



South Central RTPO Title VI Plan

For Planning Organizations and Local
Government Agencies

December 10, 2021

I. Nondiscrimination Statement of Policy

Title VI Policy Statement

The **South Central Regional Transportation Planning Organization (SCRTPO)** is committed to compliance with Title VI of the Civil Rights Act of 1964, 49 CFR, part 2, and all related regulations and directives. **SCRTPO** assures that no person shall on the grounds of race, color, national origin, gender, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity under any **SCRTPO** program, activity, or service.

Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quantity, quality, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; Discrimination in any activities related to highway and infrastructure or facility built or repaired; and Discrimination in employment.

Environmental Justice/Limited English Proficiency Policy Statement

The **SCRTPO** is also committed to assure every effort will be made to prevent the discrimination of low-income and minority populations as a result of any impact of its programs or activities in accordance with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and in Low-Income Populations. In addition, the **SCRTPO** also assures every effort will be made to provide meaningful access to persons that have Limited English Proficiency, in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.

Definition of Federal financial assistance and recipients affected

Federal financial assistance is defined as any Federal dollars that are assigned to the **SCRTPO** to support any program and activity, by way of grant, loan or contract, other than a contract of insurance or guaranty.

Specific Forms of Discrimination Prohibited

SCRTPO efforts to prevent discrimination must address, but are not limited to:

- The denial of services, financial aid, or other benefits provided under a program.
- Distinctions in the quality, quantity, or manner in which the benefit is provided.
- Segregation or separation in any part of the program.

- Restriction in the enjoyment of any advantages, privileges, or other benefits provided to others.
- Different standards or requirements for participation.
- Methods of administration which directly or indirectly or through contractual relationships would defeat or impair the accomplishment of effective nondiscrimination.
- Discrimination in any activities related to a highway, infrastructure or facility built or repaired in whole or in part with Federal funds.
- Discrimination in any employment resulting from a program, the primary purpose of which is to provide employment.

SCRTPO programs and services covered by Title VI

SCRTPO's Title VI Plan applies to all of the **SCRTPO** programs, activities and services, regardless of funding source. Some sections deal with specific requirements (e.g. FTA funded programs).

Authorities

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
2. Federal-Aid Highway Act of 1973 (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
3. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*) as amended, (prohibits discrimination on the basis of disability);
5. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability)
6. The Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended, 42 U.S.C. § 4601
7. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321;
8. 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department of Transportation-Effectuation of Title VI Of The Civil Rights Act of 1964*);
9. 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
10. 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On the Basis Of Handicap In Program Or Activities Conducted By The Department Of Transportation*);
11. 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
12. 23 C.F.R. Part 200 (FHWA's Title VI/Nondiscrimination Regulation);
13. 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
14. 28 C.F.R. Part 50.3 (DOJ Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964).

II. FHWA Assurances for Title VI and Other Nondiscriminatory Statutes

The **SCRTPO** (hereafter referred to as the "Recipient") HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *non-discrimination, In Federally-Assisted Programs Of The Department of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

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

General Assurances

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

"No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the DOT, including the FHWA."

Specific Assurances

More specifically and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted programs and activities:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient shall insert the following notification in all solicitations for bids, Request for Proposals for work, or material subject to the Acts and the Regulations and made in connection with the Federal Aid Highway Program, and in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The **SCRTPO**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Act and Regulations.
4. The Recipient shall 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 the right 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 project, except where the Federal 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 officials 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 Act, 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 Act, the Regulations, and this Assurance.

By signing this Assurance, **SCRTPO** 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 Federal Highway Administration access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The **SCRTPO** gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under Federal-Aid Highway Program. This ASSURANCE is binding on it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest and other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Approved by:



Gordy Hicks, SCRTPO Chairman



Date

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 Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, 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. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by THE Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of the 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the New Mexico Department of Transportation or the Federal Highway 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 this information, the contractor shall so certify to the **SCRTPO** or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's non-compliance with the nondiscrimination provisions of this contract, the **SCRTPO** will impose such contract sanctions as it or the Federal Highway Administration 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 the 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 shall take such action with respect to any subcontract or procurement as the **SCRTPO** or the Federal Highway Administration 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 **SCRTPO** to enter into any litigation to protect the interests of the **SCRTPO**. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Appendix B

Covenant Running with the Land Assurance

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the State of New Mexico 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 U.S. Department of Transportation in accordance and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation 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 State of New Mexico all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(Habendum Clause)

TO HAVE AND TO HOLD said lands and interests therein unto the State of New Mexico 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 State of New Mexico, its successors and assigns.

