found on the onsite review, the EEO Specialist works with the provider assisting them to come into line with the required process of procedures to ensure full program compliance. The EEO Specialist reviews with the provider any current of future building plans, discusses upcoming funding opportunities, and additionally answers any questions the provider may have related to non-discrimination policies or procedures.

Review of State Transportation Agency (STA) Directives

All Department directives are discussed at Administrator meetings at which the OCR Chief is present and can voice any concern relating to nondiscrimination requirements. In addition, all directives are reviewed by MDT's legal team and if any civil rights issues are involved, OCR is notified and is provided an opportunity to consult on the issue.

Notice to Beneficiaries

Dissemination of Information and Contents of Notification:

The OCR will work with all divisions of MDT staff to develop and disseminate Title VI Program information to MT DOT employees, sub-recipients, contractors, consultants, and beneficiaries, and the public. Public dissemination may include postings of policy statements, inclusion of Title VI language in contracts or other agreements, website postings and having a general circulation and informational brochure/complaint form, which, informs the public of their rights, and dually serves as an official complaint form. MDT will ensure public service announcements or notices are posted for the public for proposed projects, hearings, meetings, or formation of public advisory boards. Public notice will be presented through the use of one or more of the following mediums newspapers, television, web, radio. Further, MDT will furnish interpreters and written information in languages other than English as requested.

Notifications to the public include language informing the public that MDT operates all program(s) and services without regard s to: race, color, national origin, age, pregnancy or medical conditions related to pregnancy or childbirth, sex, sexual orientation, gender identity, disability, low-income, limited English proficiency, political belief, genetic material, veteran or military status, marital status, religion/creed, culture/social origin/ancestry, and retaliation.

MDT Title VI Program Assurances and Requirements for Contractors, Recipients, and Subrecipients

MDT ensures that all contractors and subrecipients, understands their Title VI program responsibilities and non-discrimination the standard non-discrimination notice is included in all contracts. In addition, MDT monitors compliance with Title VI responsibilities of contractors and subrecipients.

MDT will actively pursue the prevention of Title VI deficiencies and violations and will take necessary steps to ensure compliance with all program administrative requirements, both within MTDT and with its sub-recipients of all funding. When irregularities occur in the administration of the program operation, corrective action will be taken to resolve Title VI issues. When conducting Title VI compliance reviews on its sub-recipients, the sub-recipient will produce written remedial action plan agreed upon by the contractor and MDT to be implemented within a period not to exceed 90 days. MDT will seek cooperation of the

contractor in correcting any deficiencies found during review. MDT will also provide technical assistance and guidance needed to aid the contractor to comply voluntarily. In the event a contractor fails or refuses to voluntarily comply with the requirements within the time frame allotted, the MDT will weigh the merit of the reasons. If reasonable concerns or barriers are found, MDT will immediately contact the corresponding federal agency for assistance and guidance.

Should it be determined that additional monitoring is needed to obtain compliant status and ensure ongoing compliance with Title VI requirements, follow-up reviews will be conducted to ensure any previously identified Title VI Program requirements are corrected.

Findings of all reviews will be included in the yearly goals and accomplishment report submitted to the corresponding federal agency.

Monitoring

The EEO Specialist from the Office of Civil Rights serves as the Title VI Representative. The EEO Specialist periodically reviews procedures to assure proper compliance with regulations and works with staff to ensure all public meetings, weigh stations, MCS headquarters and district offices, and MCSAP offices have current Title VI pamphlets.

Training:

All MDT employees receive Title VI training directly from the EEOC Specialist Supervisor or another staff member from the Office of Civil Rights within three months of their hire date. This training will take place at the new employee orientation and will explain discrimination, cover all protections under Title VI, familiarize employees with state and federal discrimination laws, explain how to file a complaint with the OCR, and the state and federal authorities regulating and investigating complaints of discrimination. Further, it will introduce staff to the internal and external civil rights pages on the MDT webpages and explain the resources contained therein. Following orientation, at a minimum all MDT staff will complete a two-hour to three-hour Title VI training conducted by the EEOC Specialist Supervisor, or other member of the OCR staff. This training will address any changes in legislation, explain MDT responsibilities to employees and the public, and highlight the rights and responsibilities of each person employed at MDT. This training will explain how state and federal discrimination laws apply to employees and their public service, explain how to file a complaint with the OCR, and the state and federal authorities regulating and investigating complaints of discrimination. Further, training will explain in depth the process of filing complaints and with OCR and outside authorities with timelines and detailed explanation of the jurisdiction and processes associated with each.

All MDT Transit recipients and sub-recipients will also be provided with a two-hour yearly Title VI and non-discrimination training provided by the Office of Civil Rights. In addition, transit providers have open access to the Office of Civil Rights to address additional individual training needs. Training will be provided both in person, remotely through zoom, and recorded and archived for further use and reference on the MDT webpage.

Access to Records:

All records relating to the effective implementation of Title VI program requirements are readily available for review by federal agencies at any given time. The EEOC Specialist Supervisor submits a yearly submission for review of: complaint logs, training materials, handouts, contract language, the MDT nondiscrimination and disability accommodation notice, and yearly goals and accomplishment report highlighting the past year's activities and the upcoming year's goals. Should any federal agency have need or desire to review any of these documents prior to the submission of the yearly goals and accomplishment report, they can request any information and it will be electronically delivered (unless paper copies are requested) within seven business days of the request.

MDT and Contractor, Recipient, and Sub Recipients Title VI Complaint Process

Members of the public may contact the EEO Specialist Supervisor directly at or to the OCR directly by phone, fax, email, or in person to request additional information regarding MDT's nondiscrimination obligations. Additionally, MDT's website includes copies of the Department's Title VI Policy statements, assurances, and completed plans.

EEO Specialist Supervisor
Nicole Cosby
2710 Prospect Avenue
Phone: 406.444.6334
TTY:800.335.7592
Fax: 406.444.7243
Email nicosby@mt.gov
Website: <http://www.mdt.mt.gov/business/contracting/civil/>

Should a member of the public, MDT staff person, MDT Contractor, Sub Contractor, Recipient, or employee of the above mentioned have reason to believe he or she has been illegally discriminated against, he or she may file a formal complaint with the OCR in person, by phone, fax, mail, or email. For the convenience of the complainant, the complaint form (Appendix B) may be completed and returned to the EEO Specialist Supervisor, but complaints can also be received through the other means as identified above. Should a complainant need assistance producing a written complaint, the EEO Specialist Supervisor will take the complaint verbally and produce a written version for the review and signature of the complainant. The full complaint process is described in greater detail in Appendix A.

All complaints will be tracked and monitored for completion and reporting in the Civil Rights Complaint Tracking Database. Complaint Form: MDT uses the approved complaint form located in (Appendix B).

Tracking of Complaints

All complaints of discrimination are tracked in a database/Log, and include the following information:

- Name, address, and phone number of the person who files the complaint;

- Basis of complaint;
- Authority of the complaint (Title VI, Title VII, ADA, Affirmative Action);
- Membership of protected class;
- Name, address, and phone number of person alleged to have engaged in discriminatory behavior or conduct;
- Name of the investigator;
- Date of complaint filing and case number;
- Investigative notes, outcome of investigation;
- Origin of complaint (MDT, State of MT DOJ, contractor, subrecipient, Montana Human Rights, EEOC, or federal Department of Justice).

From October 1, 2017- September 30, 2020 there were zero Title VI complaints filed against transit providers in the state of MT, but there were ADA complaints filed. The below table lists each filed, their bases and outcome.

1	Case Number	Date Filed	Basis	Resolution	Closed Date
2	0501218	5/12/2018	ADA	Complaint alleged husband was being denied services. He was not denied, but had to call and schedule rides.	6/18/2018
3	01172019	1/17/2019	ADA	Provider returned the vehicle, as was not willing to charge equitable rates.	2/28/2019
4	04092020	4/9/2020	ADA	Rider needed a travel bag to shop. Provider worked with her to find one that fit under the seat and that could be secured.	5/25/2020
5	05142018	5/14/2018	ADA	Private company contract ended. Contract with a transit provider to give rides to participants and MDT has no jurisdiction.	6/6/2018
6	09122018	11/9/2018	ADA	Complained he was being overcharged. Explained company policy and rate schedule.	11/15/2020
7	11092018	11/9/2018	ADA	Customer alleged she was denied ride. She was not denied but was not allowed to make other riders move so she could sit where she wanted.	11/9/2018

Monitoring

All Title VI related formal complaints received by or filed against MDT, its contractor, recipients, or subrecipients will be investigated by MDT and a written report will be sent to the coordinating federal agency (FHWA, MCS, FAA, FTA). Complaints received against MDT contractor, recipients, and subrecipients are additionally tracked and monitored.

SPECIAL EMPHASIS PROGRAM AREAS

At this time OCR has not identified any Special Emphasis Program Areas. A program area is designated as a “special emphasis area” if during the previous year’s review process the program area shows deficiencies in how it complies with Title VI requirements. In addition, a program area may be designated a “special emphasis area” if OCR receives a complaint about or an indication of a possible violation within the program area from an MDT employee or a member of the public. The facts of each specific complaint and/or alleged violation report will determine if a “special emphasis” designation is proper. If a program area is designated as a “special emphasis program area,” the program area will remain so designated until the Title VI Coordinator or representative determines that the program area no longer requires special attention outside of the normal reporting requirements to OCR.

CONTRACTOR REVIEW PROCEDURES

Each year, the EEO Specialist conducts reviews to ensure contractors are implementing programs that comply with Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations.

TRAINING

As part of our oversight, Civil Rights training is prepared by analyzing discrimination complaints received at the Office of Civil Rights, Montana Human Rights Bureau, the EEOC, and the Department of Justice. Common themes are identified and specifically addressed inside of generalized trainings. Management and staff are trained separately to identify the roles, responsibilities, and rights of employees and the general public. These trainings are conducted by the EEO Specialist Supervisor or by EEO staff, as delegated. MDT’s current policy requires that all MDT employees receive Civil Rights training every 2 years. Training is offered throughout the state at various times throughout the year. In addition, all new employees receive Civil Rights training as part of their New Employee Orientation.

For sub-recipients, Civil Rights includes a training aspect into the review procedure. Additionally, yearly training is provided to all transit operators, and per request, additional training to the yearly training and resources are provided. This includes a library of training materials that can be accessed by transit providers and community partners.

COMPLAINT PROCEDURES

See Appendices A, B, and C for OCR's complaint procedure, complaint form, and Non-discrimination Policy. All investigations are conducted by personnel trained in compliance investigations.

OCR tracks Title VI complaint information on an internal data base that collects the following information:

Case number, Date filed, entity filed with, entity filed against, description of complaint, protected class, authority, days active, and resolution.

OCR will notify the applicable federal agency of any Title VI complaints and findings within the appropriate time frame.

LIMITED ENGLISH PROFICIENCY AND ENVIRONMENTAL JUSTICE

Executive Order 13166 implements Title VI of the Civil Rights Act of 1964 by requiring meaningful access to all federally financially assisted programs and activities by persons with limited English proficiency (LEP).

Limited English proficiency is defined as "individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English." LEP individuals are entitled by Executive Order 13166 to language assistance with respect to a particular type of service, benefit or encounter. FHWA has mandated that "...recipients must take reasonable steps to ensure that such persons have meaningful access to the programs, services, and information those recipients provide, free of charge...."

Options for MDT include:

- Multi-language flashcards that MDT Staff and transit providers can use to identify the driver's language, then access to an interpreter. Laminated and bound copies of the Ohio State *I speak Cards* will be provided to all transit providers with the direct link for providers to print additional sets as needed to meet their fleet needs. Additionally, a 24-hour interpretation service is contracted by the State of MT for instant interpretation and translation services;
- Using family members to interpret for LEP individuals
- <http://www.lep.gov> should be accessed as statewide and district wide LEP populations are identified;
- Contract for Deaf/ Hard of Hearing Services;
- Referring questions to International Relations departments at state colleges; and
- Creating and maintaining an "MDT Interpreters List."

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

1. The number of proportions of LEP persons serviced or encountered in the eligible

- service population.
2. The frequency with which LEP individuals come in contact with the program.
 3. The nature and importance of the program, activity or service provided by the program.
 4. The resources available to the recipient and cost.

The 2012 MDT LEP Plan is available on the internet at:

https://www.mdt.mt.gov/other/webdata/external/civilrights/limited_english_proficiency_plan_2012.pdf

The MDT Interpreters List has been developed, distributed to MCS, updated as new information is received, and included on the MDT Title VI Internet site at <http://www.mdt.mt.gov/other/civilrights/external/interpreters-list.pdf>. MDT enforces LEP in the same manner as Title VI. LEP is included as review criteria in all Title VI compliance reviews. OCR will continue to monitor LEP requirements both internally and in federal aid reviews of local governments and contractors, and the LEP plan will be updated as new Census data is made available. The forecasted update to MDT's LEP Plan is 2021.

**Limited English Proficiency Plan
Montana Department of Transportation
Office of Civil Rights
Revised May 15, 2012**

EXECUTIVE SUMMARY

Executive Order 13166 implements Title VI of the Civil Rights Act of 1964 by requiring meaningful access to all federally financially assisted programs and activities by persons with limited English proficiency (LEP).

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

LEP is included as review criteria in all Title VI compliance reviews. CRB will continue to monitor LEP requirements both internally and in federal aid reviews of local governments and contractors.

It is intended that this Limited English Proficiency Plan (LEP) be a living document, to change as circumstances require. This plan should properly be included in the MDT Title VI plan, as other states have already done.

State (Montana) or local "English-only" laws do not relieve an entity that receives federal funding from its responsibilities under federal anti-discrimination laws.¹

GENERAL ANALYSIS PROCESS

Under the DOJ guidance, MDT is obligated to determine the extent of its obligation to provide LEP services: This determination requires a flexible and fact-dependent analysis on a case-by-case basis of four factors²:

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

These factors should be applied to the various kinds of contact that MDT has with the public to assess language needs and decide what reasonable steps should be taken to ensure meaningful access for LEP persons. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis.³

The model DOJ LEP guidance includes a section regarding “safe harbors” for written translations of vital material. 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.

- A. The recipient provides written translations of vital documents for each eligible LEP language group that constitutes five percent 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 five percent 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 and have been rejected by some federal agencies. 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.⁴

The Limited English Proficiency Analysis based on the 2010 Census was completed in April 2012. It is available from the Coordinator upon request.

Once the necessity of a LEP plan is established, it is then necessary to implement an effective plan of language assistance. This consists of:

1. Identifying specific LEP individuals who need language assistance (see steps 1 through 3 of analysis).
2. Ways in which language assistance measures will be provided (see step 4 of analysis).
3. Train staff about procedures and how to work effectively with them.
4. Notify LEP persons that services are available and offered free of charge.
5. Monitor and update LEP plan.

