

**Title VI/Environmental Justice  
Non-Discrimination Plan**

**October 1, 2007 – September 30, 2008**

**KACTS  
25 Bradeen Street, Suite 304  
Springvale, ME 04083  
(207) 324-2952**

## **POLICY STATEMENT**

The Kittery Area Comprehensive Transportation Study is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants and to ensuring that the public-at-large is afforded access to our programs and services.

To that end, no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any KACTS program or activity on the grounds of race, color, national origin, income, sex, age, disability, or limited English proficiency. KACTS assures all its programs and activities will be free from discrimination, whether those programs and activities are federally funded or not.

KACTS conducts its Title VI/Environmental Justice Program in a team approach involving all KACTS personnel. The Director of KACTS is responsible to ensure KACTS' compliance with the Title VI/EJ implementing regulations.

Inquiries concerning KACTS policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI/Environmental Justice may be directed to the Director, Kittery Area Comprehensive Transportation Study, 21 Bradeen Street, Suite 304, Springvale, Maine 04083, telephone 207-324-2952.

This policy statement must be circulated throughout KACTS and be included by reference in all contracts, agreements, programs and services administered by KACTS.

October 17, 2008



Tom Reinauer, KACTS Director

## KACTS TITLE VI ASSURANCE

KACTS (herein after referred to as the “Recipient”) HEREBY AGREES THAT as a condition to receiving any federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-42 USC 2000d-4 (hereinafter referred to as the Act), and 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 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of gender, race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to the Federal Aid highway program:

1. That the Recipient agrees that each “program” and each “facility” as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and, in adapted form, in all proposals for negotiated agreements:  
The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and 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 issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, disability, race, color, or national origin in consideration for an award.
3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
5. 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 shall extend to rights to space on, over, or under such property.
6. 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 Recipients 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; of (b) the period during which the Recipient retains ownership or possession of the property.

7. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Recipient under the Federal Aid highway program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid highway program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

Dated: October 17, 2008

Kittery Area Comprehensive Transportation Study  
(Recipient)

by:



Tom Reinauer, Director

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## **AUTHORITIES**

**Title VI of the Civil Rights Act of 1964, 42 USC 2000d to 2000-4; 42 USC 4601 to 4655; 23 USC 109(h);**

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin (including Limited English Proficiency), or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21.5). Related statutes have broadened the grounds to include age, low income, and disability.

The Civil Rights Restoration Act of 1987 also broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities” to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

**Federal Aid Highway Act of 1973, 23 USC 324:** No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.

**Age Discrimination Act of 1975, 42 USC 6101:** No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

**Americans With Disabilities Act of 1990 PL 101-336:** No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a state or a local government.

**Section 504 of the Rehabilitation Act of 1973:** No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

**USDOT Order 1050.2:** Standard Title VI Assurances

**EO 12250:** Department of Justice Leadership and coordination of Non-discrimination Laws.

**EO 12898:** Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; and

**28 CFR 50.3:** Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

**EO 13166:** Improving Access to Services for Persons with Limited English Proficiency

## DEFINITIONS

Adverse Effects -- The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: (See Appendix B for additional discussion of “significant.”)

- bodily impairment, infirmity, illness or death
- air, noise, and water pollution and soil contamination
- destruction or disruption of man-made or natural resources
- destruction or diminution of aesthetic values
- destruction or disruption of community cohesion or a community's economic vitality
- destruction or disruption of the availability of public and private facilities and services
- adverse employment effects
- displacement of persons, businesses, farms, or nonprofit organizations
- increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community
- denial of, reduction in, or significant delay in the receipt of benefits of KACTS programs, policies, or activities

Significant Adverse Effects on Minority and Low-Income Populations -- An adverse effect that:

- a. is predominately borne by a minority population and/or a low-income population, or
- b. will be suffered by the minority population and/or low-income population and is shown to be appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population

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

Federal Assistance -- Includes grants and loans of federal funds; the grant or donation of federal property and interests in property; the detail of federal personnel, Federal property of any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and any federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

Low-Income -- A person whose median household income is at or below the Department of Health and Human Services poverty guidelines. (<http://aspe.os.dhhs.gov/poverty/poverty.htm>)

Low-Income Population -- Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed Kittery Area Comprehensive Transportation Study (KACTS) program, policy or activity.