The State of New Mexico, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and]* (2) that the State of New Mexico will 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, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department shall have a right to enter or re-enter said lands and facilities on said land, and the above described land and facilities will thereon revert to and vest in

and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

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

Appendix C

Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the State of New Mexico, 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 said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico 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.) and 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 State of New Mexico 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 State of New Mexico 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 make clear the purpose of Title VI.)

Appendix D

Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the State of New Mexico pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be 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 grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico 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 the deeds, in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico will there upon revert to and vest in and become the absolute property of the State of New Mexico and its assigns.*

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

Appendix E

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (29 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 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 program or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure

- compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your program (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 (U.S.C. 1681 *et seq.*)

III. Public Participation Plan (PPP)

The SCRTPO goes to great lengths to ensure that all interested parties have access to all aspects of the organization. It is the responsibility of the SCRTPO to ensure that all information, meetings, and opportunities to participate in the planning process is readily and easily accessible and available to the public regardless of any accommodations that they may require to fully participate.

a) Responsibilities early in the process (23 CFR 450.210-316)

i) General

- Establish early and continuous opportunities for the public participation process
- Provide adequate public notice of opportunities for public comment and at key decision points
- Provide relevant information in a timely fashion
- Provide access to policy and technical information
- Make information, including plans, publicly accessible in electronic format
- Provide adequate public notice of opportunities for public review of plans
- Hold meetings at convenient and accessible times and locations
- Include a process for considering needs of low income and minority families
- Utilize documented process for nonmetropolitan official participation

ii) Guidelines for meetings per the New Mexico Open Meetings law (NMSA 10-15-1-5)

- All meetings of public bodies or agencies are to be public (10-15-1 (a-b))
- Activities applicable to Open Meetings Law include any formation of policy, discussion of public business or any action that the body has authority to take
- Public bodies to determine in public, what notice for public meeting is appropriate for that body and documented/advertised through physical postings on publicly accessed buildings throughout the region and on the SCRTPO website; also, through FCC licensed broadcast stations and newspapers of general circulation (10-15-1 (d)) that have provided a written request for such notice of the public meeting.
- Any reconvention of a meeting must be scheduled prior to recess of that meeting, and date and time of meeting must be posted in writing near the door of the original meeting and only matters scheduled to be discussed at the initial meeting may be discussed at the reconvened meeting (10-15-2(e))
- Meeting notices to include agenda of items to be discussed and be made publicly available at least 24 hours prior to the meeting (f)
- Meeting bodies are to keep minutes that document, at minimum, date, time, place, persons in attendance and absent, material considered, a record of decisions and votes

according to member. Minutes are to be made public and to be prepared no later than 10 working days after the meeting, subsequently reviewed by quorum, then made official (g)

iii) Methods

- Utilize visualization techniques and plan illustrations such as maps, diagrams charts, display boards, and slide presentations to clearly illustrate projects, plans and programs developed for committee meetings and public events.
- Allow minimum of 45 days for comment prior to adopting, revising or updating plans
- Provide opportunity for public comment any time an update or revision to a plan is made
- Social and economic statistics for the region are to be collected, analyzed and processed at regular intervals and results are to be made available to the public" (NMSA 3-56-5 (c))
- Entities are to provide information to the public at large, in order to foster public awareness and understanding of the objectives of the regional plan and the functions of local and regional planning, and to stimulate public interest and participation in the orderly, integrated development of the region" (NMSA 3-56-3 (f))

iv) Review

- Demonstrate explicit consideration of public input
- Document reasons for changes to plans not adopted in public and accessible format
- Periodically review effectiveness of strategies for public participation
- When significant written and oral comments are received, prepare summary analysis of disposition of comments to include in final plan draft
- Periodically review public participation process

b) Guidelines for inclusion of affected parties (23 CFR 450.200-316)