SPECIFIC ANALYSIS

1. The number or proportion of LEP persons serviced or encountered in the eligible service population.

States operating statewide programs should assess statewide language groups to identify potentially significant LEP populations, and ensure that local offices conduct similar surveys of their local service populations.⁵ In MDT's case, this requires statewide analysis and then individual district analysis.

- What prior experiences with LEP have MDT staff encountered and what is the breadth and scope of language services that have been needed?
 - A recurring situation arises with Canadian truck drivers who do not speak English and pass through Montana. MCS officers have repeatedly expressed their frustration with trying to communicate with these individuals, and then later finding a Title VI complaint has been filed against them. This issue is discussed further below.
 - In 2012, requests for translation assistance have sporadically arisen from various units in MDT including Administration and Maintenance. This indicates that the need for interpreters may be increasing as larger groups of non-English speaking people visit and work in Montana.
 - Title VI field reviews indicate no LEP issues have arisen in the field, despite substantial non-English speaking populations in areas of the state who speak little or no English. Although the percentage of non-English speaking population in Montana is estimated at about 2.5% (or 25,000 persons), the actual percentages by county vary widely. This often depends upon whether an Indian reservation is within the boundaries of the county, since Indians constitute Montana's largest minority at about 6.4% .
- What LEP populations may have been underserved because of language barriers?
 - Title VI reviews of MDT units thus far have not indicated any LEP service issues. Right of Way particularly deals with older Native Americans who have limited or no English. This issue is routinely resolved by getting a tribal family member to interpret; the proposed "Expectations of Conduct for Interpreters" is intended to provide guidelines to avoid conflicts of interest in such situations. Other interpreters without a conflict of interest are available through the Interpreters List or other avenues.
 - Transit operators have not reported any LEP-related issues and field reviews have not indicated any LEP-related issues.
- What is latest census data statewide? District wide?

- That data is attached. Significantly, LEP regulations are applicable in areas with a dense population. Montana’s average number of persons per square mile is 6.76. In 2010, the most populated counties by “persons per square mile” (ppsm) were:

County	PPSM in 2000	PPSM in 2010
Yellowstone	49.1	56.2
Silver Bow-Butte	48.2	47.6
Missoula	36.9	42.1
Cascade	29.9	30.1
Gallatin	26	34.4
Lake	17.7	19.3
Lewis & Clark	16.1	18.3
Ravalli	15.1	16.8
Flathead	14.6	17.9
Anaconda-Deer Lodge	12.8	12.6
Jefferson	6.1	6.9
Hill	5.8	5.6
Lincoln		5.4
Park		5.6

*The 42 other counties had fewer than 5 persons per square mile. Montana’s overall PPSM figure is 7.35.

- Analysis of the 2010 census is reflected on the spreadsheet entitled, “Limited English Proficiency Analysis – Census 2010” which is available in electronic form upon request from the Coordinator.
- Population shifts did not seem to influence the higher population areas as much. Rankings of population indicate the more urbanized counties continued their higher PPSM ratio.

County	2000 Rank	2010 Rank (“+” means higher rank; “-“ = lower rank)
Anaconda – Deer Lodge	10	10
Cascade	4	-5 (dropped 1 rank)
Flathead	9	+8 (gained 1 rank)
Gallatin	5	+4 (gained 1 rank)
Hill	12	12
Jefferson	11	11
Lake	6	6
Lewis & Clark	7	7
Lincoln	Unranked	+14 (ranked in top 14)
Missoula	3	3
Park	Unranked	+13 (ranked in top 14)
Ravalli	8	-9 (dropped 1 rank)

Silver Bow	2	2
Yellowstone	1	1

- Is any information available from state or local governments, community agencies, school systems, faith-based organizations, legal aid entities, etc.?
 - As of May 1, 2012, Local governments in Butte, Billings, Missoula, and Great Falls have indicated no LEP issues in their planning or construction operations.
 - Title VI reviews in local areas emphasize questions about the issue of LEP and whether remedial solutions are required.
 - An interpreter consortium at Montana State University was disbanded in about 2010. No successor organization has emerged.

Statewide interpreter services are listed and available through the MDT CRB. A copy of that list is available at

<https://www.mdt.mt.gov/other/webdata/external/civilrights/interpreters-list.pdf>

2. The frequency with which LEP individuals come in contact with the program.

Motor Carrier Services officers in northwest Montana have encountered numerous instances wherein non-English speaking truck drivers from Canada have been difficult, if not impossible, to communicate with. MCS officers have needed to be able to communicate with the truck drivers and have been unable to. The number or proportion of LEP persons encountered is undetermined but significant enough to merit substantial attention by the area MCS Captain.

49 CFR 391.11(b) (2) states:

“... a person is qualified to drive a motor vehicle if he/she... can 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...”

According to the January 2011 Bond Schedule, this is a ticket able offense (\$135), and grounds for putting the vehicle “out of service.”

The balance of enforcing MCS regulations versus fear of a Title VI complaint can be efficiently dealt with by providing officers with resources to identify the language of the truck driver at issue and dealing with the MCS issue. Additionally, officers should not be placed in a position wherein their individual status is jeopardized at the expense of violation of MCS regulations. The MDT Interpreters List is available to be referred to.

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

Title VI Representatives or staff members in the following program areas indicated limited or no interaction in the past with significant numbers of LEP individuals:

Right of Way – When individuals are encountered, such as Native American elders, a family or tribal member is called upon to interpret for the right of way negotiation. This has worked in the past few years without incident.

Construction – No LEP issues were noted during the review.

Rail, Transit & Planning – No LEP issues were noted during the review.

Consultant Design – No LEP issues were noted during the review.

Aeronautics – No LEP issues were noted during the review.

LEP will remain an on-going discussion issue in all future Title VI review activities.

4. The resources available to the recipient and cost.

Resource options for MDT include:

- Multi-language flashcards that MDT could use to identify the driver's language, then access to an interpreter. Each MDT office that interacts with the public should be equipped with "I Speak" cards that can be used to identify and communicate the language in which an LEP person needs assistance. The cards, which are produced by the U.S. Department of Justice, can be downloaded and copied from <http://www.lep.gov/ISpeakCards2004.pdf>. The issue of cost arises when suitable interpreter services need to be retained.
- Using family members to interpret for LEP individuals. This has been used by Right of Way agents in negotiations, and is successful. There are certain limitations that have been recognized by courts recently. For example, a child interpreting in an adult situation may lead to challenges to the accuracy or trustworthiness of the interpretation. Even an older family member interpreting may be subject to challenge based upon undue interest or subjective interpretation.

All interpreters utilized from the MDT interpreters list are expected to adhere to the "Interpreters Code" which will be finalized and appended to the Interpreter list as an "Expected Conduct of Interpreters."

- Protect the confidentiality of all privileged and confidential information.
- Limit themselves to interpreting and not express personal opinions to individuals for whom they are interpreting, or engage in any other activities that may be construed to constitute a service other than interpreting while serving as an interpreter.
- Render a complete and accurate interpretation without altering, omitting, or adding anything to what is stated and without explanation.
- Accurately and completely represent their certifications (if any), training, and experience.
- Be impartial and unbiased and refrain from conduct that may give an appearance of bias.
- Immediately disclose to the parties any real, potential or perceived conflicts of interest.
- Conduct themselves in a professional manner.
- An interagency working group on LEP has developed a website,

It appears from this that concentrating our efforts in Yellowstone, Gallatin, and Missoula Counties, which also are the locations of major academic institutions as well as being high LEP areas would be advantageous in a time of budget shortfalls.

- What are the costs and availability of resources?
 - Resources in Montana are relatively scarce compared to other states but those resources have been identified on the Interpreter's list and will continue to be updated.
- What benefits will be realized by implementation of the requirements?
 - Benefits are already being recognized because of the pre-existing usage of LEP-related practices in areas such as Right of Way.
- Do the costs versus the benefits indicate LEP requirements will be favorable to MDT?
 - By usage of pre-existing practices and these options involving minimal expense and change in practice, the impact of imposing LEP functions is negligible, but the benefits of acknowledging and responding to all impacted population concerns is identifiable.
- What steps have been taken by MDT to date to implement LEP?
 - The LEP plan is included in both the FHWA and FTA MDT Title VI Plans; Access to the LEP flashcards has been noticed to the Department through Title VI representatives; and the MDT interpreters list is being implemented and phased into the practices of MDT units.

CONCLUSION:

The LEP plan will be included in the MDT FHWA and FTA Title VI Plans. The MDT Interpreters List has been developed, noticed to MDT, will be continually updated as new information is received, and will be included on the MDT Title VI Internet site. MDT OCR will continue to monitor LEP requirements both internally and in federal aid reviews of local governments and contractors.

Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (1994)," was enacted to reinforce Title VI of the Civil Rights Act of 1964.

The Civil Rights Act states, "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."

Executive Order 12898 states, "Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

MDT enforces Environmental Justice in the same manner as Title VI. Environmental Justice is included as review criteria in:

- All Title VI compliance reviews, particularly local government reviews, and
- Analyses prepared for compliance with the Montana and National Environmental Policy Acts (MEPA and NEPA).

REVIEW OF MDT AUTHORITY DIRECTIVES

All MDT directives are discussed at Administrator meetings at which the OCR Operations Chief is present and can voice any concern relating to nondiscrimination requirements. In addition, all directives are reviewed by MDT’s legal team and if any civil rights issues are involved, OCR is notified and is provided an opportunity to consult on the issue.

STATUS OF CORRECTIVE ACTIONS IMPLEMENTED BY APPLICANT TO ADDRESS DEFICIENCIES PREVIOUSLY IDENTIFIED DURING A TITLE VI PROGRAM COMPLIANCE REVIEW

All corrective actions were approved and implemented.

MDT NONDISCRIMINATION AND DISABILITY ACCOMMODATION NOTICE

MDT NONDISCRIMINATION AND DISABILITY ACCOMMODATION NOTICE

Montana Department of Transportation (“MDT”) is committed to conducting all its business in an environment free from discrimination, harassment, and retaliation. In accordance with State and Federal law, MDT prohibits all discrimination and protections are all inclusive (hereafter “protected classes”) by its employees or anyone with whom MDT does business:

Federal

Race, color, national origin, sex, sexual orientation, gender identity, age, disability, & Limited English Proficiency

State

Race, color, national origin, parental/marital status, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, religion/creed, social origin or condition, genetic information, sexual orientation, gender identification or expression, national origin, ancestry, age, disability mental or physical, political or religious affiliations or ideas, military service or veteran status

For the duration of this contract/agreement, the PARTY agrees as follows:

- (1) Compliance with Regulations:** The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, 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:

- a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
- b. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. Statement that PARTY does not discriminate on the grounds of any protected classes.
 - ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for PARTY's representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
 - iv. Information on how to request information in alternative accessible formats.
- c. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of any protected class.

(3) Participation by Disadvantaged Business Enterprises (DBEs):

- a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
- b. By signing this agreement, the PARTY assures that:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the

recipient deems appropriate.

- c. PARTY must include the above assurance in each contract/agreement the PARTY enters.

(4) Solicitation for Subcontracts, Including Procurement of Materials and

Equipment: In all solicitations, either by competitive bidding, or negotiation, made by the PARTY 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 PARTY of the PARTY's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(5) Information and Reports: The PARTY will provide all information and reports required by the Acts, 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 MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(6) Sanctions for Noncompliance: In the event of a PARTY's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
- b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

(7) Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Federal

- 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 Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- 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 prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination

includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).
- Executive Order 13672 prohibits discrimination in the civilian federal workforce on the basis of gender identity and in hiring by federal contractors on the basis of both sexual orientation and gender identity.

State

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

(8) Incorporation of Provisions: The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and/or directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.

Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free of discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination on the grounds of race, color, national origin, sex, age, physical or mental disability, parental/marital status, pregnancy, religion/creed/culture, political belief, genetic material, veteran status, or social origin/ancestry (hereafter “protected classes”). by its employees or anyone with whom MDT chooses to do business.

For the duration of this contract/agreement, the PARTY agrees as follows:

(9) **Compliance with Regulations:** The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

- a. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. Statement that PARTY does not discriminate on the grounds of any protected classes.
 - ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for PARTY's representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
 - iv. Information on how to request information in alternative accessible formats.
- b. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of any protected class.

(10) Participation by Disadvantaged Business Enterprises (DBEs):

- a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
- b. By signing this agreement the PARTY assures that:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

- c. PARTY must include the above assurance in each contract/agreement the PARTY enters.

Solicitation for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation, made by the PARTY for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be

- d. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. Statement that PARTY does not discriminate on the grounds of any protected classes.
 - ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for PARTY's representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
 - iv. Information on how to request information in alternative accessible formats.
- e. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of any protected class.

(11) Participation by Disadvantaged Business Enterprises (DBEs):

- a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
- b. By signing this agreement, the PARTY assures that:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

- c. PARTY must include the above assurance in each contract/agreement the PARTY enters.

(12) Solicitation for Subcontracts, Including Procurement of Materials and

Equipment: In all solicitations, either by competitive bidding, or negotiation, made by the PARTY 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 PARTY of the PARTY's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(13) Information and Reports: The PARTY will provide all information and reports required by the Acts, 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 MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(14) Sanctions for Noncompliance: In the event of a PARTY's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
- b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

(15) Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Federal

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 200d *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 Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- 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 prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination

includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

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

State

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

(16) Incorporation of Provisions: The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.

(17) Community Participation Process: This section is not applicable to MDT. The Montana Department of Justice is the CDL Program Grantee in the State of MT, and because MDT does not conduct motor vehicle or Motorist licensure motor registration activities.

(18) Status of Corrective Actions Implemented by Applicant to Address Deficiencies Previously Identified During a Title VI Program Compliance Review: MDT has had no reviews and no previously identified deficiencies in the last five years.

REAL PROPERTY

The following clauses shall be included in any and all deeds affecting or recording the transfer therein from the United States:

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the State of Montana, 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 Federal Highway Administration of the Department of Transportation, and also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) 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 demise, release, quitclaim and convey unto the State of Montana all the right, title and interest of the Department 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 State of Montana, and its successors forever, subject, however, to the covenant, 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 shall be binding on the State of Montana, its successors and assigns.

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

*Reverter clause and related language to be used only when it is determined that such a

clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the State of Montana, pursuant to the provisions of Assurance 6(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.,) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, the State of Montana, shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, or permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, the State of Montana, shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Montana and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the State of Montana, pursuant to the provisions of Assurance 6(b)

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his 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 sex, race, color, or national

origin shall 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 sex, race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the promises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, the State of Montana, shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, the State of Montana, shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Montana, and it's assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

DOT (FTA) TITLE VI ASSURANCE

Pursuant to FTA Circular 4702.1B (October 1, 2012), every application for financial assistance from FTA is accompanied by an assurance that the applicant will carry out the program in compliance with Title VI of the Civil Rights Act of 1964. This requirement is fulfilled on an annual basis when the department submits the annual certifications and assurances. The assurances are submitted electronically under the Administrator of the Rail, Transit and Planning Division or the Chief of the Grants Bureau's automated signature

49 CFR 21

The most recent version of 49 CFR Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" is available at <http://www.ecfr.gov/>

IMPACTS OF THE CIVIL RIGHTS RESTORATION ACT OF 1987 ON FHWA PROGRAMS

September 2, 1992

The Restoration Act applies to all Federal Agency programs nationwide; however, FHWA is the only Agency which has provided written implementation guidance.

