

MIDLAND COUNTY ROAD COMMISSION



TITLE VI NON-DISCRIMINATION PLAN

2334 N. Meridian Road

Sanford, MI 48657

Phone: 989-687-9060

Fax: 989-687-9121

Website: <http://www.midlandroads.com>

Title VI Coordinator:

Jonathan Myers, Managing Director

Email: jon@midlandroads.com

TABLE OF CONTENTS

Introduction.....3

Non-Discrimination Policy Statement.....6

Standard Title VI Assurances.....8

Regulatory Authorities.....11

Administration - General.....12

Limited English Proficiency (LEP).....14

Environmental Justice (EJ)21

Complaint Procedures.....23

Appendix A – Required Contract Language.....27

Appendix B – Deeds Transferring United States Property.....29

Appendix C – Real Property Acquired or Improved Under the Activity, Facility, or Program.....30

Appendix D – Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.....31

Appendix E – Title VI Complaint Form.....32

Appendix F – Determine/Distinguish Significant/Non-Significant Effects.....34

Appendix G – Program Compliance/Program review Goals for Current Plan Year.....35

INTRODUCTION

The Midland County Road Commission (MCRC) was organized in 1895 under the County Road Act; Sections 221.1-239.6 of the *Michigan Compiled Laws*. The MCRC's transportation program serves all people utilizing the county road system with a safe, efficient, environmentally sound, comprehensive, and cost-effective transportation system. The MCRC serves all people of the county of Midland, including minority populations, low-income populations, the elderly, persons with disabilities, and those who traverse the State of Michigan. The MCRC recognizes its responsibility to provide fairness and equity in all of its programs, services, and activities, and that it must abide by and enforce federal and state civil rights legislation related to transportation.

Title VI of the Civil Rights Act of 1964, prohibits discrimination based upon race, color, and national origin. Specifically, 42 USC 2000d states that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The use of the word "person" is important as the protections afforded under Title VI apply to anyone, regardless of whether the individual is lawfully present in the United States or a citizen of a state within the United States. The Civil Rights Restoration Act of 1987 clarified the intent of Title VI to include all programs and activities of federal-aid recipients and contractors whether those programs and activities are federally funded or not. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 prohibit unfair and inequitable treatment of persons as a result of projects that are undertaken with federal financial assistance. In addition to Title VI, there are other nondiscrimination statutes that afford legal protection. These statutes include Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex), the Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/Americans with Disabilities Act of 1990 (disability).

In addition to statutory authorities, Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," signed in February of 1994, requires federal agencies to achieve Environmental Justice as part of its mission by identifying disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Environmental Justice initiatives are accomplished by involving the potentially affected public in the development of transportation projects that fit within their communities without sacrificing safety or mobility. In 1997, the U.S. Department of Transportation (USDOT) issued its DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations to summarize and expand upon the requirements of Executive Order 12898 on Environmental Justice. Also, Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency (LEP)," provides that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance.

As a recipient of federal financial assistance, the MCRC must provide access to individuals with limited ability to speak, write, or understand the English language. The MCRC must not restrict an individual in any way from the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under its programs or projects. Individuals

may not be subjected to criteria or methods of administration which cause adverse impact because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program because of race, color or national origin. Therefore, the primary goals and objectives of the MCRC's Title VI Program are:

1. To assign roles, responsibilities, and procedures for ensuring compliance with Title VI of the Civil Rights Act of 1964 and related regulations and directives;
2. To ensure that people affected by the MCRC's programs and projects receive the services, benefits, and opportunities to which they are entitled without regard to race, color, national origin, age, sex, or disability;
3. To prevent discrimination in the MCRC's programs and activities, whether those programs and activities are federally funded or not;
4. To establish procedures for identifying impacts in any program, service, or activity that may create an illegal adverse impact on any person because of race, color, national origin, age, sex, or disability; or on minority populations, low-income populations, the elderly, persons with disabilities, all interested persons and affected Title VI populations;
5. To establish procedures to annually review Title VI compliance within specific program areas within, the MCRC;
6. To set forth procedures for filing and processing complaints by persons who believe they have been subjected to illegal discrimination under Title VI in an MCRC service, program or activity.

As a sub-recipient of federal transportation funds, the MCRC must comply with federal and state laws, and related statutes, to ensure equal access and opportunity to all persons, with respect to transportation services, facilities, activities, and programs, without regard to race, color, national origin, sex, socio-economic status, or geographical location. Every effort will be made to prevent discrimination in any program or activity, whether those programs and activities are federally funded or not, as guaranteed by the Civil Rights Restoration Act of 1987.