Minority -- A person who is:

- a. Black -- a person having origins in any of the black racial groups of Africa;
- b. Hispanic -- a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- c. Asian American-- a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or
- d. American Indian and Alaskan Native -- a person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition.

Minority Population -- Any readily identifiable groups of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed KACTS program, policy or activity.

Noncompliance -- A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all the requirements of Title VI/ Environmental Justice and related statutes.

Persons -- Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be uses: “White not of Hispanic origin,” “Black not of Hispanic origin,” “Hispanic,” “Asian or Pacific Islander,” “American Indian or Alaskan Native.” Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

Program -- Includes any multi-modal or bridge project including project planning or any activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Recipient -- Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof, but does not include any ultimate beneficiary under any such program.

Sub-recipient -- An agency such as a council of governments, regional planning agency, educational institution, for example, that receives Federal Highway Administration (FHWA) funds through the State DOTs and not directly from the FHWA. Other agencies, local governments, contractors, consultants that receive these funds are all considered sub-recipients.

## ADMINISTRATION – GENERAL

The KACTS Director shall have lead responsibility for coordinating the administration of the Title VI/Environmental Justice (Title VI/EJ) and related statutes program, plan, and assurances. Special emphasis program areas for KACTS are Public Transit, Planning Assistance and Program Management. KACTS has developed a Public Involvement Process, which will be used in conjunction with the Title VI/Environmental justice program and is include by reference.

- Complaints

If any individual believes that she/he or any other program beneficiaries have been the object of an unequal treatment or discrimination as to the receipt of benefits and/or services, or on the grounds of race, color, national origin (including Limited English Proficiency), sex, age, or handicap, she/he may exercise their right to file a complaint with KACTS. Complaints may be filed with the KACTS Director. Every effort will be made to resolve complaints informally at the lowest level.

Complaints may also be filed directly with the Federal Highway Administration.

- Data Collection

Statistical data on race, color, national origin, English language ability and sex of participants in, and beneficiaries of the KACTS programs, e.g., relocatees, impacted citizens, and affected communities, will be gathered and maintained by KACTS. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI/EJ program.

- KACTS Reviews

Special emphasis program reviews will be conducted based on the annual summary of Title VI activities, accomplishments and problems. The reviews will be conducted by KACTS to assure effectiveness in their compliance of Title VI/EJ provisions. The KACTS Director will coordinate efforts to ensure the equal participation in all their programs and activities at all levels.

- Title VI/EJ Reviews on Sub-recipients

Title VI/EJ compliance reviews will be conducted annually by the KACTS Director. Priority for conducting reviews will be given to those recipients of federal (US Department of Transportation) funds with the greatest potential of impact to those groups covered by the act. The reviews will entail examination of the recipients' adherence to all Title VI/EJ requirements. The status of each review will be reported in the annual update and report to relevant US Department of Transportation (US DOT) modes (e.g. FHWA, Federal Transit Administration).

- Annual Reports

An annual report will be required by August 1 of each year. The KACTS Director will be responsible for coordination and compilation of these reports into and submitted by September 1 to the Maine Department of Transportation and Federal Highway Administration. These reports will review Title VI/EJ accomplishments achieved during the year and goals for the next year.

- Title VI/EJ Plan Updates  
An annual update of the Title VI implementing plan will be submitted by October 1 to the Federal Highway Division Administrator for approval or disapproval.
- FTA Title VI Compliance Reviews  
In August, a report will be submitted to FTA at least every three years in accordance with FTA Circular 4702.1, Title VI Program Guidelines for Federal Transit Administration recipients. The report may be submitted more often should conditions warrant.
- Public Dissemination  
KACTS will disseminate Title VI/EJ program information to KACTS employees and to the general public. Title VI/EJ program information will be submitted to sub-recipients, contractors, and beneficiaries. Public dissemination will include inclusion of Title VI/EJ language in contracts and publishing the Title VI/EJ Policy Statement on the KACTS Website.
- Remedial Action  
KACTS will actively pursue the prevention of Title VI/EJ deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective action(s). The period to determine corrective action(s) and put it (them) in writing to effect compliance may not to exceed 90 days from the date deficiencies are found.

