Title VI Plan

For the City of Ann Arbor, Michigan

301 E. Huron St.
Ann Arbor, Michigan
Policy Statement

The City of Ann Arbor reaffirms its policy to afford all individuals the opportunity to participate in federal financially assisted services and that no person in the United States shall, on the grounds of race, color, age, sex, disability, limited English proficiency, 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.

This policy statement will be posted on the City of Ann Arbor’s website.

Steven D. Powers
City Administrator
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, sex, color, or national origin (including Limited English Proficiency), 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). 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 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 his/her handicap, be excluded from 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.

Introduction
The purpose of Title VI of the Civil Rights Act of 1964 is to prohibit programs that receive federal funds from discriminating against participants or clients on the basis of race, color, sex, age, disability or national origin. The intent of the law is to insure that all persons, regardless of their race, color, sex, age, disability or national original, are allowed to participate in these federally funded programs. To insure that the City of Ann Arbor meets it compliance responsibility, the Title VI Plan has been established to provide for monitoring of Title VI compliance activities and complaint processing in all operations and programs which receive federal or state funding.

Staff Responsible for Title VI Compliance

The following City of Ann Arbor employee is assigned to Title VI Compliance:

Coordinator: Robyn Wilkerson
Director of Human Resources and Labor Relations
301 E. Huron St.
P.O. Box 8647
Ann Arbor, MI 48107-8647
Phone: (734) 794-6120
Fax: (734) 994-5961
Email: rwilkerson@a2gov.org

Coordinator Responsibilities

The Director of Human Resources and Labor Relations of the City of Ann Arbor is responsible for ensuring the implementation of the City of Ann Arbor’s Title VI Plan. The City of Ann Arbor Director of Human Resources and Labor Relations is responsible for the overall management of the day to day administration of the Title VI Plan.

The Director of Human Resources and Labor Relations is assigned the responsibility for implementing, monitoring, and ensuring the City of Ann Arbor’s compliance with the Title VI regulations. Title VI responsibilities are as follows:

1. Process the disposition of Title VI complaints received by the City of Ann Arbor.
2. Conduct an annual review of the City of Ann Arbor’s Title VI program.
3. Review internal policies and, where applicable, include Title VI language and related requirements.
4. Certify annually before October 1 to the Michigan Department of Transportation that the City of Ann Arbor’s Title VI plan is still in effect and/or advise the Michigan Department of Transportation of changes to the plan.
5. Implement informational training for employees through periodic updates and online notices.
6. Include information regarding Title VI on Ann Arbor’s website for the public
Assurances

Any federal financial assistance provided to the City of Ann Arbor is condition on providing assurances that the City of Ann Arbor services to be benefited by the funds will operate without discrimination. Such an assurance is a contractual obligation through which the City of Ann Arbor promises to comply with Title VI regulations and promises that it will take immediate and continuing steps to effectuate this compliance. As part of the Title VI compliance documentation, the City of Ann Arbor’s assurances appear at Appendix B. Such assurances will also be a part of all contracts extending federal financial assistance through the City of Ann Arbor to City of Ann Arbor sub-recipients. A review of the sub-recipients’ operations will be made within one (1) year of the sub-recipients initial receipt of federal funds to determine compliance with the assurances.

Administration

Complaints

If any individual believes that they or any other program beneficiaries have been subjected to unequal treatment or discrimination as a recipient of benefits and/or services, on the grounds of race, color, sex, age, disability or national origin, they may exercise the right to file a complaint with the City of Ann Arbor. Every effort will be made to resolve complaints informally at the agency, recipient, and contractor’s level (see Appendix A).

Data Collection

Statistical data on race, color, national origin, age, disability and sex of participants in, and beneficiaries of, the City of Ann Arbor federally funded programs will be gathered as appropriate and maintained by the City of Ann Arbor Title VI Coordinator. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI program.

Annual Reviews

All federally funded programs will be reviewed annually to assess effectiveness in the compliance of Title VI provisions. This is in addition to the day-to-day monitoring. The City of Ann Arbor Title VI Coordinator will coordinate efforts to ensure the equal participation in all their activities and programs at all levels.

Annual Reports

The City of Ann Arbor will certify annually before October 1 of each year to the Michigan Department of Transportation that the City of Ann Arbor Title VI Plan is still in effect and/or advise the Michigan Department of Transportation of changes to the plan. The Title VI Coordinator will be responsible for coordination and preparation of the report.
Public Notification

The City of Ann Arbor will provide Title VI Program information to City of Ann Arbor contractors. Public notification will include the posting of statements of Title VI language in contracts and announcements in minority newspapers when determined necessary and funding is available.

Remedial Action

The City of Ann Arbor will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When deficiencies are found, procedures will be implemented in a timely fashion to correct the deficiencies, and the corrective actions will be documented. The period to determine corrective action(s) and document it (them) may not exceed 90 days from the date the deficiencies are found.