The MCRC shall also ensure that their sub-recipients adhere to state and federal law and include in all written agreements or contracts, assurances that the sub-recipient must comply with Title VI and other related statutes. The MCRC, as a sub-recipient who distributes federal transportation funds, shall monitor their sub-recipients for voluntary compliance with Title VI. In the event that non-compliance is discovered, the MCRC will make a good faith effort to ensure that the sub-recipient corrects any deficiencies arising out of complaints related to Title VI; and that sub-recipients will proactively gauge the impacts of any program or activity on minority populations and low-income populations, the elderly, persons with disabilities, all interested persons and affected Title VI populations.

Discrimination under Title VI

There are two types of illegal discrimination prohibited under Title VI and its related statutes. One type of discrimination which may or may not be intentional is “disparate treatment.” Disparate treatment is defined as treating similarly situated persons differently because of their race, color, national origin, sex, disability, or age.

The second type of illegal discrimination is “disparate impact.” Disparate impact discrimination occurs when a “neutral procedure or practice” results in fewer services or benefits, or inferior services or benefits, to members of a protected group. With disparate impact, the focus is on the consequences of a decision, policy, or practice rather than the intent.

The MCRC’s efforts to prevent such discrimination must address, but not be limited to, a program’s impacts, access, benefits, participation, treatment, services, contracting opportunities, training, investigation of complaints, allocation of funds, prioritization of projects, and the overarching functions of planning, project development and delivery, right-of-way, construction, and research.

The MCRC has developed this Title VI Plan to assure that services, programs, and activities of the Road Commission are offered, conducted, and administered fairly, without regard to race, color, national origin, sex, age, or disability of the participants or beneficiaries of federally funded programs, services, or activities (see Title VI Assurances).

**MIDLAND COUNTY ROAD COMMISSION
NON-DISCRIMINATION POLICY STATEMENT**

The Midland County Road Commission reaffirms its policy to allow all individuals the opportunity to participate in federal financially assisted services and adopts the following provision:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” In applying this policy, the Midland County Road Commission and its sub-recipients of federal funds shall not:

1. Deny any individual with any service, opportunity, or other benefit for which such individual is otherwise qualified;
2. Provide any individual with any service, or other benefit, which is inferior (in quantity or quality) to, or which is provided in a different manner from that which is provided to others;
3. Subject any individual to segregated or disparate treatment in any manner related to such individual’s receipt of services or benefits;
4. Restrict an individual in any way from the enjoyment of services, facilities or any other advantage, privilege or other benefit provided to others;
5. Adopt or use methods of administration, which would limit participation by any group of recipients or subject any individual to discrimination;
6. Address any individual in a manner that denotes inferiority because of race, color, or national origin;
7. Permit discriminatory activity in a facility built in whole or in part with federal funds;
8. Deny any segment of the population the opportunity to participate in the operations of a planning or advisory body that is an integral part of a federally funded program;
9. Fail to provide information in a language other than English to potential or actual beneficiaries who are of limited English speaking ability, when requested and as appropriate;
10. Subject an individual to discriminatory employment practices under any federally funded program whose objective is to provide employment;
11. Locate a facility in any way, which would limit or impede access to a federally-funded service or benefit.

The MCRC will actively pursue the prevention of any Title VI deficiencies or violations and will take the necessary steps to ensure compliance. If irregularities occur in the administration of the program's operation, procedures will be promptly implemented to resolve Title VI issues all within a period not to exceed 90 days.

The Midland County Road Commission designates Jonathan Myers, Managing Director, as the Title VI Coordinator. The Managing Director will be responsible for initiating and monitoring Title VI activities and other required matters, ensuring that the Midland County Road Commission complies with the Title VI regulations and pursues prevention of Title VI deficiencies or violations. Inquiries concerning the Midland County Road Commission and Title VI may be directed to the Managing Director, 2334 North Meridian Road, Sanford, MI 48657; Phone: 989-687-9060; Fax: 989-687-9121; Email: jon@midlandroads.com.



Chairman of the Board



Managing Director/Title VI Coordinator

**MIDLAND COUNTY ROAD COMMISSION
TITLE VI ASSURANCES**

The Midland County Road Commission (hereinafter referred to as the “Recipient”) hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, through the Federal Highway Administration (FHWA), it will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964, (42 USC 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR, Part 21, (entitled Non-discrimination in Federally-Assisted Programs for the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964);
- 28 CFR, section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964)

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

General Assurances

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

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

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

Specific Assurances

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

1. That the Recipient agrees that each “activity,” “facility,” or “program” as defined in subsections 21.23(e) and 21.23(b) of the 49 CFR section 21, will be (with regard to a “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. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Acts and the Regulations and made in connection with all Transportation Programs 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 U.S.C 2000d to 2000d-4 and the Regulations, hereby notifies all bidders that it will affirmatively insure that in any contact 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.”