## **SPECIAL EMPHASIS PROGRAM AREAS**

### **Planning**

Develop the Metropolitan Planning Organization's (MPO) input into the state's Biennial Capital Improvement Work Plan and the 6-Year Plan. The MPO is also responsible for developing a 20-Year Plan and the Transportation Improvement Program (TIP) to meet present and future needs for safe, adequate, and efficient transportation. Planning also encompasses clean air issues, safety, pavement management, transportation analysis, transportation reporting, inventory, research, mapping, major project studies and training and technical assistance for communities.

→ KACTS Director will:

- Ensure that all aspects of the planning process operation, including environmental impact reviews, comply with Title VI/EJ.
- Serve as a resource person helping to ensure participation of a cross section of people representative of the affected population, including various and diverse social, economic, and ethnic interest groups are represented in the planning process.
- Provide the annual report on Title VI/EJ accomplishments for the previous year and goals for the next year.
- Ensure equal opportunity for participation on Advisory Committees.
- Ensure Title VI/EJ language is included or incorporated by reference in every sub-recipient contract.

### **Transit**

Coordinates passenger-related functions including bus, van pool, car pool, air, rail, and marine transportation and pedestrian and bicycle programs. Develops transportation alternatives that are environmentally sound, cost effective and politically acceptable.

→ Director KACTS will:

- Ensure that all aspects of passenger-related functions/programs/contracts/grant programs comply with Title VI/EJ.
- Provide the annual report on Title VI/EJ accomplishments for the previous year and goals for the next year. (See AppendixD: "FTA Circular 4702.1 data collection and reporting requirements")
- Ensure Title VI/EJ language is included, or incorporated by reference, in every sub-recipient contract.
- Perform reviews as needed of sub-recipients to ensure Title VI/EJ adherence.

## LIMITED ENGLISH PROFICIENCY

Compliance with Title VI includes Limited English Proficient (LEP) persons. Language barriers prohibit people who are LEP from obtaining services and information relating to transportation services and programs. Because people who are LEP are not able to read instructions or correspondence written in English and may not understand verbal information, they often are not aware of regulatory requirements and legal implications of the services they seek.

It is essential that the KACTS personnel, transportation providers, professionals, and other sub-recipients of federal funds become informed about their diverse clientele from a linguistic, cultural and social perspective. These individuals should become culturally competent so they can encourage vulnerable LEP minority populations to access and receive appropriate transportation services with more knowledge and confidence.

U.S. DOT guidelines require that recipients of federal financial assistance provide “meaningful access to programs and activities” by giving LEP persons adequate and understandable information and allowing them to participate in programs and activities, where appropriate. The recipient has to take “reasonable steps” to remove barriers for LEP individuals.

Reasonable steps will depend on:

- The number and proportion of LEP persons potentially served by the recipient’s programs or activities and the variety of languages spoken in the recipient’s service area.
- The frequency with which LEP individuals are affected by the program or activity.
- The importance of the effect of the recipient’s program on LEP individuals.
- The resources available to the recipient and whether the recipient has budgeted for provision of special language services.
- The level of services provided to fully English proficient people.
- Whether LEP persons are being excluded from services or provided a lower level of services.
- Whether the recipient has adequate justification for restrictions, if any, on special language services or on speaking languages other than English.

# **FILING A COMPLAINT**

## **I. Introduction**

The Title VI/Environmental Justice and Related Statutes complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding KACTS' programs, activities and services as required by statute.

## **II. Purpose**

The purpose of the discrimination complaint procedures is to describe the process used by the Office of Human Resources (OHR) for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

## **III. Roles and Responsibilities**

The KACTS Director has overall responsibility for the discrimination complaint process and procedures. The Director may, at her/his discretion, assign a capable person within KACTS to investigate the complaint.

The designated investigator will conduct an impartial and objective investigation, collect factual information and prepare a fact-finding report based upon the information obtained from the investigation.

In cases where the complainant is unable or incapable of providing a written statement, the complainant will be assisted in converting the verbal complaint into a written complaint. All complaints, however, must be signed by the complainant and/or by the complainant's representative.

The complainant shall make him- or herself reasonably available to the designated investigator, to ensure completion of the investigation within the timeframes set forth.

## **IV. Filing Complaints**

Applicability The complaint procedures apply to the beneficiaries of the KACTS programs, activities and services including, but not limited to, the public, contractors, subcontractors, consultants and other sub-recipients of federal and state funds.