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 City of Ann Arbor personnel, professionals, and other sub-recipients of federal funds become informed about diverse clientele in the service area from a linguistic, cultural and social perspective. These individuals should become culturally competent so they can encourage vulnerable LEP populations to access and receive appropriate services with more knowledge and confidence.

U.S. DOT guidelines require that recipients of federal financial assistance provide "meaning full 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 recipients' programs or activities and the variety of languages spoke in the recipient's service area
- The frequency with which LEP individuals are affected by the programs 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
Appendix A

Nondiscrimination Complaint Procedures for Federally Assisted Programs or Activities

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any plan or activity administered by the City of Ann Arbor as to sub-recipients, consultants, and contractors.

Intimidation or retaliation of any kind is prohibited by law. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Title VI Coordinator may be utilized for resolution. Further, these procedures do not deny the rights of the complainant to file a formal complaint with other state or federal agencies or to seek private counsel for complaints alleging discrimination.

1. Any individual, group of individuals or entity that believes it has been subjected to discrimination prohibited by Title VI nondiscrimination provisions may file a written complaint with the City of Ann Arbor. A formal complaint must be filed within 180 calendar days of the alleged occurrence.

2. Upon receipt of the complaint, the City of Ann Arbor, specifically the Title VI Compliance Coordinator will determine its jurisdiction, acceptability, need for additional information, and will investigate the merit of the complaint. In cases where the complaint is against the City of Ann Arbor or one of the City of Ann Arbor's sub-recipients of federal funds, the City of Ann Arbor will forward the complaint to the Michigan Department of Transportation Office of Equal Opportunity. Additionally, a copy of the complaint will be forwarded to the City of Ann Arbor's City Attorney for review.

3. When the complaint is forwarded to Michigan Department of Transportation Office of Equal Opportunity, the Title VI Coordinator will notify the individual, group of individuals or entity that believes it has been subject to discrimination within five calendar days.

4. Upon receipt of any complaint, the Title VI Coordinator will keep record of all correspondence received regarding that complaint.

5. Any comments or recommendations from legal counsel will be reviewed by the Title VI Coordinator.

6. Once the City of Ann Arbor is notified of Michigan Department of Transportation office of Equal Opportunity investigative report findings, the City of Ann Arbor will adopt a final resolution.
7. All parties will be properly notified of the outcome of the Michigan Department of Transportation Office of Equal Opportunity report.

8. If the complainant is not satisfied with the results of the investigation of the alleged discriminatory practice(s), they shall be advised of their rights to appeal the Michigan Department of Transportation Office of Equal Opportunity decision. Appeals must be filed within 180 days after the City of Ann Arbor's final resolution. Unless new facts not previously considered come to light, reconsideration of the City of Ann Arbor's determination will not be available.

9. In cases where the complaint is against a consultant and/or contractor who has contracted with The City of Ann Arbor, the Title VI Coordinator shall investigate the merit of the complaint and send a written report of his/her findings and recommendations to the Director of City of Ann Arbor Division of Purchasing. The report shall be submitted within thirty (30) calendar days of receiving the initial complaint and shall include, but not be limited to a narrative description of the incident, and identification of persons involved.

10. The Title VI coordinator may consult with the Ann Arbor City Attorney when preparing the report for the Purchasing Director.

11. The City of Ann Arbor Purchasing Director shall review the report and after consulting with the Ann Arbor City Attorney make a final determination whether to give a violator a warning, and/or seek an injunction, liquidated damages, or other remedies as may be provided under contract or law.

12. The City of Ann Arbor Purchasing Director shall notify all parties of the outcome and their right to appeal within 180 days of the Purchasing director's decision to the Michigan Department of Transportation Office of Equal Opportunity.

The foregoing complaint resolution procedures will be implemented in accordance with the Department of Justice guidance manual entitled "Investigation Procedures Manual for the Investigation and Resolution of Complaints Alleging Violations of Title VI and Other Nondiscrimination Statutes," available on line at:

Appendix B

Title VI Assurances

The City of Ann Arbor (hereinafter referred to as “Recipient”), HEREBY AGREES THAT as a condition to receiving any federal financial assistance from the United States Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 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 the Title VI of the Civil Rights Act of 1954 (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 race, color, sex, 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, 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 to its federally funded programs:

1. That the Recipient agrees that each “program” and each “facility”, as defined in Subsections 21.23(3) and 21.23(b) of the Regulations, will be conducted (with regard to a “program”), or will be operated (with regard to a “facility”) 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 made in connection with the Federal Aid Program, and in adapted form in all proposals for negotiated agreements:

The City of Ann Arbor in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-d4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted programs of Department of Transportation, and all requirements issued pursuant to such Act, hereby notifies all bidders that minority disadvantaged 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, sex or national origin in consideration for an award.
3. That the Recipient shall insert clauses of Appendix C 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. The Recipient shall provide for such methods of administration for the plan as are found by the Secretary of Transportation, or the official to whom they delegate specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such plan will comply with all requirements imposed or pursuant to the Act, the Regulations and this Assurance.