1. PURPOSE. To provide guidance to Federal Highway Administration (FHWA) field officials, State highway agencies (SHAs), their sub-recipients, and contractors regarding the nondiscrimination requirements of the Civil Rights Restoration Act of 1987.

2. BACKGROUND
 - a. The Supreme Court's decision in the case of Grove City College v. Bell, 465 U.S. 555 (1984), limited the reach of Federal agency nondiscrimination requirements to those parts of a recipient's operations which directly benefited from Federal assistance. The Civil Rights Restoration Act of 1987 clarified the intent of Congress to include all programs and activities of Federal-aid recipients, sub-recipients and contractors. This statute clarified the intent of Congress as it relates to the scope of Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes.

 - b. Nondiscrimination programs require that Federal-aid recipients, sub-recipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, where those programs and activities are federally funded or not. The factors prohibited from serving as a basis for action or inaction which discriminates include race, color, national origin, sex, age, and handicap/disability. The efforts to prevent discrimination must address, but not be limited to a program's impact, access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigations of complaints, allocations of funds, prioritization of projects, and the functions of right-of-way, research, planning, and design.

 - c. Authorities for nondiscrimination include but are not limited to: Title VI of the Civil Rights Act of 1964, the Age Discrimination Acts of 1967 and 1975, Section 504 of the Rehabilitation Acts of 1973, the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, and Title 23, United States Code, Section 324.

3. GUIDANCE
 - a. The Civil Rights Restoration Act of 1987 amended each of the affected statutes by adding a section defining the word "program" to make clear

that discrimination is prohibited throughout an entire agency if any part of the agency receives Federal financial assistance.

- b. If a unit of a State or local government is extended Federal aid and distributes such aid to another governmental entity, all of the operations of the entity which distributes the funds and all of the operations of the department or agency to which the funds are distributed are covered.
- c. Corporations, partnerships, or other private organizations or sole proprietorships are covered in their entirety if such an entity receives Federal financial assistance which is extended to it as a whole or if it is principally engaged in certain types of activities.

ACTION REQUIRED

- a. FHWA field officials:
 - (i) Inform the States of the existence of the Civil Rights Restoration Act of 1987;
 - (ii) Provide guidance and technical assistance to SHAs upon request;
 - (iii) Inform States of the need to incorporate language in the next scheduled update of their Nondiscrimination ("Title VI") Plans indicating that they are aware of the scope of the nondiscrimination provisions and that they have incorporated a process to inform persons involved in or affected by all of their programs and activities of their rights under Title VI and related nondiscrimination statutes;
 - (iv) Provide and/or coordinate training addressing nondiscrimination program requirements;
 - (v) Provide guidance on how nondiscrimination complaints will be handled; and
 - (vi) If a complaint of discrimination is received from a person who believes that he or she has been subjected to discrimination under any program or activity of a recipient, sub-recipient, or contractors, whether Federal-aid funds are involved in a particular program or activity or not, immediately transmit the complaint to the Director, Departmental Office of Civil Rights, and send a copy of the complaint to HCR-20.

b. State transportation agencies:

- (i) Incorporate appropriate language in updates of Non-discrimination (“Title VI”) Plans to ensure that persons affected by or involved in all of a State’s programs and activities are aware of their rights to not be subjected to discrimination based on race, color, sex, national origin, age, or handicap/disability;
- (ii) Ensure that persons who believe they have been subjected to discrimination are made aware of the avenues of redress available to them and that they are provided advice on the process;
- (iii) Monitor activities and investigate complaints filed against Federal-aid sub-recipients and contractors. The SHAs are also responsible for preventing discrimination in all of their own programs and activities and attempting to informally resolve complaints filed against them throughout the complaint process;
- (iv) Where a complainant lodges a complaint against the SHA, the Federal Highway Administration will conduct or contract for the investigation or, if a class action complaint, a review;
- (v) In instances where the complaint is against a contractor, subcontractor, or sub-recipient, the Federal Highway Administration can defer to the appropriate SHA to schedule and conduct an investigation, although, initially, involvement by Federal Highway Administration may be appropriate to ensure the adequacy of the investigation.

APPENDIX A – NONDISCRIMINATION COMPLAINT PROCEDURE

The Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free of discrimination, harassment, and retaliation. In accordance with State and Federal law, MDT prohibits any and all discrimination on the grounds of:

race, color, national origin, sex, age, physical or mental disability, parental/marital status, pregnancy, sexual orientation,² religion/creed/culture, political belief, genetic material, veteran status, or social origin/ancestry (hereafter “protected classes”).

by its employees or anyone with whom MDT chooses to do business. MDT employees, contractors, employees of contractors, and external customers may file a complaint of discrimination or harassment based on any protected class.

Filing a complaint with the Office of Civil Rights (“OCR”) does NOT prohibit the complainant from filing a complaint with Montana Human Rights Bureau (“HRB”), Equal Employment Opportunity Commission (“EEOC”), US Department of Transportation (“USDOT”), US Department of Justice (“DOJ”), any other appropriate body or tribunal, or seeking the advice of personal counsel. The remedy available may vary based on the legal authority under which the complaint is brought.

Filing a Complaint

OCR adopts the “Initiating an Internal Complaint” procedures outlined in Administrative Rules of Montana [2.21.4019](#), with the following modifications:

- All complaints must be filed within 180 days of the alleged discriminatory conduct.

Given the serious nature of allegations alleging civil rights complaints, complaints should be in writing and signed. Should complainant need assistance in producing a written complaint, he/she can call directly to the Office of Civil Rights, and EEO Specialist Supervisor will transcribe their complaint for them, mail the hard copy to them for their review and signature. Complainants are encouraged, but not required, to use [OCR’s complaint form](#). Complaints may be:

mailed to: MDT Office of Civil Rights, PO BOX 201001, Helena, MT 59620

² Sexual orientation is a protected class for MDT employees and is enforced as an internal policy violation pursuant to the Governor’s Executive Order 41-2008 and ARM 2.21.4005.

hand delivered to: MDT Office of Civil Rights, 2701 Prospect Ave, Helena, MT 59620

emailed to: OCR Title VI, Title VII, and EEO Specialist Supervisor at
nicosby@mt.gov

called into: EEO Specialist Supervisor 406.444.6334

All complaints filed with OCR alleging discrimination and/or harassment based on a protected class will be investigated by OCR. MDT internal complaints dealing solely with human resources issues (i.e. ineffective management, personality conflicts, poor job performance) will be handled by the appropriate MDT Human Resources Division (HR) personnel.

Investigating a Complaint

OCR adopts the “Investigating a Complaint” procedures outlined in Administrative Rules of Montana [2.21.4020](#) with the following modifications:

- If a determination is made that an investigation is warranted, the complainant, the accused, and the relevant MDT administrator³ will be notified in writing, which will include a case reference number that will be included on all documents pertaining to that case.
- If at any point during the investigation the complainant stops cooperating with the OCR investigator or becomes otherwise unresponsive, the OCR investigator may close the investigation at his/her discretion, provided complainant was given a reasonable opportunity to correct his/her actions.

All investigations consist of interviewing witnesses and collecting and reviewing any relevant documents. Investigatory interviews may be conducted in person or over the phone. The OCR investigator will determine the form of the interview at his/her discretion.

After the interview, the OCR investigator will create an Interview Summary which the interviewee may review for any errors or omissions. Once the interviewee is satisfied that the Interview Summary represents an accurate documentation of the statements they made to the investigator on the day of interview, the OCR investigator will ask the interviewee to sign the Interview Summary. The Interview Summary will become part of the investigative file and will be incorporated into the final report. If the interviewee refuses to sign the Interview Summary, that fact will be noted on the Interview Summary document, which will nonetheless be included in the investigative file. During the course of the investigation, follow up interviews or the production of additional documents might become

³ For complaints filed by external customers, the appropriate employer, contractor, or grant recipient will be notified.

necessary. OCR asks for prompt response to these requests to assure that all investigations are resolved in a timely manner.

Confidentiality

OCR conducts all of its investigations in accordance with [ARM 2.21.4022](#). It is OCR's policy to keep confidential all of its investigations and relevant documents. However, it might be necessary for OCR to reveal the identity of the parties involved to OCR Operations Chief, MDT Director, MDT legal staff, or persons at the organization or institution under investigation. The complainant does have the right to have their identity withheld during the course of the investigation. If the complainant wishes to have their identity withheld, complainant should inform the investigator of that fact at the outset of the investigation. The complainant should be aware that having the identity withheld may hinder the progress of the investigation.

Timelines

OCR strives to complete all investigation within 120 days of receipt of complaint. This time period may be changed at the discretion of the OCR investigator and the business needs of MDT.

Throughout the course of the investigation, the OCR investigator will provide periodic updates to the OCR Operations Chief. The OCR Operations Chief is responsible for monitoring the progress of the investigation to assure it is conducted in compliance with these guidelines and all applicable statutes and regulations.

Investigation Conclusions and Remedies

Upon conclusion of an investigation, the OCR investigator will make a "cause" or "no-cause" determination, and will provide recommendations based on the finding as stated in the Final Determination Report. All effected parties will be notified in writing about the outcome of the investigation, however, copies of the Final Determination Report will not be provided. If a "cause" determination is made, the matter will be resolved by informal means whenever possible. However, formal action may be recommended:

For MDT internal complaints: up to and including termination, as outlined in the state [discipline policy](#).

For MDT external complaints: up to the maximum penalty provided by applicable statute or regulation including debarment or withholding of funding.

The final determination report will be reviewed by the OCR Operations Chief, MDT Director, and MDT legal counsel. What action will be taken will be determined by the OCR

Operations Chief, MDT Director, and MDT legal counsel based upon the information provided by OCR investigator in the final determination report.

Post Investigation Actions

OCR adopts the Post-Investigation Actions procedures outline in Administrative Rules of the State of Montana [2.21.4021](#) with the following modifications:

- A Final Determination Conference may be held at the discretion of the OCR Operations Chief or MDT Director.
- The case will be considered closed once a “no-cause” finding has been made or applicable disciplinary action was taken.
- Copies of the Final Determination will not be provided to the parties. However, parties are welcome to read the report at the OCR office. No electronic copies will be provided.
- If the complainant is not satisfied with the outcome of OCR’s investigation, complainant may pursue any other avenues available to him/her including filing a complaint with HRB, EEOC, applicable federal agency, or federal or state district court. Upon request by the complainant, and in compliance with applicable state and federal law, the OCR investigatory file and accompanying report may be transmitted to such other agency as will be performing further investigation. It is the responsibility of the complainant to monitor all filing deadlines with all other state or federal agencies.

For questions, comments, or concerns contact OCR Title VI, Title VII, and EEO Specialist Supervisor, Nicole Cosby at:

Phone: (406) 444-6334 TTY: (800) 335-7592; Montana Relay at 711; Email: nicosby@mt.gov

For accommodations contact Alice Flesch at: (406) 444 - 9229 or aflesch@mt.gov

THIS DOCUMENT IS AVAILABLE IN ACCESSIBLE FORMATS UPON REQUEST.

APPENDIX B – COMPLAINT FORM

**Civil Rights Discrimination
Complaint Form**

COMPLAINANT INFORMATION

Name: _____

Address: _____

Phone No.: _____

Email: _____

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

NARRATIVE

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

BASIS OF COMPLAINT: (Mark all that apply)

- | | |
|--|---|
| <input type="checkbox"/> Federal & State | <input type="checkbox"/> State Only |
| <input type="checkbox"/> Race | <input type="checkbox"/> Sexual Harassment |
| <input type="checkbox"/> Color | <input type="checkbox"/> Sexual Orientation (<i>MDT employees only</i>) |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Political Belief |
| <input type="checkbox"/> Age | <input type="checkbox"/> Genetic Material |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Veteran Status |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Physical Disability |
| <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Mental Disability |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Marital Status |
| <input type="checkbox"/> Low-Income | <input type="checkbox"/> Religion/Creed |
| <input type="checkbox"/> Limited English Proficiency | <input type="checkbox"/> Pregnancy |
| | <input type="checkbox"/> Culture/Social Origin/Ancestry |
| | <input type="checkbox"/> Hostile Work Environment |
| | <input type="checkbox"/> Retaliation |



ADA, Title VI, and Title VII

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

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

Fax: (406) 444-7243

MDT Office of Civil Rights
 2701 Prospect Avenue, PO BOX 201001
 Helena, MT 59620-1001
Voice: (406) 444-8334
TTY: (800) 335-7592
Fax: (406) 444-7243

MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program, or activity of the Department. Alternative accessible formats (e.g. large print, audio cassettes, etc.) of this document will be provided upon request. For further information, please call (406) 444-9229, or TTY (800) 335-7592 or Montana Relay at 711.

For more information on at ADA, Title VI, Title VII, or non-discrimination at MDT, visit our website:
mdt.mt.gov/business/contracting/civil/eeo.shtml

For additional copies of this document or questions, please contact the EEO Specialist at (406) 444-8334

1,000 copies of this public document were produced at an estimated cost of \$.03 a copy for a total of \$30.00 for printing.

Rev 08/2016

Non-Discrimination Authorities

- * **Title VI of the Civil Rights Act** of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; which also includes FMCSA-only programs or activities (49 CFR Part 303);
- * **Federal-Aid Highway Act** of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- * **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 Airways Improvement Act** of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

Authorities (continued)

- * Titles II and III of the **Americans with Disabilities Act**, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- * The **Federal Aviation Administration's Non-Discrimination statute** (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- * **Title IX of the Education Amendments** of 1972, as amended, which prohibits discrimination because of sex in education programs or activities (20 U.S.C. § 1681 et seq.).
- * Executive Order 12898, Federal Actions to Address **Environmental Justice** in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

Authorities (continued)

- * Executive Order 13166, Improving Access to Services for Persons with **Limited English Proficiency**, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- * Executive Order 13672 extends protection against discrimination in hiring and employment in the civilian federal workforce by federal contractors on the basis of both sexual orientation and gender identity.
- * Mont. Code Ann. § 49-3-205 Governmental services;
- * Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- * Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

Montana Department of Transportation (MDT) is committed to conducting all of its business in an environment free of discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination on the basis of protected classes by its employees or anyone with whom MDT chooses to do business.

APPENDIX C – NONDISCRIMINATION POLICY

EEO, Nondiscrimination, and Harassment Prevention Policy

Resource: Administrative Rules of the State of Montana (ARM)

Human Resources/ Employee Benefits

State Human Resources includes policies in administrative rules (ARM) when the policy may affect the public or be used by persons who are not currently employees. The policies that only affect state employees are not included in ARM. This policy is in ARM. This is a reproduction created for your convenience, but it is not the official version. Links to the ARM and Montana Code Annotated (MCA) are embedded throughout the document. You may also find the official ARM website at <http://www.mtrules.org>.