- Citizens
- Affected public agencies (including but not limited to land management, natural resources, environmental protection, conservation and historic preservation)
- Representatives of public transportation employees
- Freight shippers
- Private providers of transportation
- Representatives of users of public transportation
- Representatives of users of pedestrian walkways and bicycle transportation facilities
- Representatives of the disabled
- Providers of freight transportation services
- Other interested parties
- Coordinate with Tribal governments and US Secretary of Interior regarding areas of the State under Tribal Jurisdiction
- Plans affecting metropolitan areas developed in coordination with MPOs

- Plans affecting nonmetropolitan areas developed in consultation with nonmetropolitan elected officials and relevant land management agencies with responsibility for transportation
- When appropriate, the use of "peer exchange" which Federal regulations define as the exchange of information and best practices between agencies, institutions and firms (public and private) with responsibility for transportation (23 CFR 420.203)
- Cooperation with statewide trade and economic development interests
- Consideration of interstate issues and coordination with appropriate agencies; use of interstate compacts when appropriate
- Coordination with State air quality agencies

III. Persons of Limited English Proficiency: considerations and requirements

The SCRTPO is cognizant of the fact that for many persons living within our State and region, English is a second language and often, publicly accessible documents, processes and meetings may not be fully accessible to these populations. Accommodation of these populations is considered an element of compliance with Title VI of the Civil Rights Act of 1964's prohibition on discrimination on the basis of national origin. To this end, and in compliance with Executive Order 13166, the SCRTPO is committed to providing access to public materials and processes for persons of Limited English Proficiency (LEP). Minimum compliance standards followed are found in the LEP Guidance document in the Federal Register and include:

- That recipients of Federal assistance accommodate persons of LEP based on a four-factor analysis including:
 - a) Ratio or proportion of LEP persons served or encountered
 - b) Frequency LEP individuals come into contact with a program
 - c) Nature and importance of a program to people's lives
 - d) Resources available to the recipient of services
- Services provided in accommodation of LEP individuals can include
 - a) Oral translation services
 - b) Written translation services
- Development of a LEP action plan that includes:
 - a) Identification of individuals needing assistance
 - b) Language assistance measures/ methods
 - c) Staff trainings
 - d) Provision of notice to LEP persons of services available
 - e) Monitoring and update of LEP plan¹

IV. Environmental Justice

In accordance with Executive Order 12898 regarding Environmental Justice, it is the mission of the SCRTPO to document and address concerns related to the spatial distribution of low-income and minority populations especially in relation to the positive

¹ 67 FR 41455-41472

and negative benefits associated with past, present and future transportation projects. The impact of projects can be wide ranging and significantly affect the ability of low-income minority families to access jobs, housing and services. In accordance with EO 12898, it is the mission of the SCRTPO to foster public participation with regard to:

- the effect of public projects on human and environmental health in areas with minority populations
- ensure greater public participation in areas with low income and minority families
- improve research and data collection related to human and environmental health in areas with minority and low-income families
- identify differential patterns of consumption of natural resources among minority and low income populations
- Inform the public of their right to submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into programs and policies²

IV. Organization/Staff Responsibilities

Organizational Overview: A comprehensive Organizational Chart is provided identifying the organization's Title VI Coordinator.

*Title VI Coordinator Responsibilities: The Title VI Coordinator is responsible for the development and implementation of the Title VI plan. The Coordinator must also ensure that all entities of the **SCRTPO** are compliant with Title VI requirements. The Title VI Coordinator is also responsible for:*

- Submitting a Title VI plan and annual reports for **SCRTPO**
- Developing procedures for receiving, processing, investigating and reporting Title VI complaints.
- Maintaining a Title VI complaint log, and report to NMDOT on a periodic basis.
- Developing procedures for the collection and analysis of statistical data.
- Developing a program to conduct Title VI reviews or program areas.
- Conducting annual assessments of identified Title VI program areas.
- Developing Title VI information for dissemination.
- Establishing procedures for resolving deficiency status and reducing to writing the remedial action agreed to be necessary.

V. Primary Program Area & Review Procedures

The **SCRTPO** engages in the following program areas.