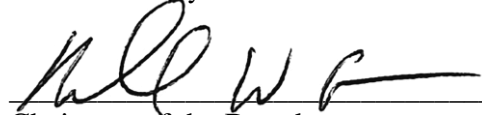
3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. 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.
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 shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal Aid Highway Program.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient 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, sub-grantees, 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.
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, MCRC also agrees to comply (and require and sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. MCRC also recognizes it must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. MCRC must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely, complete, and accurate way. Additionally it must comply

with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

This assurance is given in consideration of and for the purpose of obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal financial assistance extended after the date hereof to the Recipient under the Transportation program. This Assurance is binding on MCRC, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Transportation Program. The person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Recipient.

Midland County Road Commission



Chairman of the Board

2/1/2024

Date

REGULATORY AUTHORITIES

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

ADMINISTRATION – GENERAL

The Midland County Road Commission designates Jonathan Myers, Managing Director, as the Title VI Coordinator (hereinafter referred to as the “Title VI Coordinator”). Mr. Myers shall have lead responsibility for coordinating the administration of the Title VI and related statutes, programs, plans, and assurances.

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

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

Program 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 the Title VI Coordinator to assure effectiveness in their compliance of Title VI provisions. The Title VI Coordinator will coordinate efforts to ensure the equal participation in all their programs and activities at all levels. The MCRC does not have any special emphasis programs at this time.

Title VI Reviews on Sub-Recipients: Title VI compliance reviews will be conducted annually by the Title VI Coordinator. Priority for conducting reviews will be given to those recipients of federal (U.S. 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 requirements. The status of each review will be reported in the annual update and reported to relevant U.S. Department of Transportation (USDOT) modes upon request.

Annual Reporting Form: The Title VI Coordinator will be responsible for coordination, compilation, and submission of annual reporting form data to the Michigan Department of Transportation (MDOT), Civil Rights Program Unit via the Sub-Recipient Annual Certification Form (MDOT form #0179) by October 5th.

Title VI Plan Updates: If updated, a copy of Title VI Plan will be submitted to the MDOT, Civil Rights Program Unit, as soon as the update has been completed, or as soon as practicable, and no later than 30 days if significant changes are made.

Public Dissemination: The MCRC will disseminate Title VI Program information to the MCRC employees and to the general public. Title VI Program information will be submitted to sub-recipients, contractors and beneficiaries. Public dissemination will include inclusions of Title VI

language in contracts and publishing the Title VI Non-discrimination Plan on the homepage of the MCRC's website, <http://www.midlandroads.com>, within 90 days of approval.

Remedial Action: The MCRC, through the Title VI Coordinator, 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 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 exceed 90 days from the date the deficiencies are found.

LIMITED ENGLISH PROFICIENCY (LEP)

On August 11, 2000, President William J. Clinton signed an executive order, Executive Order 13166: Improving Access to Service for Persons with Limited English Proficiencyⁱ, to clarify Title VI of the Civil Rights Act of 1964. It had as its purpose, to ensure accessibility to programs and services to otherwise eligible persons who are not proficient in the English language.

This executive order stated that individuals who do not speak English well and who have a limited ability to read, write and speak, or understand English are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounterⁱⁱ. These individuals are referred to as being limited in their ability to speak, read, write, or understand English, hence the designation, “LEP,” or Limited English Proficient. The Executive Order states that:

“Each federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency’s programs and activities.”

Not only do all federal agencies have to develop LEP plans as a condition of receiving federal financial assistance, recipients have to comply with Title VI and LEP guidelines of the federal agency from which funds are provided as well.

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of federal funds range from state and local agencies, to nonprofits and organizations. Title VI covers a recipient’s entire program or activity. This means all parts of a recipient’s operations are covered, even if only one part of a recipient’s organization receives the federal assistance. Simply put, any organization that receives federal financial assistance is required to follow this Executive Order.

The MCRC receives funds from the US Department of Transportation via the Federal Highway Administration.

The US Department of Transportation published *Policy Guidance Concerning Recipients’ responsibilities to Limited English Proficient Person* in the December 14th, 2005 Federal Register.ⁱⁱⁱ

The Guidance implies that the MCRC is an organization that must follow this guidance:

This guidance applies to all DOT funding recipients, which include state departments of transportation, state motor vehicle administrations, airport operators, metropolitan planning organizations, and regional, state, and local transit operators, among many others. Coverage extends to a recipient’s entire program or activity, i.e., to all parts of a recipient’s operations. This is true even if only one part of the recipient receives the Federal assistance. For example, if

DOT provides assistance to a state department of transportation to rehabilitate a particular highway on the National Highway System, all of the operations of the entire state department of transportation—not just the particular highway program or project—are covered by the DOT guidance.

Elements of an Effective LEP Policy

The US Department of Justice, Civil Rights Division has developed a set of elements that may be helpful in designing and LEP policy or plan. These elements include:

1. Identifying LEP persons who need language assistance
2. Identifying ways in which language assistance will be provided
3. Training Staff
4. Providing notice to LEP persons
5. The recommended method of evaluating accessibility to available transportation services is the Four-Factor Analysis identified by the USDOT.