2.21.4001 SHORT TITLE

(1) This subchapter may be cited as the Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention Policy.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2000 MAR p. 3515, Eff. 12/22/00; AMD, 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4002 POLICY AND OBJECTIVES

(1) These rules establish the minimum requirements for implementing and maintaining an equal opportunity program that promotes compliance with:

(a) federal laws and regulations prohibiting illegal discrimination including the Genetic Information Nondiscrimination Act of 2008 (GINA);

(b) the Montana Human Rights Act, Title 49, MCA;

(c) the Governmental Code of Fair Practices, Title 49, chapter 3, MCA; and

(d) and the Governor's Executive Order 41-2008, Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention.

(2) These rules establish complaint procedures to promote prompt and equitable resolution of discrimination complaints.

(3) These rules cover all agencies in Montana's executive branch except:

(a) the Montana University System;

(b) the Montana State Fund;

(c) elected officials;

(d) personal appointed staff of elected officials; and

(e) any other position specifically excluded under 2-18-103 and 2-18-104, MCA.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2000 MAR p. 3515, Eff. 12/22/00; AMD, 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4005 EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND NONDISCRIMINATION

(1) The executive branch is committed to equal opportunity, nondiscrimination, and harassment prevention in all aspects of employment and in programs, services, and activities offered to the public.

(2) Agency managers, as defined by the agency in policy or rule to promote consistency with internal policies and procedures, may not tolerate discrimination or harassment based on an individual's race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, culture, social origin or condition, or ancestry. Likewise, agency management may not tolerate discrimination or harassment because of a person's marriage to or association with individuals in one of the previously mentioned protected classes.

(3) Agency managers may use a bona fide occupational qualification (BFOQ) where the reasonable demands of a position require a distinction based on age, physical or mental disability, marital status, sex, religion, or national origin. A BFOQ is a legal exception to an otherwise discriminatory hiring practice. Exceptions are strictly construed, as provided in [49-2-303](#), MCA, and the burden rests with the agency to demonstrate the exemption should be granted. Federal and state laws prohibit BFOQs based on race or color.

(4) To promote a work and customer service environment free from discrimination, agency managers shall:

- (a) base hiring decisions on individual competencies and qualifications;
- (b) promote an inclusive work environment where individuals are afforded every opportunity to reach their fullest potential;
- (c) recognize individual differences as a key element of organizational and team success;
- (d) treat individuals with dignity and respect; and
- (e) value the rights of all Montanans to benefit from equal access to employment and programs, services, and activities offered to the public.

(5) Agency managers who observe behaviors that may be viewed as discriminatory shall stop the behavior and notify their agency's EEO officer, Americans with Disabilities Act (ADA) coordinator, or human resources manager.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2000 MAR p. 3515, Eff. 12/22/00; [AMD](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4008 RESPONSIBILITIES

(1) The Department of Administration shall:

- (a) periodically review and update equal opportunity (EO) standards, guidelines, and administrative processes and procedures;
- (b) assist agencies in maintaining an effective EO program;
- (c) provide annual utilization analysis reports to agencies;
- (d) provide EEO analyses, reports, and technical assistance to agencies;
- (e) recommend strategies to promote diversity and overcome potential barriers to employment; and
- (f) design and develop equal opportunity training.

(2) Executive branch department heads shall:

- (a) appoint an EEO officer responsible for:
 - (i) managing the agency's EEO program;
 - (ii) training employees on EO;

- (iii) assisting employees and managers with resolving EO issues;
 - (iv) conducting internal investigations; and
 - (v) developing written EEO action plans; and
 - (b) appoint an ADA coordinator responsible for:
 - (i) training employees on the ADA, disability awareness, and reasonable accommodations;
 - (ii) conducting self-evaluations to assess accessibility of programs, services, and activities; and
 - (iii) assisting with reasonable accommodation requests.
 - (3) Agency managers shall:
 - (a) retain electronic records for all jobs recording the sex, race, and ethnic group of employees and applicants as provided in 49-2-102, MCA, and the Uniform Guidelines on Employee Selection Procedures (1978); 43 FR 38295 (August 25, 1978);
 - (b) provide reasonable accommodations, upon request, for qualified individuals with disabilities and for applicants and employees based on their religious practices, unless doing so would create an undue hardship;
 - (c) post the state's EO policy poster and complaint-resolution procedures, including contact information for the agency EEO officer and ADA coordinator, in areas frequented by employees and the public;
 - (d) provide a copy of these rules to all employees;
 - (e) provide EO and harassment prevention training to all new employees within 90 days of hire or within [six months of the effective date of these rules] for current employees who have not yet received training;
 - (f) provide EO and harassment prevention refresher training for all employees every three years or more frequently as needed; and
 - (g) document all training in the employee's personnel file.
- History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4009 COMPLIANCE WITH THE FEDERAL GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA)

- (1) To comply with GINA, which prohibits discrimination based on genetic information with respect to employment or state-sponsored group health plans, agency managers may not:
 - (a) request, require, or purchase genetic information about employees or their family members; or
 - (b) use genetic information to:
 - (i) discriminate against an individual in hiring, discharge, compensation, terms, conditions, or privileges of employment;
 - (ii) make decisions about admission to apprenticeship and training programs, including on-the-job training;
 - (iii) limit, segregate, or classify an individual;
 - (iv) fail or refuse to refer an individual for employment;
 - (v) deprive an individual of employment opportunities; or

(vi) acquire health insurance or set premiums under the group health plan.

(2) Requests for genetic information include, but are not limited to:

(a) conducting Internet searches on individuals in a way that is likely to result in obtaining genetic information;

(b) knowingly or purposefully listening to third-party conversations or searching an individual's personal effects for the purpose of obtaining genetic information; and

(c) requesting information about an individual's current health status in a way that is likely to result in obtaining genetic information.

(3) To avoid inadvertently receiving genetic information, agency representatives who request medical information as part of an employment-related medical exam or a medical certification in response to a request for sick leave, leave qualifying under the Family Medical Leave Act, or a reasonable accommodation request under the Americans with Disabilities Act, shall include the following statements verbatim in their written request for medical information:

(a) "The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of employees or their family members. To comply with this law, we ask you not to provide any genetic information when responding to this request for medical information."

(b) "Genetic information, as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services."

(c) "Genetic test means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes."

(4) Agency managers may not ask probing questions of an individual if they inadvertently learn of a health condition of an applicant, employee, or the health condition of a family member.

(a) Probing questions include, but are not limited to, asking the individual whether other family members have the condition or whether the individual has been tested for the condition. These questions are likely to result in the acquisition of genetic information.

(5) Agency representatives possessing genetic information about an employee shall maintain the information as confidential in compliance with [ARM Title 2, chapter 21, subchapter 66](#), Employee Records Management Policy.

History: [2-18-102](#), MCA; [IMP, 2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4013 HARASSMENT

(1) Harassment, including sexual harassment, consists of, but is not limited to, oral, written, or electronic communications (for example, voice mails, e-mails, text messages, or other social networking tools) in the form of repeated and

unwelcomed jokes, slurs, comments, visual images, or innuendos based on a protected class. Even mutually agreeable behavior, or behavior accepted between two or more people, can be offensive to others; for this reason it is prohibited in the workplace.

(2) Sexual harassment is a form of discrimination that includes unwelcome verbal or physical conduct of a sexual nature when:

(a) submission to the conduct is implicitly or explicitly made a term or condition of employment;

(b) submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual; or

(c) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(3) Agency managers may not tolerate any behavior that negatively focuses on a protected class. Although a behavior or pattern of behavior might not constitute illegal discrimination, it might still violate this rule.

(4) Agency managers who observe behaviors that could be viewed as discrimination or harassment shall stop the behavior and notify their agency's EEO officer, ADA coordinator, or human resources manager.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2000 MAR p. 3515, Eff. 12/22/00; AMD, 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4014 RETALIATION

(1) Agency managers may not retaliate or allow, condone, or encourage others to retaliate against any customer, applicant, or current or former employee for opposing unlawful discriminatory practices, filing a discrimination complaint or participating in a discrimination proceeding, including testifying in court.

(2) Agency managers who become aware of retaliation shall inform the agency's human resource manager, human resource staff, EEO officer, or ADA coordinator. The human resource manager, human resource staff, EEO officer, or ADA coordinator shall advise management on the appropriate course of action.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2000 MAR p. 3515, Eff. 12/22/00; AMD, 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4019 INITIATING AN INTERNAL COMPLAINT

(1) Agency managers shall encourage employees, applicants, clients, and customers who believe they have been discriminated against or harassed to contact their supervisor, another manager, or the agency's EEO officer, ADA coordinator, or human resources staff.

(2) Complaints may be oral or in writing; however, complainants are encouraged to use the Department of Administration's complaint form found at <http://hr.mt.gov/hrpp/policies.mcp>.

(3) For complaints not submitted on a complaint form, the agency representative receiving the complaint shall obtain and document the following information:

- (a) name, address, and phone number(s) of the complainant(s);
- (b) date(s), time(s), and location(s) of the alleged discriminatory behavior or conduct;
- (c) name(s), if known, of the accused(s);
- (d) description of the behavior or conduct that resulted in an alleged violation;
- (e) whether the alleged discrimination was based on a protected class; and
- (f) names of potential witnesses who may have heard or observed the alleged discriminatory conduct or behavior.

(4) Agency representatives who receive a complaint or become aware of allegations of discrimination or harassment shall promptly notify the human resource manager, EEO officer, or ADA coordinator, regardless of their perception of the validity of the complaint.

(5) The human resource manager, EEO officer or ADA coordinator, legal counsel, and appropriate manager shall meet to discuss the appropriate course of action. If the complaint is against any of these individuals, that individual is excluded from the meeting. The discussion must focus on measures to stop the alleged behavior, a review of the investigative process, and management's role in the process.

(6) If management determines an internal investigation would not be appropriate because of a potential conflict, they may request assistance from the State Human Resources Division or other outside source.

(7) The human resource manager or human resource staff, as appropriate, shall coordinate with the investigator and advise management throughout the course of the investigation.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4020 INVESTIGATING A COMPLAINT

(1) The EEO officer, ADA coordinator, or another representative chosen by management shall begin an investigation upon receiving a complaint.

(2) Before the investigation begins, the appropriate manager shall separately explain the following to the complainant and accused:

- (a) the investigation process and anticipated timelines;
- (b) what retaliation is and that it is unacceptable behavior; and
- (c) expectations and consequences of discussing the complaint with anyone other than the investigator, management, union representative, or legal counsel.

(3) Agency managers shall provide:

- (a) periodic updates to the complainant and the accused; and
- (b) documentation of their initial meeting and all subsequent follow-up action to the investigator.

(4) The investigator shall:

- (a) gather evidence to determine a "cause" or "no-cause" finding;
- (b) coordinate with the agency's legal counsel before conducting interviews and throughout the investigation; and
- (c) provide periodic updates to the agency's human resource manager.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4021 POST-INVESTIGATION ACTIONS

(1) After receiving the final report, the appropriate manager shall promptly inform the complainant and accused of the outcome of the investigation in writing.

(2) In the case of a cause finding, the appropriate agency manager shall:

(a) take appropriate disciplinary action, if necessary, according to the ARM Title 2, chapter 21, subchapter 65, Discipline Policy;

(b) advise the complainant corrective action to stop the behavior has been taken, but not disclose the details or nature of disciplinary action;

(c) reemphasize that retaliation is unacceptable behavior; and

(d) contact the complainant within 30 days to ensure the behavior has stopped and no retaliation has occurred.

(3) In the case of a no-cause finding, the appropriate agency manager shall contact the complainant within 30 days to ensure the complainant has not experienced retaliation.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4022 CONFIDENTIALITY REQUIREMENTS

(1) Agency managers shall make every attempt to protect the privacy of individuals involved in the complaint process; however, individual privacy cannot be guaranteed.

(2) Agency managers may not prohibit employees from discussing a complaint or ongoing investigation with coworkers unless management conducts an individualized assessment and demonstrates that one of the following factors exists:

(a) there are witnesses in need of protection;

(b) evidence is in danger of being destroyed;

(c) testimony is in danger of being fabricated; or

(d) there is a need to prevent a cover-up.

(3) Agency managers shall document their rationale for requiring that employees refrain from discussing a complaint or ongoing investigation.

(4) The human resource staff shall maintain the investigative report and supporting documents in a secure, confidential case file separate from the regular employee file.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2011 MAR p. 1672, Eff. 8/26/11; AMD, MAR p. 110, Eff. 2/1/13.)

2.21.4027 TRACKING AND REPORTING INTERNAL COMPLAINTS

(1) Agency EEO officers shall track internal complaints using the Complaint Tracking Sheet located on the State Human Resources Division website: <http://hr.mt.gov/hrpp/policies.mcp>. EEO officers shall provide quarterly summaries

of internal complaints to the State Human Resources Division no later than the fifteenth day of each quarter.

(2) The report must include:

(a) the total number of complaints;

(b) whether the complainant and accused was an employee, customer, or client;

(c) the protected class or basis of the complaint;

(d) the reason for complaint (for example, employment-related, denied access to a program or service, or inappropriate comment); and

(e) the outcome of the complaint.

(3) The report is for tracking purposes only and may not include confidential information such as names of individuals involved.

(4) The State Human Resources Division shall collect and analyze the data to:

(a) assess program effectiveness;

(b) develop or modify existing policies, procedures, and guides; and

(c) promote compliance with applicable laws, regulations, and policies.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4028 INITIATING AN EXTERNAL COMPLAINT

(1) In addition to the internal complaint process, complaints may be filed with the following agencies:

(a) Montana Human Rights Bureau, 1625 11th Avenue, P.O. Box 1728, Helena, MT 59624-1728, (406) 444-2884, (800) 542-0807, TTY (406) 444-0532; or

(b) United States Equal Employment Opportunity Commission (EEOC) San Francisco District Office, 350 The Embarcadero, Suite 500, San Francisco, CA 94105-1260, (800) 669-4000, TTY (800)-669-6820.

(2) Jurisdiction may vary based on the nature of the complaint. For example, neither the Human Rights Bureau nor the EEOC considers complaints based on sexual orientation, culture, social origin or condition, or ancestry.

(3) The Human Rights Bureau must receive the complaint within 180 days of when the alleged discriminatory practice occurred or was discovered unless the person has filed an internal complaint. A person who files an internal complaint under these rules has 180 days from the conclusion of the internal investigation to file a complaint with the Human Rights Bureau if management completes the investigation within 120 days of when the alleged discriminatory practice occurred or was discovered. If management does not complete the investigation within 120 days, the person must file a complaint with the Human Rights Bureau within 300 days of when the alleged discriminatory practice occurred or was discovered.