Program Area	General Description	Title VI/ Nondiscrimination Concerns and Responsibilities	Review Procedures for Ensuring Nondiscrimination
Planning			
Right of Way			
Environmental			
Research			

VI. Title VI Complaint Procedures

The complaint procedures cover the following:

- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Civil Rights Restoration Act of 1973
- Civil Rights Restoration Act of 1987
- Americans with Disabilities Act of 1990
- Executive Order 12898
- Executive Order 13166

Any person believing he or she has been excluded from, denied participation in, denied the benefits of, or otherwise has been subjected to discrimination under any transportation service, program or activity (whether Federally funded or not) due to that person's race, color, national origin, gender, age, disability, economic status, or limited English proficiency has the right to file a complaint.

An individual, group of individuals or entity may file a formal Title VI complaint. Complaints must be submitted to the NMDOT Title VI Coordinator in writing, signed and dated, within 180 days of the alleged discriminatory act (or latest occurrence). The complaint should be submitted to the following address:

Attn:

Angela Rael, Regional Transportation Planner/Title VI Coordinator
PO Box 1072, Elephant Butte, NM 87935

Phone: 575-744-4857

Fax: 575-744-5021

arael@sccog-nm.com

The complaint should include the name, address, phone number and signature of complainant. The formal complaint should describe the alleged discriminatory act that violates Title VI in detail.

Title VI complaints may also be filed directly with the United States Department of Transportation (USDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA) or the Federal Railroad Administration (FRA) within the 180-day period of the alleged discriminatory act (or latest occurrence).

Title VI complaints must be investigated within 60 days. Investigating a complaint includes interviewing all parties involved and key witnesses. The investigator may also require relevant information. **SCRTPO** may specify if there is a particular individual(s) that **SCRTPO** should not investigate the complaint due to conflict of interest or other reasons.

Title VI complaints may be forwarded to either the New Mexico Department of Transportation or the Federal Highway Administration for investigation. If the complaint is forwarded to one of these agencies, **SCRTPO** will provide the name and contract information for the person handling the Title VI complaint to the complainant.

Federal law prohibits retaliation against individuals because they have filed a discrimination complaint or otherwise participated in a discrimination investigation. Any alleged retaliation should be reported in writing to the investigator.

Title VI complaints may also be files directly with the following agencies:

New Mexico Department of Transportation
Construction and Civil rights Bureau
1570 Pacheco St. Suite A10
Santa Fe, NM 87505
Phone: (505) 629-9890

Federal Highway Administration, New Mexico
4001 Office Court Dr.
Suite 801
Santa Fe, NM
Phone: (505) 820-2021

Sample Title VI Compliant Form

Section I

Name:

Address:

Telephone (Home/Cell):

Telephone (Work):

Email Address:

Section II

Are you filing this complaint on your own behalf: Yes No

*If you answered "yes" to this question, go to Section III.

If you answered "no" please enter the name and relationship of the person you are filing the complaint against:

Name:

Relationship:

If you are filing a complaint as a third party, please explain why in the space below:

Have you have obtained permission of the aggrieved party if you are filing on behalf of a third party: Yes No

Section III

I believe the discrimination I experienced was based on (check all that apply):

Race

Color

National Origin

Date of Alleged Discrimination
(Month, Day, Year):

Date:

Explain, as clearly as possible, that happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as the names and contact information of any witnesses. If more space is needed please attach additional sheets to this form:

Section IV

Have you previously filed a Title VI complaint)? Yes No

Section V

Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court? Yes No

If yes, please check and name all that apply:

Federal Agency: _____

Federal Court: _____

State Agency: _____

State Court: _____

Local Agency: _____

Please provide information about a contact person at the agency/court where the complaint was filed.

Name: _____

Title: _____

Agency: _____

Address: _____

Telephone: _____

Section VI

Name of agency complaint is against: _____

Contact person: _____

Title: _____

Telephone number: _____

Signature: _____

Date: _____

Please submit this form in person at the address below, or mail form to:

Angela Rael, Regional Transportation Planner/Title VI Coordinator

PO Box 1072, Elephant Butte, NM 87935

Phone: 575-744-4857

Fax: 575-744-5021

arael@sccog-nm.com

VII. Title VI Program Management Procedures

The **SCRTPO** Title VI Coordinator shall:

- Ensure that the transportation planning process fully complies with the requirements of Title VI.
- Monitor the transportation planning process overall strategies and goals and ensure compliance with Title VI requirements.
- Review operational policies and procedures to ensure Title VI compliance.
- Monitor the service equities of planning data collection and analysis for potential impacts on social, economic, and/or ethnic groups.
- Ensure the planning organizational membership attempts to reflect the makeup of the population served. This would include periodically reporting the MPO/RTPO racial, ethnic, and gender composition of public involvement organizations or groups.
- Ensure the opinions and views of all groups within their populations are solicited and considered in the planning of transportation projects.
- Monitor compliance with Environmental Justice issues to identify low-income and minority populations that may be impacted by transportation planning process.
- Evidence that input from minority groups/persons has been considered in the transportation planning process. Evidence could include but is not limited to the participation level and composition of participants in public information settings. Also reporting any follow-up and conclusions to issues communicated throughout the planning process.
- Monitor the gathering and utilization of demographic data used to identify and locate low-income and minority populations in order to investigate the possible benefits and detriments of transportation plans on these populations.
- Monitor compliance with Limited English Proficiency populations to improve access and comprehension of the transportation planning process for individuals comprising the LEP population.

VIII. Title VI Related Training

The **SCRTPO** Title VI Coordinator shall ensure that staff is trained and familiar with **SCRTPO** related policies and procedures.

IX. Limited English Proficiency (LEP) Plan

Recipients of federal funding should conduct a Four Factor Analysis to prevent discrimination of the basis on limited English Proficiency.

The Four Factor Analysis includes the following factors:

- **Number or Proportion of LEP Individuals:** This factor should describe your efforts to provide meaningful opportunities to your Limited English Proficient population. Your organization should ask "*What number or proportion of individuals will be excluded from benefits or services absent efforts to remove language barriers?*"
- **Frequency of Contact with the Program:** If LEP persons must access your program/activity daily; the recipient has a greater responsibility to tailor their services to the needs of LEP persons. This factor should be data driven and decisions should be in direct correlation through whatever data gathering exercises your organization uses.
- **Nature and Importance of the Program:** The need LEP individuals have access to benefits and services amplify with programs where the denial or delay of access may have life or death implications. Recipients should identify programs of this type of importance and describe the process to ensure LEP persons are not denied or delayed in the service or benefit of that service.
- **Resources Available:** Your organization's may have limited resources may not have to take the same steps as a larger organization to provide LEP assistance in programs that have a limited number of LEP persons (e.g., where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not crucial to a person's day to day existence.) Claims of limited resources will need to be well-substantiated.

In addition, your organization should address the appropriate mix of written and oral language assistance. Your organization should identify the following:

- Documents should be translated
- Process to identify when oral translation is needed
- When services should be immediately available

X. External Communication (Notification to public beneficiaries)

Your organization should provide information to members of the public detailing their Title VI obligation and notify members of the public of the protections against discrimination afforded to them by Title VI. Requirements including:

- **Dissemination of Information:** Your organization should disseminate this information to members of the public via accessible printed and electronic media, including posting on the entities' website.

- Contents of Notification: At a minimum, the notification should include the following:
 1. Statement that your organization operates the Federal Program(s) without regard to race, color, national origin, sex, age, or disability.
 2. Identify procedures to be followed by members of the public to request additional information regarding your organizations Title VI obligation.
 3. Identify procedures to be followed by members of the public to file a discrimination complaint against your organization.

X. Data Collection

To ensure that information available to benefit the residents of the region, data is gathered by tracking the race/ethnicity of residents relocated through the organization's various programs and activities, tracking the race/ethnicity of members of the public participation in public meetings, and collecting U.S. Census data on population by the SCRTPO's projects.

Program Area	Type of Data Collected & Process for Collecting	Intended Outcome of Data Analysis (i.e. Title VI Purpose for Collecting Data)
Planning		
Right of Way		
Environmental		
Research		

XI. Notice of Rights

Your Rights Against Discrimination Under Title VI of the Civil Rights Act of 1964
SCRTPO operates its programs and services without regard to race, color, national origin, sex, age, and disability. Anyone who believes they have been excluded from participation in, denied benefits of, or otherwise subjected to discrimination under any **SCRTPO** program or activity because of their race, color, national origin, age, sex, or disability may file a discrimination complaint with **SCRTPO** or the New Mexico Department of Transportation.

To file a Title VI discrimination complaint, please contact:

Angela Rael, Regional Transportation Planner/Title VI Coordinator
 PO Box 1072, Elephant Butte, NM 87935
 Phone: 575-744-4857 Fax: 575-744-5021
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