Eligibility Any person who believes that she/he has been excluded from participation in, denied benefits or services of any program or activity administered by KACTS or its sub-recipients, consultants, and contractors on the basis of race, color, national origin (including Limited English Proficiency), sex, age, or disability may bring forth a complaint of discrimination under Title VI/EJ and Related Statutes.

Time Limitation and Filing Options Title VI/EJ complaints of discrimination may be filed with:

- KACTS
- Maine Department of Transportation
- Federal Highway Administration
- U.S. Department of Transportation

In all situations, the KACTS employees must contact the KACTS Director immediately upon receipt of a Title VI/EJ complaint.

Complaints must be filed no later than 180 days after:

- The date of the alleged act of discrimination; or
- The date the person became aware of the alleged discrimination; or
- Where there has been a continuing course of discriminatory conduct, the date on which the conduct was discontinued.

Complaints must be in writing and must be signed by the complainant and/or the complainant's representative. The complaint must set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event a person makes a verbal complaint of discrimination to an KACTS employee, or other person authorized to receive complaints on behalf of KACTS, shall interview the person. If necessary, the authorized person will assist the person in writing the complaint for the person or the person's representative to sign.

**Designated KACTS special emphasis area operating elements will require the sub-recipients they serve to forward to the Director any complaint of discrimination made to them about their own actions or actions of sub-grantees or contractors.**

## **INTERNAL COMPLAINT PROCESSING**

**Initial contact** Special emphasis program area representatives serve as KACTS' resources for members of the public who wish to file a discrimination complaint under Title VI/EJ and related statutes. As resources, they will provide complainants with:

1. An explanation of their filing options;
2. The discrimination complaint process; and
3. A Title VI/EJ and Related Statutes Discrimination Complaint Form.

Use of the Complaint Form is not necessary for the complainant. Rather, it is intended to help the complainant provide enough information to begin processing the complaint.

### **The Complaint Review Process**

1. The Director or her/his designee, reviews the complaint upon receipt to ensure that relevant information is provided, the complaint is timely, and meets jurisdiction.
2. The complaint shall be investigated, unless:
  - The complaint is withdrawn.
  - The complainant fails to provide required information.
  - The complaint is filed beyond the 180-day timeframe.
  - The complainant is not part of a protected group.
  - The complaint is determined to be more appropriately under a jurisdiction other than KACTS. If this is the case, the complainant will be directed to the appropriate agency.
3. Upon determination that the complaint warrants a KACTS investigation, the complainant is sent a letter, acknowledging receipt of the complaint, and giving the name of the investigator.
4. The respondent – the person alleged to have committed the discrimination -- is notified by mail that she/he has been named in a complaint. The letter also includes the investigator's name and informs the respondent that she/he will be contacted for an interview.

## **INVESTIGATION**

**Investigation Plan** The investigator shall prepare a written plan which includes, but is not limited to, the following:

- Names of the complainant(s) and respondent(s);
- Basis for the complaint;
- Issues, events or circumstances that caused the person to believe that she/he has been discriminated against;
- Information needed to address the issue;
- Criteria, sources necessary to obtain the information;
- Identification of key people;
- Estimated investigation time line; and
- Remedy sought by the complainant(s).

### **Conducting the Investigation**

- The investigation will address only those issues relevant to the allegations in the complaint.
- Confidentiality will be maintained as much as possible.
- Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case.
- A chronological contact sheet is maintained in the case file throughout the investigation.

### **Investigation Reporting Process**

- Within 40 days of receiving the complaint, the investigator prepares an investigative report and submits the report and supporting documentation to the Human Resources Director or her/his designee for review.
- The Director or designee reviews the file and investigative report. Subsequent to the review, the Director makes a final determination of “probable cause” or “no probable cause” and prepares the final decision letter.

### **Reporting Requirements to an External Agency**

A copy of the complaint, together with a copy of the investigation report and the Director’s final decision letter, is forwarded to the Federal Highway Administration Maine Division Office within 60 days of the date the complaint was received.

### **Records**

All records and investigative working files are maintained in a confidential area. Records are kept for three years.