(4) The EEOC must receive the complaint within 300 calendar days from the date the discrimination took place if the Human Rights Bureau enforces a law prohibiting employment discrimination against the same protected class. Otherwise, the complaint must be filed with the EEOC in 180 days.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11; [AMD](#), MAR p. 110, Eff. 2/1/13.

2.21.4029 RULE VIOLATIONS

(1) Employees who violate these rules are subject to discipline, up to and including discharge under [ARM Title 2, chapter 21, subchapter 65](#), Discipline Policy. A rule violation includes managers who allow discrimination to occur or fail to take appropriate action to correct inappropriate behavior, including discrimination or harassment.

(2) Failure to conduct an investigation in a proper and timely manner, interference with an investigation, failure to cooperate with an investigator, or making a false statement to an investigator may result in disciplinary action, up to and including discharge.

History: [2-18-102](#), MCA; [IMP, 2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

Other Resources:

- [Complaint Form](#)
- [Governor's Executive Order 41-2008 \(Equal Employment Opportunity, Non-Discrimination, and Harassment Prevention\)](#)
- [Harassment is Against the Law Brochure](#)
- [Model EEO Policy Statement Poster](#)
- [Tracking and Reporting Internal Complaints Form \(Excel\)](#)

APPENDIX D – SUB-RECIPIENT REVIEW PROCEDURES

MPO Title VI Review Short Form			
Technical Assistance Tool			
<p>The checklist below represents the information being examined for the purposes of a Title VI Review by the Civil Rights Bureau of MDT. A detailed manual is provided for your reference. Documentation is necessary wherever possible. Please contact the MDT Civil Rights Bureau Office for any further clarification.</p>			
Entity Being Reviewed: _____		Date: _____	
Review Criteria	Yes	No	Detail/ Comment
Organizational			
1.1 MPO has appropriate contacts/liasons with local, state, and federal entities for information sharing.			
1.2 MPO possesses accessible, public, and up-to-date Census data including: demographic base, languages spoken, youth-specific, age, & income			
1.3 MPO has accessible, public, and up-to-date copies of any Memorandum of Agreements or Memorandum of Understandings.			
1.4 MPO's Contact information, schedule, agendas, minutes, publications, Organizational Chart, and proposals exist both on the internet and in physical copies.			
Title VI Specific			
2.1 MPO possesses the most up-to-date Title VI PowerPoint Presentation & Literature.			
2.2 MPO has an assigned Title VI Liaison.			
2.3 MPO office displays current Title IV information publicly.			
2.4 MPO has procedures in place to determine that the effect of the planning process is not discriminatory; and appropriate procedures in place to avoid projects having a "disproportionate adverse impact on minorities or low income" community members.			
2.5 MPO has a Title VI Plan that satisfies all regulations and has been approved by it's governing body and the CRB.			
If applicable, MPO's Title VI Plan was submitted timely and approved by FTA (City of Billings: April 1, 2013; Great Falls Transit District: October 1, 2013; Missoula Urban Transportation District: October 1, 2013.) See at http://www.fta.dot.gov/documents/Title VI Program Due Dates 4-1-2013.pdf .			
2.6 MPO has confidential and appropriate procedures for investigating, documenting, and resolving discrimination complaints.			
2.7 MPO puts forth a 'Good Faith Effort' to consistently hold accessible (ADA&LEP) and appropriately advertised (Timely & Reasonable Notice) public meetings, where public input is encouraged and documented.			
MPO incorporates the analysis of potential relocatees, impacted citizens, and affected communities in all project plans.			
MPO projects have resulted in relocations, which were handled and documented appropriately.			
2.8 MPO has fair and documented procedures for BOTH a 'Public Selection' process, and a 'Consultant Selection' process.			
2.9 MPO attaches Title VI Language to all contracts, and requires the same of its contractors.			
2.10 MPO Utilizes appropriate procedures when receiving assistance from MDT.			
DBE/ADA/LEP/EJ SPECIFIC			
3.1 MPO provides reasonable accommodations, and includes a reasonable accommodations statement in all announcements.			
3.2 MPO puts forth a 'Good Faith Effort' to keep an up-to-date list of DBE's, and to locate, notify, and promote the use of DBE's in both the planning and commencement of projects.			
3.3 MPO has appropriate procedures for: researching& understanding local LEP situation, accommodating local LEP situation, and handling LEP issues as they arise.			
3.4 MPO has an effective documentation process for the consideration of ADA issues in planning, ADA complaints, and appropriate procedures for dealing with ADA and the planning process.			
Event Tracking			
4.1 MPO has received discrimination complaints.			
4.2 MPO has had ADA complaints.			
4.3 MPO includes a DBE participation rate in it's projects, and reports their participation to CRB.			
4.4 MPO has had LEP complaints.			
4.5 MPO has submitted most recently produced mapping to CRB.			
4.6 Title VI Liaison from MPO has attended, or is currently scheduled to attend, a Title VI Training.			
4.7 Title VI Pamphlets available			

Title VI Review Short Form

Technical Assistance Tool

The checklist below represents the information being examined for the purposes of a Title VI Review by the Civil Rights Bureau of MDT. A detailed manual is provided for your reference. Documentation is necessary wherever possible. Please contact the MDT Civil Rights Bureau Office for any further clarification.

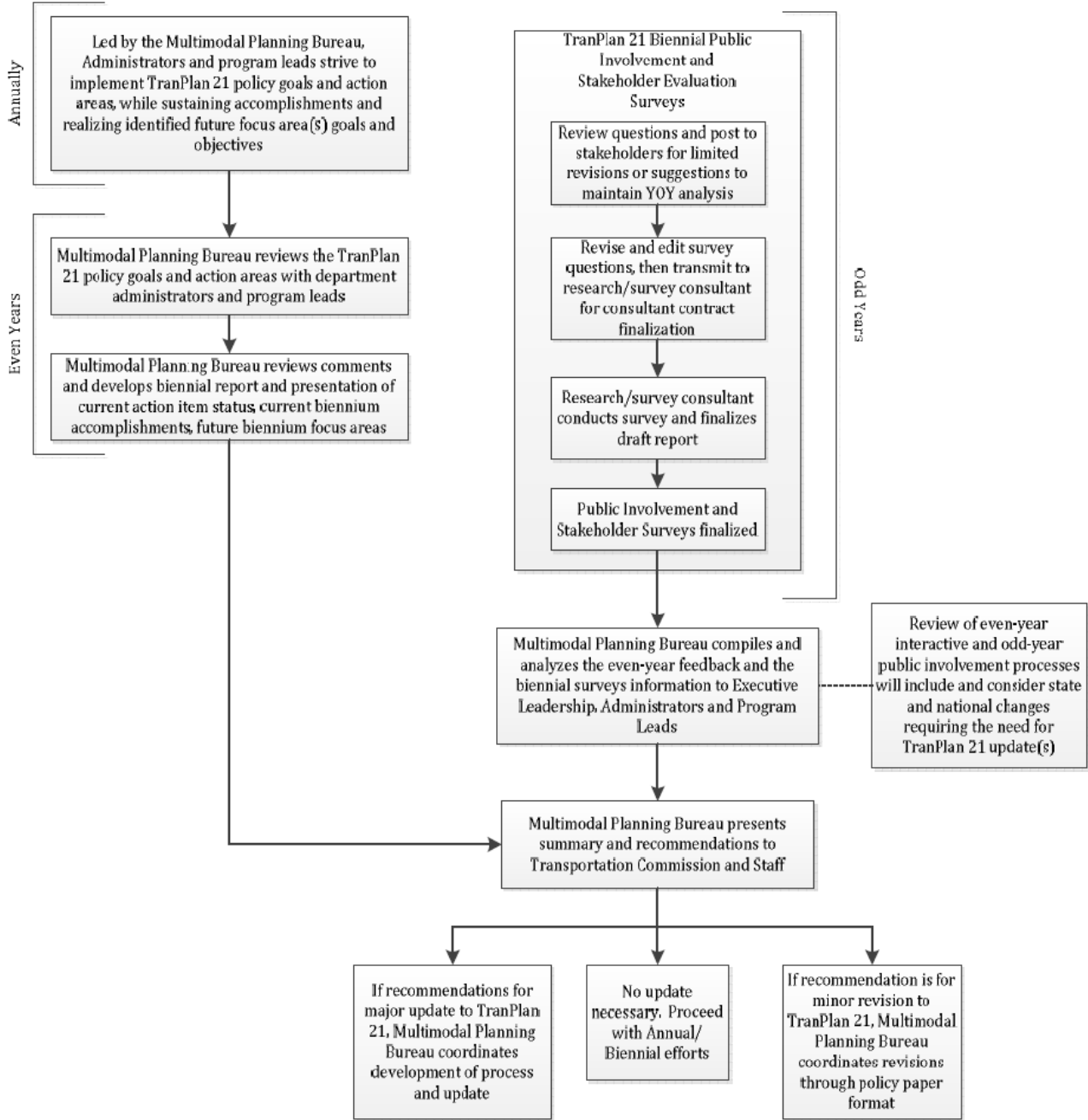
Entity Being Reviewed:

Date: *, 2013

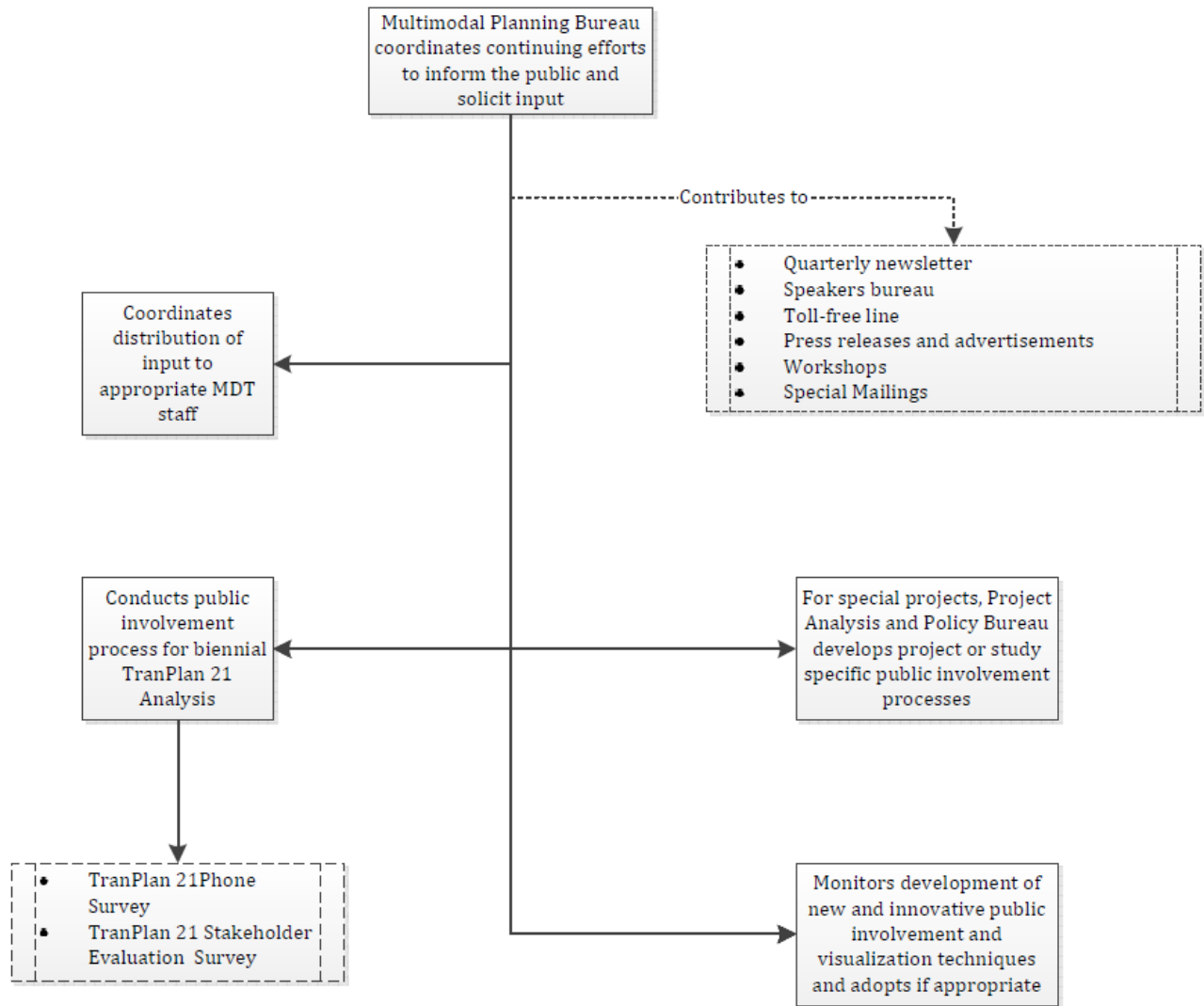
Review Criteria	Yes	No	Detail/ Comment
Organizational			
1.1 Provider has appropriate contacts/liaisons with local, state, and federal entities for information sharing.			
1.2 Provider possesses accessible, public, and up-to-date Census data including: demographic base, languages spoken, youth-specific, age, &			
1.3 Provider has accessible, public, and up-to-date copies of any Memorandum of Agreements or Memorandum of Understandings.			
1.4 Provider has Contact information, schedule, agendas, minutes, publications, Organizational Chart, and proposals exist both on the internet			
Title VI Specific			
2.1 Provider has the most up-to-date Title VI PowerPoint Presentation &			
2.2 Provider has an assigned internal Title VI Lcontact person			
2.3 Provider's office displays current Title IV information publicly.			
2.4 Provider has procedures in place to determine that the effect of the planning process is not discriminatory; and appropriate procedures in place to avoid projects having a "disproportionate adverse impact on minorities or			
2.5 Provider has a Title VI Plan that satisfies all regulations and has been approved by it's governing body and the CRB.			
2.6 Provider has confidential and appropriate procedures for investigating, documenting, and resolving discrimination complaints, or provider has			
2.7 Provider puts forth a 'Good Faith Effort' to consistently hold accessible (ADA&LEP) and appropriately advertised (Timely & Reasonable Notice) public meetings, where public input is encouraged and documented.			
2.8 Provider has fair and documented procedures for BOTH a 'Public Selection' process, and a 'Consultant Selection' process.			
2.9 Provider attaches Title VI Language to all contracts, and requires the same of its contractors.			
DBE/ADA/LEP/EJ SPECIFIC			
3.1 Provider provides reasonable accommodations, and includes a reasonable accommodations statement in all announcements.			
3.3 Provider has appropriate procedures for: researching& understanding local LEP situation, accommodating local LEP situation, and handling LEP			
3.4 Provider has an effective documentation process for the consideration of ADA issues in planning, ADA complaints, and appropriate procedures for dealing with ADA and the planning process.			
Event Tracking			
4.1 Provider has received discrimination complaints and made involved MDT.			
4.3 Provider includes a DBE participation rate in it's projects, and reports their participation to CRB.			
4.4 Provider has had LEP complaints.			
4.6 Title VI representative from MPO has attended, or is currently scheduled			
4.7 Title VI Pamphlets, Title VI Notice, complaint form, and I Speak Cards are all readily available. Title VI notice and complaint form is on organizational website.			