These recommended plan elements have been incorporated into this plan.

Methodology for Assessing Needs and Reasonable Steps for an Effective LEP Policy

The DOT guidance outlines four factors recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

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

The greater the number or proportion of eligible LEP persons, the greater the frequency with which they have contact with a program, activity, or service and the greater the importance of that program, activity, or service, the more likely enhanced language services will be needed. The intent of DOT's guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small organizations and local governments.

Smaller recipients with more limited budgets are typically not expected to provide the same level of language service as larger recipients with larger budgets.

The DOT guidance is modeled after the Department of Justice's guidance and requires recipients and sub recipients to take steps to ensure meaningful access their programs and activities to LEP persons. More information for recipients and sub recipients can be found at <http://www.lep.gov>.

The Four-Factor Analysis

This plan uses the recommended four-factor analysis of an individualized assessment considering the four factors outlined above. Each of the following factors is examined to determine the level and extent of language assistance measures required to sufficiently ensure meaningful access to the MCRC services and activities that may affect their quality of life. Recommendations are then based on the results of the analysis.

Factor 1: The Proportion, Numbers and Distribution of LEP Persons

The Census Bureau has a range of four classifications of how well people speak English. The classifications are ‘very well,’ ‘well,’ ‘not well,’ and ‘not at all.’ For our planning purposes, we are considering people that speak English ‘less than very well’ as Limited English Proficient persons.

As seen in Table #1, the Midland County Census 2022 Data shows a small number of the population that speak English less than ‘very well.’

TABLE #1

LANGUAGE SPOKEN AT HOME	# of Individuals	Percentage
Population 5 years and over	79,037	
English only	76,177	96.4%
Language other than English	2,860	3.6%
Speak English less than "very well"	665	0.8%
Spanish	815	1.0%
Speak English less than "very well"	187	0.2%
Other Indo-European languages	1,002	1.3%
Speak English less than "very well"	100	0.1%
Asian and Pacific Islander languages	952	1.2%
Speak English less than "very well"	346	0.4%
Other languages	91	0.1%
Speak English less than "very well"	32	0.0%

Source: U.S. Census Bureau

DP02: SELECTED SOCIAL CHARACTERISTICS IN THE UNITED STATES

Factor 2: Frequency of Contact with LEP Individuals

The MCRC has conducted an informal survey of our employees with regard to whether they have had encounters with LEP individuals in the performance of their job functions and found that they have not had any encounters with LEP individuals. We have offices accessible to the public and therefore accessible to LEP individuals and we have staff that work in the field that could encounter LEP individuals. Additionally, regular Board meetings are held bi-weekly,

which would potentially bring LEP individuals to these meetings. Given the number of LEP individuals, as displayed in Table #1 (above), the probability of our employees to encounter an LEP individual is low.

Factor 3: The Nature and Importance of the Program, Activity, or Service to LEP

The Road Commission's main function is to maintain the road network throughout Midland County. This network is incredibly sound and new roadways will not be added, thus requiring acquisition of land is not an issue. Our services are straight forward and garnered by the weather and wear and tear on the roads by motorists and out of the way of face to face contact. Occasionally, the road surface of a roadway is changed, trees are cut or ditches are dug to improve the conditions for the motoring public and public hearings are held.

It is believed that denial or delay of access to services or information provided by the MCRC could have serious implications on a LEP individual, especially services such as health, emergency transportation, water, sewer, fire protection, police protection and other emergency services. Therefore the denial of services to an LEP individual could have a significant detrimental effect. Although the LEP population in the county is small, we will ensure accessibility to all of our programs, services, and activities.

Factor 4: The Resources Available to the MCRC and Overall Cost

US Department of Transportation Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons published in the Federal Register: December 14, 2005 (Volume 70, Number 239) states:

“Certain DOT recipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written LEP plan.”

The MCRC serves very few LEP persons and has very limited resources. However, it has decided to include a LEP section in its Title VI Plan in order to comply with the Executive Order and to ensure access and reasonable accommodations for LEP persons who may be unknown at this time.

Safe Harbor Stipulation

Federal law provides a “Safe Harbor” situation so that recipients can ensure with greater certainty that they comply with their obligation to provide written translations in languages other than English. A “Safe Harbor” means that if a recipient provides written translation in certain circumstances, such action will be considered strong evidence of compliance with the recipient's written-translation obligations under Title VI.

The failure to provide written translations under the circumstances does not mean there is noncompliance, but rather provides a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four factor analysis. For example, even if a Safe Harbor is not used, if written translation of a certain document(s) would be so burdensome

as to defeat the legitimate objectives of its program, it is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

Strong evidence of compliance with the recipient's written translation obligations under "Safe Harbor" includes providing written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally.

This "Safe Harbor" provision applies to the translation of written documents only. It does not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable.