# DISCRIMINATION COMPLAINT FORM

## KITTERY AREA COMPREHENSIVE TRANSPORTATION STUDY Title VI/Environmental Justice and Related Statutes

1. Name:
2. Address:
3. Telephone Number:
4. Name of person charged with discrimination (respondent):
5. Date of alleged discriminatory act:
6. Type of discrimination:
  
7. Please write a summary of the facts supporting your complaint (use additional pages as necessary):
  
  
  
  
  
  
  
  
  
  
8. Names of witnesses to the alleged discriminatory act:
  
  
  
  
  
  
  
  
  
  
9. What do you want as a remedy for the alleged discrimination?

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

# APPENDIX

## APPENDICES TO STANDARD TITLE VI ASSURANCES – 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 shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter “DOT” Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), 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, shall not discriminate on the grounds of race, color, national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

**(3) Solicitation for Subcontractors, 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 shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

**(4) Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Maine DOT or the (name of the appropriate administration) as appropriate, and shall set forth what efforts it has made to obtain the information.

**(5) Sanctions for Noncompliance:** In the event of the Contractor’s noncompliance with the nondiscrimination provisions of this contract, KACTS shall impose such contract sanctions as it or the (Name of the Appropriate Administration) may determine to be appropriate, including but not limited to:

- (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b) cancellation, termination or suspension of the contract, in whole or in part.

**(6) Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Contractor shall take such action with respect to any subcontract or procurement as KACTS or the (Name of Appropriate Administration) may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such directions, the Contractor may request KACTS to enter into such litigation to protect

KACTS, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## ACCOMPLISHMENT REPORT/GOALS FOR ENSUING YEAR – APPENDIX B

### Accomplishments FY 2008:

- Reviewed MaineDOT Title VI Program brochure distributed through their Civil Rights Office.
- KACTS continued to update its stakeholder list. KACTS and SMRPC have developed strong relationships with two major human services agencies in York County representing the Healthy Maine Partnerships Campaign. The Community Wellness Coalition (based in the KACTS area) and the Coastal Healthy Community Coalition (representing northeastern York County). Both agencies work regularly with disadvantaged populations and with other service providers connected to disadvantaged populations. SMRPC currently serves on the Board of Directors for Coastal Healthy Communities.
- Updated Title VI Plan.
- Continued to collect and monitor Census data relating to travel patterns by populations protected by Title VI.
- Assisted in public outreach activities for the MaineDOT and NHDOT, regarding the rehabilitation of the Route 1 Memorial Bridge, including posting meeting notices, disseminating technical information and attending public meetings.
- Hosted a Bi-State Public Transportation Workshop on April 30, 2008 with Rockingham Economic Development Corporation.
- Acquired the services of Sebago Technics, Inc. as the lead consultant on the South Berwick Feasibility Study, through the public solicitation process set forth by the Maine Department of Transportation.
- Copies of KACTS draft documents and Corridor Committee Meeting documents, agendas and minutes were sent to the Interested Parties list.
- Posted all KACTS documents on the web site, including Agendas, Minutes, and other documents of public interest.
- Copies of the KACTS Transportation Plan, the KACTS TIP, and other Committee documents were distributed to towns, libraries, and upon request.
- Maintained website for Route 236 Corridor Committee.
- Continued to update project advertising and construction lists for KACTS communities.
- Sent out press releases to print media outlets for public comment on the Amendment to the KACTS FY 2008-11 Transportation Improvement Program (TIP).
- Posted notices on SMRPC website regarding 2008-11 TIP amendments, Annual Listing of Obligated Projects and other public meetings.

### Annual Work Plan FY 2009:

- Continue to update stakeholder list.
- Continue to update the MPO website to include relevant and pertinent transportation related information.
- Further develop and analyze newly released Census Transportation Planning Package data and ACS data.
- Continue to document transportation activities that are expected to enhance access and other transportation benefits to disadvantaged populations in the KACTS area.

- Review hurricane evacuation plans for Coastal York County for emergency preparedness plan for elderly, low income, zero car households, persons with disabilities, and limited English proficiency. The Army Corps of Engineers is currently developing this plan, and is expected to present the plan to the York County Emergency Management Agency. Staff will work with consultants to review the plan and provide comments.

## DETERMINE/DISTINGUISH SIGNIFICANT/NON-SIGNIFICANT EFFECTS – APPENDIX C

“*Significantly*” requires considerations of both context and intensity:

(a) *Context*. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the local area rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity*. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if, on balance, the effect would be beneficial.