APPENDIX E – STATEWIDE LONG-RANGE TRANSPORTATION PLANNING PROCESS

TranPlan 21 Implementation and Evaluation Process



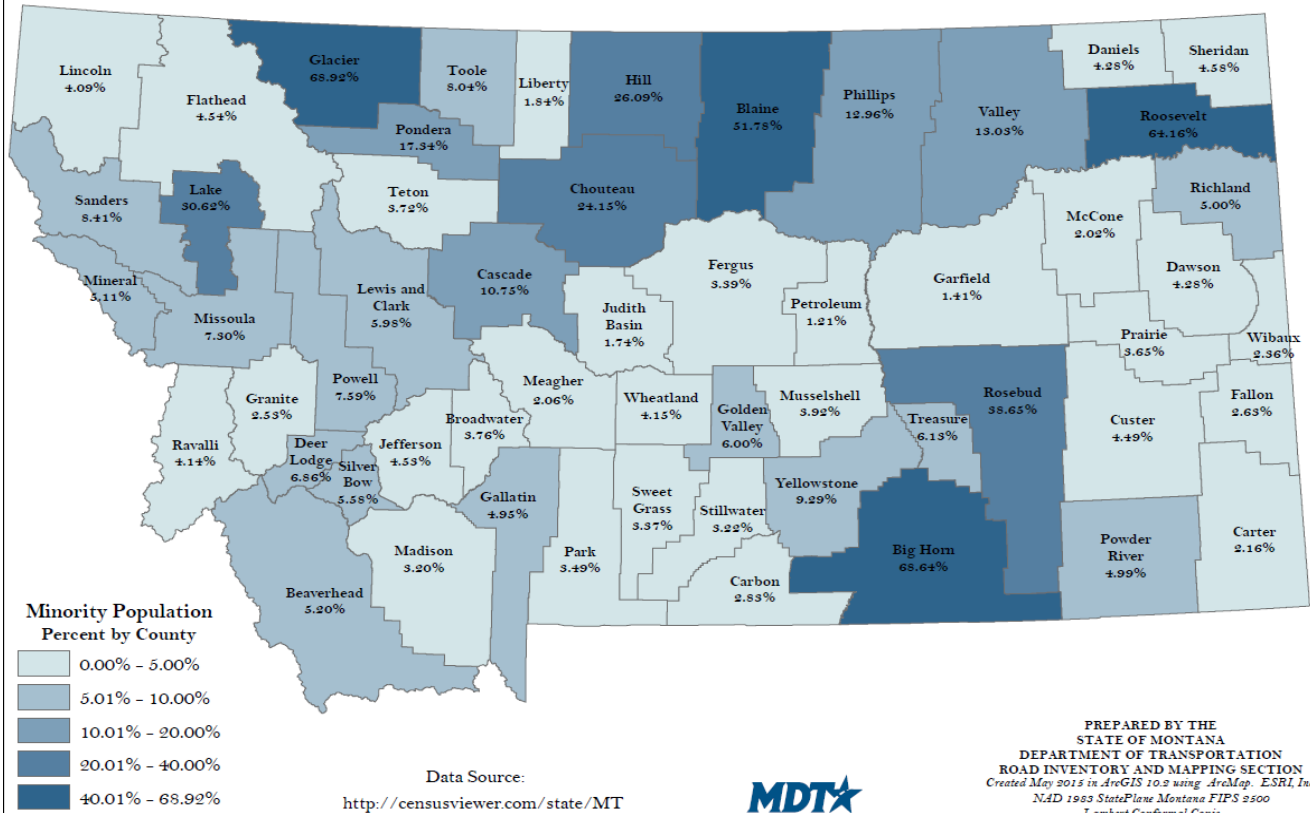
Statewide Planning Public Involvement Process



APPENDIX F – DEMOGRAPHIC MAP

Montana 2010 Census Population of Minorities by County

Total Montana Minority Population = 104,454
10.5 % of State Population (989,415)



APPENDIX G – SUB-RECIPIENTS COMPLAINTS AND EEO TITLE VI PROGRAM PLANS SUBMISSION RECORD

2015						
Selection	Sub-Recipients	Date Submitted	Number of Complaints	Number of Law Suits	R - Resolved	U - Unresolved
5311	West Yellowstone Foundation Transit	10/23/2015	0	0	0	0
5311	Big Dry Transit	10/20/2015	0	0	0	0
5311	Big Sky Transportation District (dba, Sk	10/15/2015	0	0	0	0
5311	BitterRoot Bus	10/14/2015	0	0	0	0
5311	Blackfoot Tribe	10/26/2015	0	0	0	0
5311	Butte-Silver Bow Transit	10/14/2015	0	0	0	0
5311	Carter County Carter Charter	10/13/2015	0	0	0	0
5311	CSKT	10/24/2015				
5311	Urban Transportation District of Dawso	10/19/2015	0	0	0	0
5311	City of Dillon	10/28/2015	0	0	0	0
5311	Flathead County Eagle Transit	10/23/2015	1	0	1 R	
5311	Fallon County Council on Aging	11/16/2015	0	0	0	0
5311	Fergus County council on Aging	11/5/2015	0	0	0	0
5311	Fort Peck Transit (dial-a-ride)	12/1/2015	0	0	0	0
5311	Helena Ara Transit Service (HATS)	10/14/2015	0	0	0	0
5311	Jefferson Lines	11/5/2015	0	0	0	0
5311	Lake County Council on Aging	10/16/2015	0	0	0	0
5311	City of Laurel Transit System	11/4/2015	0	0	0	0
5311	Liberty County Transit	10/14/2015	0	0	0	0
5311	Whitehall Public Transportation	10/19/2015	0	0	0	0
5311	LCTS Inc.	10/15/2015	0	0	0	0
5311	Mineral County Pioneer Council	1/4/2016	0	0	0	0
5311	Missoula Ravalli TMA	10/13/2015	0	0	0	0
5311	North "Central Montana Transit	10/19/2015	0	0	0	0
5311	Phillips Transit Authority	10/22/2015	0	0	0	0
5311	Powder River County Transportation	10/19/2015	0	0	0	0
5311	Powell County Public Transportator	10/14/2015	0	0	0	0
5311	Quality Transit	10/14/2015	0	0	0	0
5311	Richland County Transportation Servic	10/29/2015	0	0	0	0
5311	Rocky Boy Transit	11/30/2015	0	0	0	0
5311	Rosebud Transportation	11/17/2015	0	0	0	0
5311	Salt Lake Express	10/14/2015	0	0	0	0
5311	Sanders County Council on Aging	10/30/2015	0	0	0	0
5311	Human Resource Devlopment Council	10/19/2015	0	0	0	0
5311	Toole County Transit/Northern Transit	10/14/2015	0	0	0	0
5311	Valley County Transit	10/21/2015	0	0	0	0

Sub-Recipients 2016

Selection	Sub-Recipients	Date Submitted	Number of Complaints	Number of Law Suits	R - Resolved U - Unresolved
5311	Crow Transit	1/7/2016	0	0	0

APPENDIX H – SUMMARY OF FUNDING BY COUNTY

County	Fund	2018	2019	2020
Beaverhead	5311	\$ 42,856.57	\$ 38,271.17	\$ 56,013.50
Blackfeet Tribe	5311	\$ 280,429.59	\$ 140,672.49	\$ 119,370.35
Carbon	5339		\$ 44,000.00	
Carter	5311	\$ 18,082.60	\$ 16,948.54	\$ 15,875.22
Cascade	5303	\$ 90,453.04	\$ 88,617.56	\$ 99,324.68
Confederated Salish & Kootenai Tribes	5311	\$ 510,143.04	\$ 500,703.71	\$ 299,259.67
Custer	5311		\$ 16,095.68	\$ 106,640.30
Daniels	5311	\$ 20,963.77	\$ 28,242.31	\$ 27,274.43
Dawson	5311	\$ 159,248.44	\$ 157,800.05	\$ 174,274.42
Fallon	5311	\$ 47,168.82	\$ 58,817.52	\$ 68,083.33
Fergus	5311	\$ 130,198.33	\$ 149,357.02	\$ 159,536.91
Flathead	5311	\$ 628,735.85	\$ 699,683.43	\$ 852,204.63
	5339		\$ 16,201.59	\$ 3,473.18
Fort Peck Tribes	5311	\$ 459,306.23	\$ 164,454.01	\$ 616,839.43
Gallatin	5311	\$ 2,039,877.00	\$ 2,023,769.61	\$ 2,482,170.65
Garfield	5311	\$ 14,798.82	\$ 15,717.02	\$ 24,249.27
Hill	5311	\$ 177,006.83	\$ 212,011.85	\$ 240,876.77
Jefferson	5311	\$ 70,109.38	\$ 69,829.05	\$ 94,996.56
	5339	\$ 160.00	\$ 254,617.43	\$ 48,000.00
Lake	5311	\$ 56,672.79	\$ 59,672.35	\$ 69,130.84
Lewis and Clark	5311	\$ 753,776.59	\$ 668,265.55	\$ 767,003.89
Liberty	5311	\$ 90,292.23	\$ 151,914.03	\$ 126,467.13
Lincoln	5311	\$ 144,901.13	\$ 147,619.52	\$ 130,958.68
Mineral	5311	\$ 4,277.27	\$ 2,451.15	\$ 2,262.04
Missoula	5303	\$ 165,558.18	\$ 194,792.74	\$ 74,301.22
	5311	\$ 128,509.44	\$ 136,182.02	\$ 158,000.64
Park	5311	\$ 35,432.58	\$ 61,730.02	\$ 71,877.41
Phillips	5311	\$ 151,586.95	\$ 129,204.04	\$ 171,470.52
Powder River	5311	\$ 111,898.21	\$ 80,422.45	\$ 102,040.85
Powell	5311	\$ 26,280.36	\$ 22,969.60	\$ 29,213.01
Ravalli	5311	\$ 134,704.43	\$ 127,876.55	\$ 168,396.25
Richland	5311	\$ 196,471.25	\$ 168,872.73	\$ 190,056.80
	5339		\$ 15,524.93	
Rosebud	5311	\$ 52,305.83	\$ 48,266.79	\$ 70,911.67
Sanders	5311	\$ 122,966.38	\$ 138,557.71	\$ 159,943.97
Sheridan	5311	\$ 229,416.53	\$ 213,138.81	\$ 232,396.41
Silver Bow	5311	\$ 630,108.10	\$ 767,790.64	\$ 843,296.97
	5339		\$ 6,627.92	

Statewide	5311	\$ 530,895.21	\$ 555,153.90	\$ 1,073,870.56
	5339	\$ 289,918.73		\$ 250,718.76
Toole	5311	\$ 152,034.11	\$ 168,171.37	\$ 185,192.51
Valley	5311	\$ 364,178.42	\$ 401,401.89	\$ 397,294.67
Yellowstone	5303	\$ 190,352.18	\$ 195,471.38	\$ 200,092.43
	5310	\$ 14,360.00		
	5311	\$ 21,150.29	\$ 13,746.08	\$ 36,182.95
	5339	\$ 37,311.20	\$ 112,373.60	\$ 305,061.47
Bus Purchases	5310	\$ 778,481.10	\$ 1,555,755.28	\$ 388,567.05
	5311	\$ 602,406.35	\$ 386,509.42	\$ 860,476.88
	5339	\$ 922,575.98	\$ 988,729.00	\$ 347,563.30
Total		\$11,628,360.13	\$12,215,001.51	\$12,901,212.18

APPENDIX I – SUMMARY OF FUNDING BY YEAR

Fund	2018	2019	2020
5303	\$ 446,363.40	\$ 478,881.68	\$ 373,718.33
5310	\$ 792,841.10	\$ 1,555,755.28	\$ 388,567.05
5311	\$ 9,139,189.72	\$ 8,742,290.08	\$11,184,110.09
5339	\$ 1,249,965.91	\$ 1,438,074.47	\$ 954,816.71
Total	\$11,628,360.13	\$12,215,001.51	\$12,901,212.18

APPENDIX J – SUMMARY OF CARES ACT FUNDING

FY 2018 Capital Assets

Applicant	Approved	Denied
Big Sky Transportation	x	
BSW, Inc.	x	
Carter County	x	
Custer County	x	
Fergus County Council on Aging	x	
Flathead County, Eagle Transit	x	
Helena, City of	x	
HRDC District IX	x	
Lake County	x	
Liberty Place	x	
Mission Mountain Enterprises, Inc.	x	
MRTMA	x	
Montana Independent Living Project, Inc.	x	
Park County	x	
Powder River County Transportation	x	
Powell County Executive Board on Aging	x	
REACH, Inc.	x	
Richland County	x	
Rosebud Health Care Center	x	
Sanders Count COA	x	
Urban Transportation District of Dawson County	x	
Butte-Silver Bow COA		x
Butte-Silver Bow County		x
Liberty County COA		x
West Mont		x
Wibaux county		x

FY 2019 Capital Assets

Applicant	Approved	Denied
Big Sky Transportation District	x	
Butte-Silver Bow COA	x	
Daniels Memorial Hospital	x	
Flathead County	x	
Glenwood Inc.	x	
City of Helena	x	
HRDC	x	
Jefferson Lines	x	
Lake County Council on Aging	x	
Liberty County COA	x	
Liberty Place Inc.	x	
Powder River County	x	
REACH, Inc.	x	
Richland County	x	
Rosebud Health Care Center	x	
Valley County	x	
West Mont	x	
Big Sky Transportation District		x
City of Helena		x
HRDC		x

FY 2020 Capital Assets

Applicant	Approved	Denied
Big Sky Transportation District	x	
Butte Silver Bow County	x	
City of Helena	x	
Fallon County	x	
Fergus County COA	x	
Flathead County	x	
Garfield County	x	
Human Resource Development Council District IX	x	
Jefferson Lines	x	
Liberty Place	x	
Lincoln County Transportation Service	x	
Madison County	x	
Montana Independent Living Project	x	
Mineral County	x	
Mission Mountain Enterprises	x	
Missoula Ravalli Transportation Management Association	x	
Musselshell County COA	x	
Opportunity Link	x	
Park County	x	
Phillips Transit Authority	x	
Powder River County	x	
Reach, Inc.	x	
Rocky Mountain Development Council	x	
Sanders County COA	x	
Seeley Lake Community Foundation	x	
Valley County	x	
Big Sky Transportation District		x
BSW		x
Butte Silver Bow County		x
Dawson County Transit		x
City of Helena		x
Human Resource Development Council District IX		x
Liberty County		x
Mineral County		x
Musselshell County COA		x
Opportunity Link		x
Reach, Inc.		x
Sanders County COA		x
West Mont		x

APPENDIX K- EQUITY ANALYSIS SUMMARY

Phillips Transit Authority, Site Selection

Title VI Equity Analysis

December 9, 2020

Background and Project Description

Phillips Transit Authority was started roughly twelve years ago, they have learned to deal with the problems of providing service to their community no matter which season or time of year. Their goal then and now is much the same, to provide transportation to those who need it in a safe, courteous, and dependable manner. They have acquired a fleet of 5 buses and 3 vans, but still lack the support and safety of a proper storage facility, needed for their fleet. Many people in the community rely on Phillips Transit Authority to provide vital transportation to doctor appointments in town and out, kids needing a ride to school, work or senior meals, hair appointments, groceries, or banking. There are no other options, unless they have friends or family that can take them. Many are elderly with no one to fall back on. Without Phillips Transit Authority, many of them become shut ins. The major issue they face is the Montana weather. For the last 12 years, they have rented an office space in the basement of our Phillips County Hospital and park their buses on an empty lot in the back. In the spring, summer, and fall, one of the problems is keeping the mice out. They have had to replace wiring several times from them chewing through wires and are constantly on the defense to protect drivers and riders from the possibility of hantavirus. Summertime also presents the problems of cooling the buses down and the ongoing problems with the air conditioners in the vehicles. In the winter, they have problems with starting the buses, often causing them to call for help from local mechanic shops. They have one storage stall overnight for the Sprinter as it is a diesel and has a very hard time starting. The drivers come in an hour early to try and get buses running, swept off, scraped, pre-tripped and warmed up for the day. If they had proper shelter for their fleet, they could save many hours on the clock. Even something as important but simple such as wiping down buses with a disinfectant becomes a challenge at -30 below.