Given the small number of LEP language group members, the MCRC's budget and number of staff, it is deemed that written translations of vital documents would be so burdensome as to defeat the legitimate objectives of our programs. It is more appropriate for MCRC to proceed with oral interpretation options for compliance with LEP regulations.

Providing Notice to LEP Persons

USDOT LEP guidance says:

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

The guidance provides several examples of notification including:

1. Signage in languages an LEP individual would understand when free language assistance is available with advance notice.
2. Stating in outreach documents that free language services are available from the agency.
3. Working with community-based organizations and other stakeholders to inform LEP individuals of the recipient's services, including the availability of language assistance services.

Statements in languages that an LEP individual would understand will be placed in public information and public notices informing LEP individuals that those requiring language assistance and/or special accommodations will be provided the requested service free of charge, with reasonable advance notice to the MCRC.

Options and Proposed Actions

Options:

Federal fund recipients have two (2) main ways to provide language services: oral interpretation either in person or via telephone interpretation service and written translation. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis.^{iv}

The MCRC is defining an interpreter as a person who translates spoken language orally, as opposed to a translator, who translates written language and who transfers the meaning of written text from one language into another. The person who translates orally is not a translator, but an interpreter.^v

Due to limited financial resources, it is necessary to limit language aid to the most basic and cost-effective services. However, when requested appropriate assistance will be provided.

What the MCRC will do. What actions will the MCRC take?

- Notify the public that interpreter services are available upon request, with seven day advance notice.
- With advance notice of seven calendar days, the MCRC will provide interpreter services at public meetings, including language translation and signage for the hearing impaired.
- The MCRC will utilize the *Translators Resource List* as provided by MDOT for translation services and verbal interpretation.
- The Census Bureau “I-speak” Language Identification Card will be distributed to all employees that may potentially encounter LEP individuals.
- Once the LEP individual’s language has been identified, an agency from the *Translators Resource List* will be contacted to provide interpretation services.
- Publications of the MCRC’s complaint form will be made available online and upon request.
- In the event that a MCRC employee encounters a LEP individual, they will follow the procedure listed below:

OFFICE ENCOUNTER

1. Provide an I-speak language identification card to determine the language spoken of the LEP individual.
2. Once the foreign language is determined, provide information to Title VI coordinator who will contact an interpreter from MDOT’s *Translators Resource List*.
3. If the need is for a document to be translated, the Title VI coordinator will have the document translated and provided to the requestor as soon as possible.

ROAD ENCOUNTER

1. Road crew employee will immediately contact the Title VI coordinator for assistance, and provide an I-speak language identification card to the LEP individual to determine the language spoken of the individual.

2. Once the foreign language is determined, provide information to Title VI coordinator who will contact an interpreter from MDOT's *Translators Resource List* to provide telephonic interpretation.
3. If the need is for a document to be translated, the Title VI coordinator will have the document translated and provided to the requestor as soon as possible.

IN WRITING

1. Once a letter has been received it will be immediately forwarded to the Title VI Coordinator.
2. The Title VI Coordinator will contact an translator from the MDOT's *Translators Resource List* to determine the specifics of the letter request information.
3. The Title VI Coordinator will work with the selected agency to provide the requested service to the individual in a timely manner.

OVER THE PHONE

1. If someone calls into our office speaking another language every attempt will be made to keep that individual on the line until an interpreter can be conferenced into the line and if possible determine the language spoken of the caller.
2. Once the language spoken by the caller has been identified, we will proceed with providing the requested assistance to the LEP individual.

The MCRC's Staff Training

The MCRC's staff will be provided training or made aware of the requirements for providing meaningful access to services for LEP persons.

ENVIRONMENTAL JUSTICE (EJ)

Compliance with Title VI includes ensuring that no minority or low income population suffers “disproportionately high and adverse human health or environmental effect” due to any “programs, policies and activities” undertaken by any agency receiving federal funds. This obligation will be met by the MCRC in the following ways:

- When planning specific programs or projects, identifying those populations that will be affected by a given program or project.
- If a disproportionate effect is anticipated, following mitigation procedures.
- If mitigation options do not sufficiently eliminate the disproportionate effect, discussing and, if necessary, implementing reasonable alternatives.

Disproportionate effects are those effects which are appreciably more severe for one group or predominantly borne by a single group. The MCRC will use U.S. Census data to identify low income and minority populations.

Where a project impacts a small number or area of low income or minority populations, the MCRC will document that:

- Other reasonable alternatives were evaluated and were eliminated for reasons such as the alternatives impacted a far greater number of people or did greater harm to the environment, etc.
- The project’s impact is unavoidable,
- The benefits of the project far out-weigh the overall impacts, and
- Mitigation measures are being taken to reduce the harm to low income or minority populations.