*Non-significant effect* means no substantial change to an environmental component and thus no material bearing on the decision-making process.

Scientific, technical, institutional, the public’s value, and the local economic conditions influence the meaning of *significant effect*.

If an alternative would provide a beneficial effect, then the alternative would cause no significant adverse effect. If an alternative would provide an adverse effect, the effect might be significant or the effect might be non-significant.

Determinations of “significant” and “non-significant” effects will be made by the Director.

## FTA CIRCULAR 4702.1 DATA COLLECTION AND REPORTING -- APPENDIX D

"Title VI Program Guidelines for Federal Transit Administration (FTA) Recipients"

### CHAPTER III

**OVERVIEW** The US Department of Justice (US DOJ) and the US Department of Transportation (US DOT) regulations implementing Title VI require recipients to establish, maintain and submit to the Urban Mass Transportation Administration (UMTA) the following information, updated at a minimum every three years, or more often if conditions warrant. The information must be submitted by August 31.

1. A list of any active lawsuits or complaints naming the recipient or sub-recipient, which allege discrimination on the basis of race, color, or national origin with respect to service or other transit benefits. The list should include: the date the lawsuit or complaint was filed; a summary of the allegation; and the status of the lawsuit or complaint, including whether the parties to a lawsuit have entered into a consent decree.
2. A description of all pending applications for financial assistance, and all financial assistance currently provided by other Federal agencies.
3. A summary of all civil rights compliance review activities conducted in the last three years. The summary should include: the purpose of reason for the review; a summary of the findings and recommendations of the review; and a report on the status and/or disposition of such findings and recommendations.
4. A signed UMTA Civil Rights Assurance that all the records and other information required under FTA Circular 4702.1 have been or will be compiled and maintained.
5. A signed standard DOT Title VI Assurance. This assurance will be maintained as part of the UMTA "One-Time Submission" file.
6. For construction projects, a fixed-facility impact analysis to assess the effects on minority communities. If this information has been prepared as a result of an environmental assessment or environmental impact statement, reference the relevant information by document, page number(s), and date of submission to UMTA. The analysis should include:
  - a. A discussion of the potential impact on minority communities and minority-owned businesses during and after construction;
  - b. A discussion of all potential negative environmental impact, such as noise, air, or water pollution;
  - c. A detailed list of minority-owned businesses and households that will be affected by the construction project;
  - d. A description of other significant changes or impacts on the minority community, such as increased traffic, reductions in the amount of available parking, etc.; and

- e. A description of the relocation program and/or other measures adopted by the applicant that will be used to mitigate any identified adverse social, economic, or environmental effect of the proposed construction project.

## Basic Requirement

The grantee must ensure that no person in the United States shall on the grounds of race, color, or national origin be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. A grantee must ensure that federally supported transit services and related benefits are distributed in an equitable manner.

## Areas To Be Examined

1. ***Responsibility for Title VI Coordination***
  - a. Certification of nondiscrimination (Annual Certifications and Assurances)
  - b. Implementation of Title VI provisions
2. ***Approved Title VI Program updates***
  - a. General reporting requirements (all grantees)
  - b. Program specific reporting (areas with population of 200,000 or more)
3. ***Title VI Monitoring Procedures***
  - a. Level and quality of service (areas with population of 200,000 or more)
  - b. Fixed facility impact analysis (all construction projects)
4. ***Title VI Complaints***
  - a. List of Title VI complaints
  - b. List of Title VI lawsuits

## References

1. FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients," May 26, 1988.

## QUESTIONS FOR THE REVIEW

1. *Has a grantee had, or been informed that it will have, a Title VI Compliance Review by the FTA Office of Civil Rights? If yes, when was the site visit? If a review was conducted, is a grantee in full compliance?*

### Explanation

Consistent with FTA's oversight responsibilities, FTA has initiated a program of grantee reviews assessing compliance with the Title VI regulations. The review is comprehensive in nature, including a review of each agency's policies, procedures, and recordkeeping.

After the review is complete, the review team conducts an exit interview presenting the findings, if any, to a grantee. A draft final report documenting the deficiencies and necessary corrective actions are provided to a grantee within 30 days of the site visit. A letter and final report is issued within 60 days of the site visit. A grantee then will have 90 days to take corrective actions and provide appropriate documentation to the Civil Rights Officer (CRO).