They expect this of the drivers daily before any vehicle hits the road. Unfortunately, some items can get missed when its dark, cold snowing or raining. Their fleet is aging. They have buses that are 17 years, the Head Start bus, the MOI bus is 16 years old, Bus 1 is 15 years old, Sprinter is 10 years old. Newest bus is 2 years old. Their mini vans are 17, 10 and 4 years old. The building they would like to build will be a steel building of roughly 4800 square feet (60x80x14') on a minimum of 5" engineered monolithic concrete slab. They will specify a high insulation value of at least R-25 in the walls and R-32 in the ceiling. Insulation will be either spray on foam or fiberglass with an Opti liner to protect it. All walk doors and windows will be insulated as well. All overhead doors will be commercial grade insulated with electric operators. The preferred heat source will be a radiant floor heat system. They are including as required, handicap accessible bathroom, office space and driver ready room. The wash bay will be equipped with the proper sediment/oil trap as well as floor drains for each bay to handle snow run off from the buses. Lighting will be LED both inside and out. They will have concrete aprons in front of all doors. One area in the shop will be partitioned off to allow a separate maintenance workspace and have separate zone for its heat control. All work will be performed by licensed contractors, electricians, plumbers, and all materials will meet engineers' specifications. Estimates received on such a building indicate we will need roughly \$450,000.00 So our request for Capital Assistance for a bus barn is \$450,000.00.

Public Involvement

They have held different meetings, gatherings, distributed surveys and tried to get input from community leaders and others about the possibility of a bus barn. After an overwhelming response, it was agreed that they needed a building to house their fleet and provide the space needed to maintain them. Adds were placed in the local paper with no response received. public involvement process starts with a public notice, which is put out by our sub-recipients whenever they receive FTA funds through MDT, about the project. If there is enough negative interest in the project, then a public meeting would be held, followed by a public hearing, if necessary.

Study Purpose

The president of the COA obtained a grant to do a feasibility study of the current building and it was determined that that building would not work, as it would only house 2 buses with no shelter. Since then, they held several meetings to discuss a new bus barn. A committee was formed, and they have explored various lots and buildings around town, and none were found that would accommodate. They then met with the Phillips County Hospital board about acquiring land from them just east of their present office. After several meetings, the hospital reached an agreement to donate the land needed to erect their building on the lot in the back of the hospital. Per FTA C 4702.1B, Title VI equity analyses for the location of facilities must occur in the planning stage before a preferred site has been selected.

Title VI Compliance-

Phillips Transit Authority is committed to ensuring that no person is excluded from participation in, or denied the benefits of its transit services on the basis of race, color, or national origin, as protected by Title VI in Federal Transit Administration (FTA) Circular 4702.1.B.

Title 49 CFR Section 21.9(b)(3) states, "In determining the site of location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part." Title 9 CFR part 21, Appendix C, Section (3)(iv) provides, "The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin."

Montana Department of Transportation's Office of Civil Rights is required to conduct a Title VI equity analysis to ensure the location is selected without regard to race, color, or national origin. Per guidance in the circular, this analysis must:

- Include outreach to persons potentially impacted by the siting of the facility.
- Compare impacts of various siting alternatives.
- Determine if cumulative adverse impacts might result due to the presence of other facilities with similar impacts in the area; and
- Occur before the selection of the preferred site.

If disparate impacts are identified, the least discriminatory alternative must be implemented.

Site Selection Process

In 2014, they tried to partner with the Council on Aging (COA) to either build a bus barn with space for the Council or try to make something work at the current COA location. The president of the COA obtained a grant to do a feasibility study of the current building and it was determined that that building would not work, as it would only house 2 buses with no shelter. Since then, they held several meetings to discuss a new bus barn. A committee was formed, and they have explored various lots and buildings around town, and none were found that would accommodate. They then met with the Phillips County Hospital board about acquiring land from them just east of their present office. After several meetings, the hospital reached an agreement to donate the land needed to erect their building on the lot in the back of the hospital. They were fortunate enough to obtain funding to build a bus barn. The hospital has donated the land behind their facilities' Phillips Transit Authority. The buses are currently located at the Hospital. The bus barn will also house the offices for the transit provider.

Community Outreach

Public meetings in the past have not been well attended at all, so they made up a survey questionnaire and have handed these out to public and most of the businesses that we have riders shopping at. Several surveys were made up and they received all most all of them back. This has worked out well in the past for feedback. All the comments were very positive.

Benefits and Burdens Analysis

Hospital donated the land, and the existing Transit Location is already on the same property were the new bus barn will be constructed. I do not see any burdens. No streets will be shut off at any time due to construction. Vibration/noise will be minimal as there is no blasting, pile driving. Just basic concrete foundation and pre-fab metal and/or wood construction.

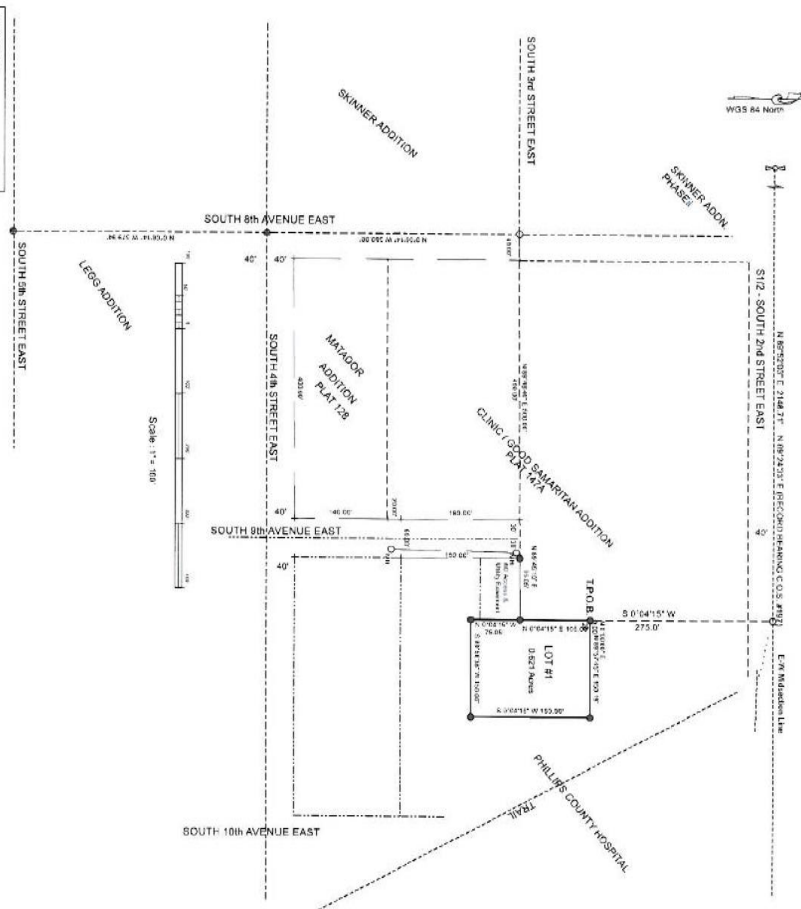
Table 1: Benefits & Burdens

Site	Benefits/Positive Impacts	Burdens/Adverse Impacts
Phillips County Transit Authority (Malta) 311 E. 8 th Ave. East	The land was donated by the Hospital and the existing Transit Location is already on the same property were the new bus barn will be constructed.	I do not see any burdens associated with this site.
Existing Structure at Council on Aging. South 1 st St West	Existing Structure.	Would have to park outside, no shelter and only room for maybe 2 buses. Would need to find a spot for the other 6 vehicles.

Site Location Maps

Phillips County Transit Authority (Malta)
311 E. 8th Ave. East
Malta MT, 59538

**PLAT of:
TRANSIT ADDITION to MALTA, MONTANA**
NE 1/4 SW 1/4, SECTION 17, T30N, R30E, P.M.M.
PHILLIPS COUNTY, MONTANA



LEGEND

- + Calculated Point
- Found Stake No Cap
- Quarter Corner
- Set 1/2" Radiator w/ Y.P.C. marked 1000 L.S.
- 1 1/4" A.C. Beck Monument
- Circle

Scale 1" = 100'

PURPOSE: To create an addition to the City of Malta, Montana.
 LOT #1 DISCOVERY: A lot in the NE 1/4 SW 1/4, Section 17, T30N, R30E, P.M.M., Phillips County, Montana and more particularly describes as follows: Beginning at the 1/4 corner common to sections 17 & 18; Thence N. 89° 52' 02" E, a distance of 2146.71 feet; Thence S. 00° 10' 54" E, for a distance of 275.00 feet to the True Point of Beginning; Thence N. 89° 51' 45" E, for a distance of 150.00 feet; Thence N. 07° 04' 57" E, for a distance of 150.00 feet; Thence N. 07° 04' 57" E, for a distance of 150.00 feet; Thence N. 07° 04' 57" E, for a distance of 150.00 feet to the True Point of Beginning and containing 0.0271 Acres more or less.

CERTIFICATE OF OWNER: I, (NAME) hereby certify that the plat of this survey is as recited herein and that I (NAME) have caused this survey to be made.

Signature of Owner: _____ STATE OF MONTANA
 CERTIFICATE OF MONITOR: _____ County of _____

On this _____ day of _____, 20____, before me, Notary Public, duly qualified and authorized to do so, the _____ person to me in the foregoing instrument and acknowledged to me that _____ executed the same.
 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year above written.

Notary for the State of Montana: _____ State Name: _____ (S.F.A.I.)
 My commission expires _____

CERTIFICATE OF SURVEYOR: I, (NAME), (the undersigned), who have an interest in the land described herein, join in and concur with the survey of land by the parties thereto.

Signature of the undersigned: _____
 CERTIFICATE OF INVESTIGATOR: I have carefully read the foregoing plat and have satisfied and agreed on the land shown herein to be as set forth.

Signature of Investigator: _____ Date: _____
 County Treasurer: _____

CERTIFICATE OF APPROVAL BY GOVERNING BODY: The City Council of Malta, Phillips County, Montana hereby certifies that it has reviewed the Subdivision Plat and has caused the same to conform to State and local laws and regulations and has approved the same. It is hereby certified that the same conform to State and local laws and regulations and has approved the same.

CERTIFICATE OF SURVEYOR: I, (NAME), certify that the foregoing accurately represents a survey made during the month of _____, 20____.