If it is concluded that no minority and/or low income population groups are present in the project area, the MCRC will document how the conclusion was reached. If it is determined that one or more of these population groups are present in the area, the MCRC will administer potential disproportionate effects test.

The following steps will be taken to assess the impact of projects on minority and/or low income population groups:

STEP ONE: Determine if a minority of low income population is present within the project area. If a conclusion is that no minority and/or low income population is present within the project area, document how the conclusion was reached. If the conclusion is that there are minority population groups and/or low income population groups present, proceed to Step Two.

STEP TWO: Determine whether project impacts associated with the identified low income and minority populations are disproportionately high and adverse. In doing so, refer to the list of potential impacts and questions contained in Appendix E. If it is determined that there are disproportionately high and adverse impacts to minority and low income populations, proceed to Step Three.

STEP THREE: Propose measures that will avoid, minimize and/or mitigate disproportionately high and disproportionate adverse impacts and provide offsetting benefits and opportunities to enhance communities, neighborhoods and individuals affected by proposed project.

STEP FOUR: If after mitigation, enhancements and offsetting benefits to the affected populations, there remains a high and disproportionate adverse impact to minority or low income populations, then the following questions must be considered:

Question 1: Are there further mitigation measures that could be employed to avoid or reduce the adverse effect to the minority or low income population?

Question 2: Are there other additional alternatives to the proposed action that would avoid or reduce the impacts to the low income or minority populations?

Question 3: Considering the overall public interest, is there a substantial need for the project?

Question 4: Will the alternatives that would satisfy the need for the project and have less impact on protected populations (a) have other social economic or environmental impacts that are more severe than those of the proposed action (b) have increased costs of extraordinary magnitude?

STEP FIVE: Include all findings, determinations or demonstrations in the environmental document prepared for the project.

COMPLAINT PROCEDURES

This complaint procedure covers the following non-discrimination laws and related directives, and statutes: Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, The Civil Rights Restoration Act of 1987, and the ADA of 1990.

Complaints of discrimination may be filed by any person who believes that he or she has been excluded from participation in, been denied the benefits of, or has otherwise been subjected to discrimination under any program or activity receiving federal financial assistance, and s/he believes the discrimination is based on race, color, national origin.

Complaint Reporting

- a. Any person who believes that he or she, individually or as a coordinator of any specific group or class, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, as amended, may file a complaint with MCRC. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the MCRC Title VI Coordinator for forwarding to MDOT or the FHWA.

Complaints must be filed within 180 days of the alleged discrimination. If the complainant could not reasonably be expected to know that the act was discriminatory within the 180-day period, then the time for filing may be extended by the US Secretary of Transportation.

- b. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the MCRC Title VI Coordinator. If necessary, the MCRC Title VI Coordinator will assist the complainant in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled in the usual manner.
- c. Within 10 days after reduction in writing, the MCRC Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of FHWA's Title VI complaint process.
- d. The MCRC Title VI Coordinator will gather the following information for complaint processing and investigation:
 - i. Names, addresses, and phone numbers of the complainants
 - ii. Names and addresses of alleged discriminating officials
 - iii. Basis of complaint (i.e., race, color, national origin)
 - iv. Date of alleged discriminatory act(s)
 - v. Date of complaint received by the recipient
 - vi. A statement of the complaint
 - vii. Other agencies (state, local or federal) where the complaint has been filed

viii. If available, an explanation of the actions the recipient has taken or proposed to resolve the issue raised in the complaint

e. Complaints Investigation Process:

- All complaints are routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against State DOTs or Subrecipients of Federal financial assistance.
- Complaints are forwarded from the initial receiving agency through the Federal-aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with a Subrecipient City, that receiving agency should forward the complaint to the State DOT, which should forward the complaint to the State's FHWA Division Office, which should forward the complaint to HCR. If a complaint is filed with a State DOT, then the State DOT should forward the complaint to the State's FHWA Division Office, which should forward the complaint to HCR.
- State DOTs and Subrecipients must log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Division Office, State DOT, and Subrecipient (where applicable).

Complaints may also be sent to HCR directly at:

Federal Highway Administration
U.S. Department of Transportation Office of Civil Rights
1200 New Jersey Avenue, SE
8th Floor E81-105
Washington, DC 20590

Email: CivilRights.FHWA@dot.gov, FHWA.TitleVIcomplaints@dot.gov
Fax: 202-366-1599
Questions: 202-366-0693

MDOT Title VI Complaint Form 0112 is available in English and Spanish. Complainants shall complete and sign MDOT Complaint Consent/Release Form 0198 outlining disclosure of the complainant's identity in accordance with state and federal law.

Investigations

A complaint may be filed against the recipient, contractor, sub-contractor, consultant, or supplier for illegal discrimination under Title VI and related statutes.

All complaints investigations are delegated by FHWA. Allegations of discrimination are taken very seriously and will be investigated in a timely manner. The MCRC Title VI coordinator will gather relevant information in a fair and impartial manner and will submit the report to FHWA division office. An MDOT Complaint Consent/Release Form 0198 shall be provided to all complainants.