### **Reason for the Question**

Input to triennial review

### **Documentation**

Grantees should keep on file any correspondence related to a scheduled or completed Title VI Compliance Review and a copy of the final report.

### **Determination**

If the grantee has had a Title VI Compliance Review within the past 12 months or one is scheduled within the next 30 days, this area is not reviewed. If the Title VI Compliance Review occurred more than 12 months ago, and the grantee has taken all necessary corrective actions, the grantee is not deficient. If there still are open findings after 12 months, the grantee is deficient.

### **Suggested Corrective Action**

The grantee must implement the recommendations from the Title VI Compliance Review and submit documentation of completed corrective actions to the FTA.

2. *Who is responsible for the coordination of Title VI Program/ Environmental Justice Assessments? Who prepares the Title VI Program submissions and updates for FTA?*

### **Explanation**

The answers to these questions identify the individual(s) responsible for Title VI Program/ Environmental Justice Assessments and program submissions. All grantees are required to certify annually as a part of the Certifications and Assurances that they will not discriminate in service delivery. All grantees must report on efforts taken to implement the provisions of Title VI of the Civil Rights Act of 1964. Proper implementation of Title VI Program/Environmental Justice Assessments involves data collection and the assessment of equity.

### **Reason for the Question**

General Information

## **Documentation**

This information should be available from a grantee.

## **Determination**

Not applicable

## **Suggested Corrective Action**

The grantee must identify a person(s) responsible for coordinating and preparing Title VI Program/ Environmental Justice Assessments.

3. *Please have available the current Title VI Program. If the program has expired, please provide an explanation.*

## **Explanation**

Grantees are required to maintain and provide to FTA Title VI information at least every three years or more frequently if conditions warrant. FTA has established two main categories of reporting requirements: General and Program-Specific. General reporting requirements apply to all grantees and include lists of Title VI complaints or lawsuits (if any); recent civil rights compliance reviews; and pending federal grant applications. Program-specific reporting requirements apply to grantees that operate transit service in service areas with populations of 200,000 or more. The major elements of program-specific reporting requirements include demographic and service profile maps, overlays, and charts; service standards and policies; assessment of compliance by grantees; and other areas of Title VI considerations (changes in service features, information dissemination, minority representation on decision-making bodies, and multilingual facilities).

## **Reason for the Question**

FTA C 4702.1, III-2

## **Documentation**

A grantee should have a copy of its Title VI program on file.

## **Determination**

If a current Title VI program has been submitted and approved, a grantee is not deficient. If a grantee has submitted its program and is awaiting a response from FTA, a grantee is not deficient. If the Title VI program has expired and a grantee has not requested and received an extension for submitting a new program, a grantee is deficient.

### **Suggested Corrective Action**

The grantee should submit the required Title VI program or update to FTA.

4. *Has FTA placed any conditions on the Title VI approval? If so, what is the status of a grantee's follow-up on corrective actions?*

### **Explanation**

In reviewing a grantee's Title VI submission, the CRO may have issued a conditional approval and identified corrective actions that need to be taken or additional submittals that need to be made to determine compliance. Corrective actions may be required in cases where conditional approvals may be granted pending the submission of additional documentation by a grantee.

### **Reason for the Question**

FTA C 4702.1, IV-2

### **Documentation**

The grantee should be prepared to discuss the status of any outstanding items that require corrective action.

### **Determination**

If the grantee has completed all corrective actions or made appropriate submittals, the grantee is not deficient. If the grantee has not completed all corrective actions, the grantee is deficient. Any overdue corrective actions should be reported to the CRO.

### **Suggested Corrective Action**

The grantee should take steps to complete corrective actions and provide evidence of such to the regional office.

5. *If a grantee operates in a service area of 200,000 or more in population, what data does a grantee periodically collect and review to monitor its level and quality of transit service?*
  - a. *Vehicle load factors by route or corridor*
  - b. *Vehicle assignment rosters by garage or route*
  - c. *Vehicle headways by route*
  - d. *Transit amenities by community*
  - e. *Transit access by community*

6. *If a grantee operates in a service area of 200,000 or more in population, when was the most recent compliance assessment performed by a grantee and what disparities, if any, were identified by a grantee? What action, if any, was taken to address the disparities?*

**Explanation**

Grantees operating in a service area of 200,000 or more in population are required to establish written service standards and policies for five transit service indicators (vehicle load, vehicle assignment, vehicle headway, distribution of transit amenities, and transit access). Grantees are also required to conduct periodic self-assessments to determine whether transit service and related benefits provided to minority communities and minority users is consistent with Title VI objectives in FTA C 4702.1. Grantees must compare the quality and level of service provided to minority and non-minority users to assess equity.