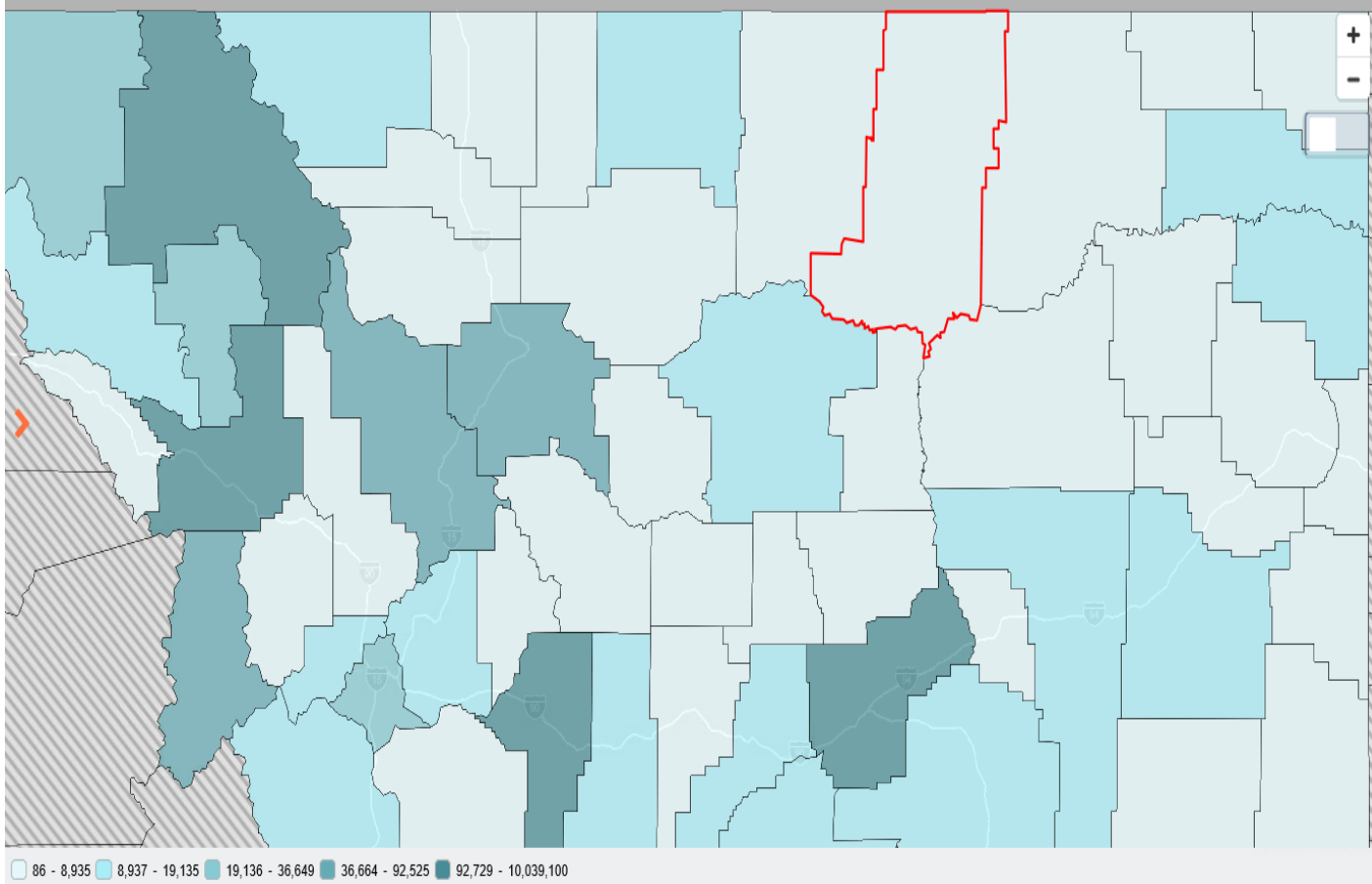
Signature of Surveyor: _____

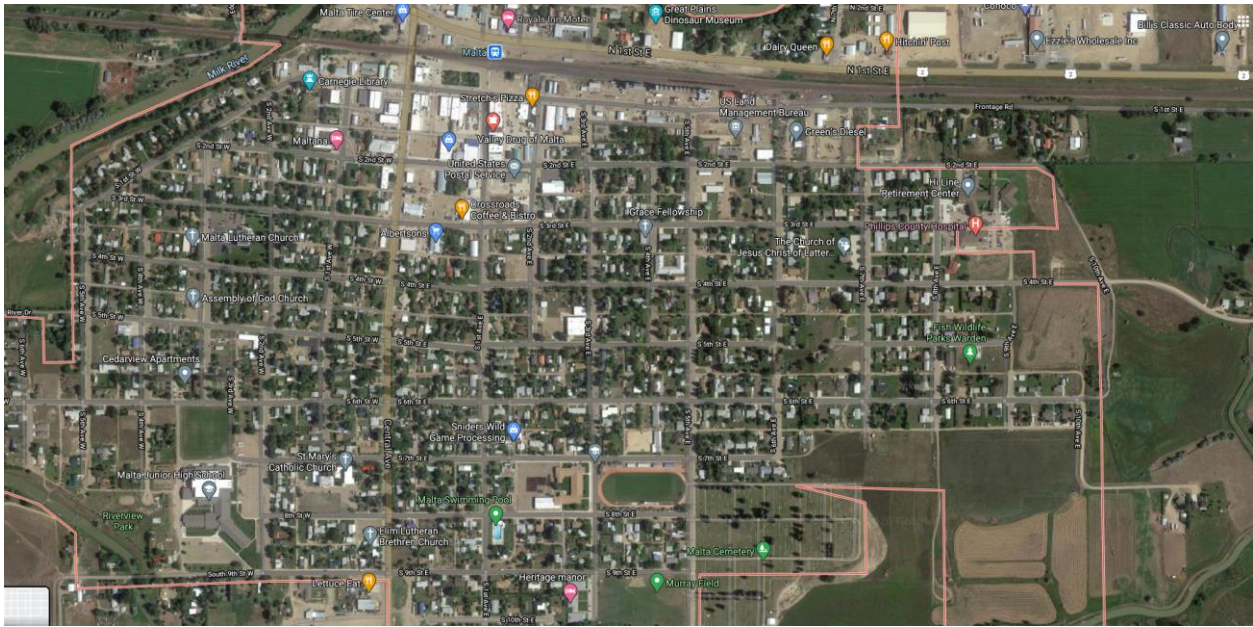
CERTIFICATE OF PLUM: _____
 Plumber: _____
 Date: _____

Clerk and Recorder: _____
 Clerk: _____
 Recorder: _____

Section: 17
 SHEET 1 of 1
 TRANSIT ADDITION to MALTA, MONTANA
PHILLIPS COUNTY, MONTANA
 Prepared for: Phillips County Hospital
 DRAWN BY: M. Kenner
 DATE: 8 November 2019
 SCALE: 1/8" = 100'

Population estimates, July 1, 2019, (V2019)





Alternatives Equity Analysis and Cumulative Impacts

While location, size, price, and other criteria were used to select the candidate sites, MDT analyzed demographics to ensure the site selection would have no disparate impact due to race, color, or national origin. , MDT looked at U.S. Census Tract Block Groups 1 and 2 of the existing site compared to demographics for the City of Malta as a whole. Malta has such a small service area that wherever they build a site, assuming it is not 20 miles away or something like that, the comparison to the demographic data will be identical.

Table 2: Demographic Data

	Malta Phillips County Transit Authority 311 E. 8 th Ave. East Malta MT, 59538	
	Block Group 2, Census Tract 602, Phillips County, Montana Block Group 1, Census Tract 602, Phillips County, Montana	
Total Population		2140
White		1881
Non-White		259
Non-White %		12%
Population under Poverty Line		498
Percentage under Poverty Line		8.2%
Median Income (Households)		\$42,110.00 weighted median for combined block groups
LEP %	0%	0%

Source: Data from U.S. Census 2012-2016 American Community Survey 5 Year Estimates

Conclusions

The location identified and evaluated for consideration for a new Phillips County Transit Authority Bus barn, Operations, and Maintenance Facility was selected without regard to race, color, or national origin. An evaluation of the poverty rate, minority population rate (non-white), and LEP rate for the site showed no adverse impacts. This site is in a block group with lower averages than the City of Malta for minority, low-income and LEP populations.

Title VI Equity Analysis

June 28, 2019

Background and Project Description

Liberty Place had outgrown its current Operations Center Bus Barn on County Shop Lane in Whitehall, MT. Understanding that space and capacity constraints would hinder organizational growth and service expansion, Liberty Place applied for funding from Montana Department of Transportation (MDT) for the building expansion.

Study Purpose

Building a new Liberty Place facility did not require the acquisition of new property or a long-term lease. The purpose of this study is to analyze the two locations identified by Liberty Place to ensure the locations were selected without regard to race, color, or national origin. This study compares the equity impacts of the chosen location to the one alternative location.

1. 313 West Legion Street, Whitehall, MT (alternative location)
2. 1173 Highway 55, Whitehall, MT (chosen location)

As per FTA C 4702.1B, Title VI equity analyses for the location of facilities must occur in the planning stage before a preferred site has been selected, but this step was not completed. The equity analysis was completed post-construction to actively remedy any identified adverse impacts.

Title VI Compliance

Liberty Place and MDT are committed to ensuring that no person is excluded from participation in, or denied the benefits of its transit services on the basis of race, color, or national origin, as protected by Title VI in Federal Transit Administration (FTA) Circular 4702.1.B

Title 49 CFR Section 21.9(b)(3) states, "In determining the site of location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part." Title 9 CFR part 21, Appendix C, Section (3)(iv) provides, "The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin."

Liberty Place is required to conduct a Title VI equity analysis to ensure the location is selected without regard to race, color, or national origin. Per guidance in the circular, this analysis must:

- Include outreach to persons potentially impacted by the siting of the facility;

- Compare impacts of various siting alternatives;
- Determine if cumulative adverse impacts might result due to the presence of other facilities with similar impacts in the area; and
- Occur before the selection of the preferred site.

Community Outreach

Liberty Place sought community input on the building of their facility at 1173 Highway 55 by placing public notice of the intent to build on two occasions in the local newspaper (The Montana Standard). Public notices ran on February 24, 2017 and January 19, 2019 and invited public comment. No comments were received during the course of the public comment period.

Benefits and Burdens Analysis

Benefits and burdens of the project at the community level are different than at the project vicinity level.

There was no displacement of residents or businesses at either of the sites considered.

At the community level, the biggest difference in the sites was the distance between the current operation and the new location. The 313 West Legion Street property was located directly behind the existing facility, while the 1173 Highway 55 site was located several minutes away on the outskirts of town. One hardship of the town property was the limited availability of space for any needed future expansion. There is little to no public hardship the 1173 Highway 55 location places on the public. Currently most customer interactions occur at the current facility located in town. This local office is maintained and open to the public, and customers can still frequent this location to pick up or submit applications for Paratransit service, to purchase bus passes, to apply for reduced fare cards.

At the project vicinity level, there were few adjustments needed to mitigate against impacts from noise, traffic, and light of residents living near the 1173 Highway 55 site. This site is owned by the Liberty Place, as is the adjacent group home.

Site Selection Process

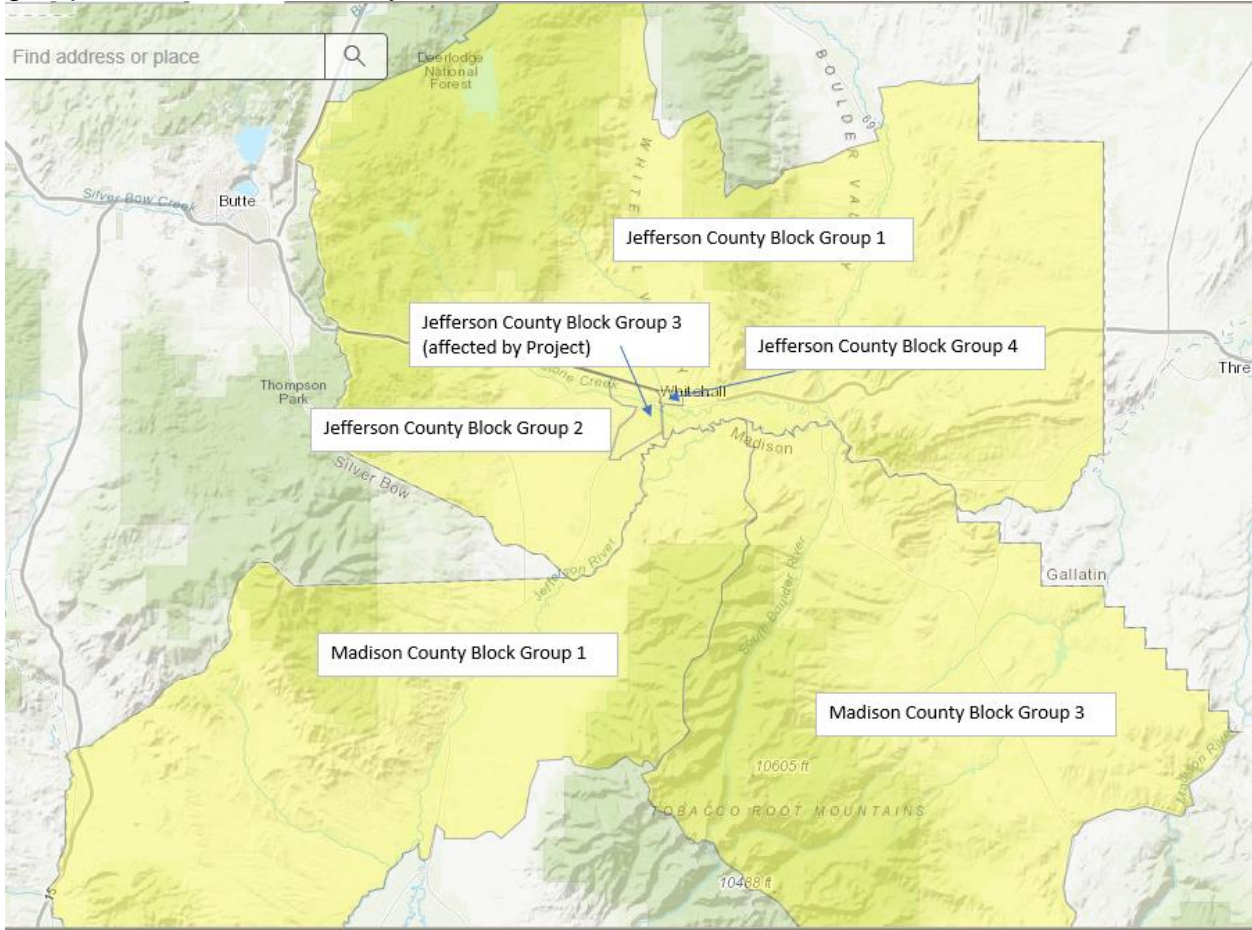
Site selection was limited due to the community being small and rural. Construction on the property located at 313 West Legion Street had to be abandoned, as the property owner had liens against the property, and was unwilling to satisfy the liens for construction of Liberty Place's new facility. Liberty Place, had they proceeded to build at this location, would have been ineligible for funding through MDT. Additionally, there would have been no guarantee that they would have continued access to the property, should it be sold or possessed to satisfy lien holders.

The remaining and successful location selected to build the facility was located at 1173 Highway 55.

Alternatives Equity Analysis and Cumulative Impacts

Whitehall, MT is located in Jefferson County. As of the 2010 Census, there were 11,406 people in Jefferson County, of which 95.5% were white. The largest minority populations are Hispanic (2%) and American Indian (1.4%). Both sites evaluated were located within Jefferson County's Block Group 3, Census Tract 9623. According to 2010 Census data, this block group has a population of 858, of which 8% (70 people) are minorities. Due to the small population size, we expanded the area evaluated to determine if minorities were

negatively impacted by the construction of the facility. See map of counties and block groups included in the analysis:



While neither site required displacement of residents or businesses, we evaluated the impact of the facility in Jefferson County Block Group 3 compared to the populations in the surrounding 5 Block Groups. Note: consistent with Affirmative Action regulations, we evaluated minority groups greater than 2% of the total population (highlighted in green below) to determine if there was an adverse impact to minority groups. The only minority group greater than 2% was Hispanics.

Total Population from the 6 Block Groups surrounding Whitehall, MT

Total	White	Hispanic	Black	Asian	Indian	Hawaiian PI	Some Other	Two or More
5386	5119	108	5	14	60	2	6	72
% of Total Population	95.0%	2.0%	0.1%	0.3%	1.1%	0.0%	0.1%	1.3%

Population negatively impacted by Facility Construction (Block Group 3)

Total	White	Hispanic	Black	Asian	Indian	Hawaiian PI	Some Other	Two or More
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858	788	11						
% of population impacted	15%	10%						

15% of the White population is impacted by the facility, whereas 10% of Hispanics are impacted. This means Whites are 1.5 times as likely to be impacted by the facility than Hispanics.

Conclusions

Both locations identified and evaluated for construction of a new Liberty Place facility, including the site where the facility was constructed, was done without regard to race, color, or national origin. An evaluation of the minority population rate shows no disparate impact and no businesses or residents were displaced as a result of the new facility.



The Montana Department of Transportation (MDT) attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the department. Alternative accessible formats of this information will be provided upon request. For further information, please contact:

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www.mdt.mt.gov/business/contracting/civil/titlevi.shtml

¹ Department of Justice website re: “Commonly Asked Questions and Answers regarding the EO 13166”

² 66 FR 6733 (January 22, 2001)

³ 68 FR 32295 (May 29, 2003)

⁴ 68 FR 32291 (May 29, 2003)

⁵ 68 FR 32294 (May 29, 2003)

⁶ Website: Montana School for the Deaf and Blind (May 2012)