Copies of Title VI complaints will be forwarded to FHWA division office. The contents of such files may be disclosed to MDOT personnel on a need-to-know basis and in accordance with state and federal law. Files will be retained in accordance with MDOT's records retention schedule and federal guidelines.

Timeframes for Investigations

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance.

For State DOTs that have been delegated an investigation from FHWA, 23 CFR §200.9(b)(3) provides that State DOTs must complete investigations within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA).

FHWA Investigation Potential Outcomes

First, at any time during the investigation, either FHWA or the respondent may initiate informal negotiations to resolve the issues. The FHWA always strives to resolve Title VI complaints informally, if possible.

In the absence of such negotiations, HCR (or an investigator State DOT) will draft a Report of Investigation, which should contain all relevant data and findings, with legal conclusions and potentially include recommendations for action. FHWA is responsible for the final disposition of all complaints, including initiation and conduct of informal negotiations and the issuance of Letters of Finding (LOFs).

There are five potential outcomes for concluding an investigation:

1. The FHWA makes a finding of no violation, and the case will be closed with no further action. The FHWA will issue an LOF stating in sufficient detail the reasons for the determination of no violation.
2. If, by a preponderance of the evidence, FHWA determines the respondent has failed to comply with its Title VI requirements or threatens to fail to comply by action or inaction, then FHWA will inform the respondent and the matter will be resolved by informal means whenever possible.
 - If FHWA informally resolves the matter with the respondent by agreement, then FHWA will hold the complaint in abeyance until the respondent completes its corrective actions. If the corrective actions are completed to the FHWA's satisfaction, then the complaint will be dismissed with no further action.
 - If FHWA cannot informally resolve the matter or the respondent does not complete agreed upon corrective actions, then FHWA may issue a LOF stating that the Recipient is in noncompliance with its Title VI obligations.
3. If FHWA issues a LOF of noncompliance to the respondent, the LOF will request that the respondent provide to FHWA, within 90 days, an action plan that implements the recommendations in the LOF.

4. If FHWA approves the action plan, then the respondent will be given a reasonable amount of time to implement the plan. At the end of the implementation period, FHWA will assess whether the respondent has sufficiently corrected the deficiencies.
5. If FHWA does not approve the action plan, or the respondent is nonresponsive/uncooperative, then FHWA may seek administrative sanctions, including, but not limited to, suspension or termination of Federal funds or any other means authorized by law such as referral to USDOJ for enforcement.
 - If USDOT seeks to suspend or terminate funds, it must provide the respondent with an opportunity for a hearing on the record. If the Secretary of Transportation determines that the respondent has not complied with Title VI and voluntary compliance cannot be secured, USDOT must notify Congress before that finding goes into effect. 49 CFR §21.13(c).

Retaliation

Retaliation against any individual or group for filing a complaint, acting as a witness, or participating in an investigation is illegal, and a subsequent investigation may arise out of a retaliation claim even though the original complaint may be without merit.

APPENDIX A – REQUIRED CONTRACT LANGUAGE [TO BE INSERTED IN ALL FEDERAL-AID CONTRACTS]

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees, as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and Regulations, including employment practices when the contractor covers any activity, project, or program set forth in Appendix B of the 49 CFR Part 21.
3. **Solicitation 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 shall be notified by the contractor of the contractor’s obligations under the contract and the Acts and Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Acts, the Regulations, and directives issues pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA 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 Recipient or the FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event the contractor’s noncompliance with the non-discrimination provisions of this contract, the Recipient shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor shall include provisions of paragraphs one (1) through six (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The contractor will act with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: 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 direction, the contractor may request the Recipient to enter into such litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B – DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that the Midland County Road Commission, will accept title to the lands and maintain the project constructed thereon, in accordance with the Regulations for the Administration of the State Transportation Program, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance with and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Midland County Road Commission 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 Midland County Road Commission and its successors forever, subject, however, the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the Midland County Road Commission, its successors and assigns.

The Midland County Road Commission, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, 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 Midland County Road Commission shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination 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 nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction. *

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

**APPENDIX C – TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED
UNDER THE ACTIVITY, FACILITY, OR PROGRAM**

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the Midland County Road Commission, pursuant to the provisions of Assurance 7(a).

The grantee, licensee, lessee, permittee, etc., (as appropriate) for himself, his heirs, personal representative, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases, add, “as a covenant running with the land”) that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Midland County Road Commission program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall remain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination 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 may be amended.

(Include in licenses, leases, permits, etc.)*

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

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, the Midland County Road Commission shall have the right to re-enter lands and facilities hereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the Midland County Road Commission and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of the Title VI of the Civil Rights Act of 1964 and the Civil Rights Act of 1987.