**Reason for the Question**

FTA C 4702.1, III, 3a(2)-(3)

**Documentation**

The grantee's Title VI program should have the current service standards and policies. The grantee should be able to describe how often it conducts periodic assessments and should have its most recent Title VI assessment.

**Determination**

If the grantee has written service standards and policies and has conducted periodic assessments of compliance, the grantee is not deficient. If the grantee does not have written service standards and policies that address all of these areas and/or does not conduct periodic assessments, the grantee is deficient. If the grantee's most recent assessment revealed any disparities and the grantee has not taken any action to correct the disparities, the grantee is deficient.

**Suggested Corrective Action**

The grantee must develop written service standards and policies and/or conduct periodic Title VI assessments and submit evidence of such to the CRO. The grantee must correct any disparities and submit evidence of such to the CRO.

7. *Has the grantee developed and implemented procedures to monitor its level and quality of transit service to determine compliance with Title VI?*

**Explanation**

All grantees that provide public transit services are required to develop and implement procedures to monitor the level and quality of transit service to determine compliance

with Title VI. These comparisons of the level and quality of transit service provided to the minority community, against overall system averages, will measure the actual realization of established service policies and standards. One current area of concern in some communities is the lack of an equitable distribution of funding for bus service vs. light rail and rapid transit.

### **Reason for the Question**

FTA C 4702.1, IV-2c

### **Documentation**

The grantee should provide its monitoring procedures and its most recent analysis of the level and quality of transit service.

### **Determination**

If the grantee monitors the level and quality of transit service to determine compliance with Title VI, the grantee is not deficient. If the grantee does not monitor transit service to determine compliance with Title VI, the grantee is deficient.

### **Suggested Corrective Action**

The grantee must monitor the level and/or quality of transit service to determine compliance with Title VI and submit evidence to the CRO.

8. *Did the grantee conduct an environmental justice assessment/ fixed-facility impact analysis during the past three years? If so, please have the analysis available and show how effects on minority communities were addressed.*

### **Explanation**

For construction projects of any size, all grantees must conduct environmental justice assessments/ fixed-facility impact analyses to assess the effects on minority communities.

### **Reason for the Question**

FTA C 4702.1, III.2f

### **Documentation**

The grantee should have copies of environmental justice assessments/fixed-facility impact analyses used to monitor Title VI compliance, if FTA has funded any construction projects in the past three years.

## **Determination**

If the project is a categorical exclusion or the grantee conducts environmental justice assessments/fixed-facility impact analyses for construction projects, the grantee is not deficient. If the grantee did not conduct an assessment/analysis for a construction project, the grantee is deficient.

## **Suggested Corrective Action**

The grantee must conduct an assessment/analysis of the construction project and submit its findings to the CRO.

9. *Has the grantee received any Title VI complaints in the past three years? Does the grantee maintain a log of such complaints? How are such complaints identified and resolved?*

## **Explanation**

Any person who believes that she/he has been subjected to discrimination has the right to file complaints alleging discrimination. The grantee is required to maintain a list of active Title VI lawsuits or complaints.

## **Reason for the Question**

FTA C 4702.1, III-2, VII

## **Documentation**

A listing of all complaints filed with the grantee during the past three years and disposition of such complaints should be available. Individual complaint files can be reviewed.

## **Determination**

If the grantee has documentation indicating that any complaints received are being addressed, the grantee is not deficient. If no complaints have been received but the grantee provides a satisfactory explanation of how complaints would be processed, the grantee is not deficient. (There is no specific requirement that there be a written complaint handling process.) If complaints indicate that the grantee is violating Title VI Program regulations or if the complaints do not receive a response, the grantee is deficient.

## **Suggested Corrective Action**

The grantee must develop and implement procedures for handling Title VI complaints and provide evidence of such to the CRO.