6. The Recipient agrees that the United States has the right to seek judicial endorsement with regard to any matter arising under 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 by the Department of Transportation under the Federal Aid Highway Program, and is binding on it, other recipients, sub-grantees, 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.

Steven D. Powers, City Administrator

Robyn Wilkerson
Title VI Compliance Coordinator

9/29/11
Date

9/29/11
Date
Appendix C

Title VI Contract Language

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 referred to as DOT), Title 49, Code of Federal Regulations, part 21 (hereinafter referred to as the Regulations), as they may be amended from time to time, herein incorporated by reference and made a part of this contract.

2. Nondiscrimination

The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in 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. Solicitations for Subcontracts, including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of material for 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 ground of race, color, sex, or national origin.

4. Information and Reports

The contractor shall provide all information and reports required by the Regulation 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 the City of Ann Arbor, Michigan Department of Transportation, or appropriate Federal Agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation or the appropriate Federal Agency as needed, 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, the City of Ann Arbor shall impose such contract sanctions as the Michigan Department of Transportation may determine to be appropriate, including, but not limited to:

A. Withholding of payments to the contractor under contract until the contractor complies, and/or
B. Cancellation, termination, or suspension of the contract, in whole or in part.


The contractor shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the City of Ann Arbor, Michigan Department of Transportation, or appropriate Federal Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
APPENDIX D

TITLE VI COMPLAINT FORM

This form may be used to file a complaint with the City of Ann Arbor based on purported violations of Title VI of the Civil Rights Act of 1964. You are not required to use this form; a letter that provides the same information is sufficient to file your complaint. If you need assistance completing this form due to a physical impairment please contact us by phone at (734) 794-6120 or FAX (734) 994-5961.

Only the complainant or the complainant's designated representative should complete this form.

Name: ____________________________________________
Address: _________________________________________
City: _______________ State: ___________ Zip: ________
Telephone: ________________________________________
Home: __________ Work: __________ Fax: ____________

Please explain your relationship to the individual(s) indicated above: ________________

Name of agency, department or program that allegedly discriminated:
________________________________________

Agency or Department Name: _________________________

Name of Individual if Known: _________________________

Date(s) of alleged discrimination: _____________________

Waiver Request:
Generally, complaints of discrimination must be filed within 180 days of the alleged discrimination. If the most recent date of discrimination listed was more than 180 days ago, you may request a waiver of the filing requirement. If you wish to request a waiver, please explain why you waited until now to file your complaint:
Alleged discrimination:
Race/Color
National origin
Sex
Religion
Age
Disability

Explain: Please explain as clearly as possible what happened. Provide the name(s) of witnesses and others involved in the alleged discrimination. (Attach additional sheets if necessary and provide a copy of written materials pertaining to your case)

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Note: The laws enforced by this department prohibit retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by these laws. If you experience retaliation or intimidation separate from the discrimination alleged in this complaint or if you have questions regarding the completion of this form, please contact

City of Ann Arbor
Human Resources Department
Attn: Robyn Wilkerson
301 E. Huron St., P.O. Box 8647
Ann Arbor, MI 48107-8647
Phone: (734) 794-6120
Email: rwilkerson@a2gov.org
APPENDIX E  Program Compliance/Program Review Goals for Current Plan Year

1. The City Title VI Policy will be communicated to each City Service Area Administrator who will review the Policy with appropriate employees.

2. The City Title VI Policy will be published on the City of Ann Arbor Internet Web Site.

3. Appendix C will be included in all City contracts as outlined in the Title VI Plan.

4. The language in number 2 of the City of Ann Arbor Title VI Assurances will be included in all solicitations for bids for work or material subject to the Regulations and in all proposals for negotiated agreements.

5. A procedure for responding to individuals with Limited English Proficiency will be developed.

6. Appropriate City employees will be trained on the LEP procedure and the Title VI complaint procedure.

7. The following data will be collected and reviewed by the City Administrator and included, where appropriate, in the annual report submitted to MDOT.

    a. Construction Projects: The number of construction projects, number of minority contractors bidding and the number selected; verification that Title VI language was included in bids and contracts for each project.
    b. LEP Needs: How many requests for language assistance were requested or required and the outcome of these requests.
    c. Complaints: The number of Title VI complaints received; nature of the complaints; resolution of the complaints.
    d. Timeliness of services: Number of requests for services; Amount of time from request to when service was delivered; Number of requests denied.
    e. Program Participants: Racial data of program participants where possible.