**APPENDIX D – CONSTRUCTION/USE/ACCESS TO REAL PROPERTY AQUIRED
UNDER THE ACTIVITY, FACILITY, OR PROGRAM**

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

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and 51 the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

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

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Midland County Road Commission will there upon revert to and vest in and become the absolute property of Midland County Road Commission 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 - TITLE VI COMPLAINT FORM

**MIDLAND COUNTY ROAD COMMISSION
TITLE VI COMPLAINT FORM**

Title VI of the Civil Rights Act of 1964 states 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 benefit of, or otherwise be subjected to discrimination in any program, service, or activity receiving federal assistance.”

This form may be used to file a complaint with the Midland County Road Commission based on 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 may be submitted to file your complaint. **Complaints should be filed within 180 days of the alleged discrimination. If you could not reasonably be expected to know the act was discriminatory within 180 day period, you have 60 days after you became aware to file your complaint.**

If you need assistance completing this form, please contact Jonathan Myers by phone at 989-687-9060 or via e-mail at jon@midlandroads.com.

Name: _____ Date: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ (home) _____ (work)

Individual(s) discriminated against, if different than above (use additional pages, if needed).

Name: _____ Date: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ (home) _____ (work)

Please explain your relationship with the individual(s) indicated above: _____

Name of agency and department or program that discriminated:

Agency or department name: _____

Name of individual (if known): _____

Address: _____

City: _____ State: _____ Zip: _____
Date(s) of alleged discrimination: _____
Date discrimination began _____ Last or most recent date _____

ALLEGED DISCRIMINATION:

If your complaint is in regard to discrimination in the delivery of services or discrimination that involved the treatment of you by others by the agency or department indicated above, please indicate below the basis on which you believe these discriminatory actions were taken.

____ Race	____ Disability	____ Sex
____ Color	____ Religion	____ Income
____ Age	____ National Origin	____ Retaliation

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

Signature: _____ Date: _____

Please return completed form to: Jonathan Myers, Managing Director, 2334 North Meridian Road, Sanford, MI 48657; Phone: 989-687-9060; Fax: 989-687-9121; Email: jon@midlandroads.com.

Note: *The Midland County Road Commission prohibits retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by policies of the road commission. Please inform the person listed above if you feel you were intimidated or experience perceived retaliation in relation to filing this complaint.*

APPENDIX - E DETERMINE/DISTINGUISH SIGNIFICANT/NON-SIGNIFICANT EFFECTS

“Significant” 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, nation), 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 this has 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 Managing Director.

APPENDIX - F PROGRAM COMPLIANCE/PROGRAM REVIEW GOALS FOR CURRENT PLAN YEAR

1. The Midland County Road Commission's Title VI Plan will be communicated to each Midland County Road Commission supervisor who will review the plan with departmental employees. All MCRC employees will be trained or made aware of the Title VI and LEP policies and complaint procedures.
2. Appendix A will be included in all Road Commission contracts as outlined in the Title VI Plan.
3. The Midland County Road Commission's Title VI Plan will be published on the main page of the Midland County Road Commission's website <http://www.midlandroads.com>, within 90 days of approval.
4. The language in Number 2 of the MCRC's 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. The procedure for responding to individuals with Limited English Proficiency will be implemented.
6. A review of the MCRC facilities will be conducted in reference to compliance with the American Disabilities Act.
7. The following data will be collected and reviewed by the Title VI Coordinator and included, where appropriate, in the annual report submitted to MDOT.
 - a. **Boards and Commissions:** The number of vacancies; how vacancies are advertised and filled; the number of applicants; the representation of minorities will be evaluated.
 - b. **Public Meetings:** The number of open meetings; how meeting dates and times communicated to the general public and to individuals directly affected by the meeting.
 - c. **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.
 - d. **LEP Needs:** How many requests for language assistance were requested or required and the outcome of these requests.
 - e. **Complaints:** The number of Title VI complaints received; nature of the complaints; resolution of the complaints.
 - f. **Timeliness of Services:** Number of requests for services; amount of time from request to when service was delivered; number of requests denied.
 - g. **Right of Way/Eminent Domain:** Numbers of such actions and diversity of individual(s) affected.
 - h. **Program Participants:** Racial data of program participants where possible.

ⁱ The executive order verbatim can be found online at <http://www.usdoj.gov/crt/cor/Pubs/eolep.htm>.

ⁱⁱ Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons. Federal Register: December 14, 2055 (Volume 70, Number 239)

ⁱⁱⁱ The DOT has also posted an abbreviated version of this guidance on their website at <https://www.civilrights.dot.gov/civil-rights-awareness-enforcement/language-assistance/dots-lep-guidance>

^{iv} <http://www.dotcr.ost.dot.gov/asp/lep/asp>

^v Department of Justice Final LEP Guidelines, Federal Register June 18, 2002-Vol. 67-Number 117.