

*MaineDOT*

*Integrity • Competence • Service*

# **Maine Department of Transportation**

## **FMCSA TITLE VI PROGRAM FFY 2016 IMPLEMENTATION PLAN**

**Submitted by Theresa Savoy, Director, Civil Rights Office**

**May 1, 2016**

## **TABLE OF CONTENTS**

<b>TITLE VI/NONDISCRIMINATION POLICY STATEMENT</b>	<b>2</b>
<b>STANDARD TITLE VI/NON-DISCRIMINATION ASSURANCES</b>	<b>3</b>
<b>DESCRIPTION OF FEDERAL-AID PROGRAMS</b>	<b>12</b>
<b>NOTIFICATION TO BENEFICIARIES/PARTICIPANTS</b>	<b>12</b>
<b>SUB-RECIPIENT COMPLIANCE REPORTING</b>	<b>12</b>
<b>COMPLAINT DISPOSITION PROCESS -- COMPLAINT DISPOSITION AND INVESTIGATION PROCEDURES</b>	<b>13</b>
<b>STATUS OF CORRECTIVE ACTIONS IMPLEMENTED BY APPLICANT TO ADDRESS DEFICIENCIES PREVIOUSLY IDENTIFIED DURING A TITLE VI PROGRAM COMPLIANCE REVIEW</b>	<b>19</b>



Paul R. LePage  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0016

David Bernhardt  
COMMISSIONER

**TITLE VI/NONDISCRIMINATION POLICY STATEMENT**

The Commissioner of the Maine Department of Transportation (MaineDOT) is ultimately responsible for and committed to the effective implementation of the Title VI Program to achieve compliance with Title VI of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all Federal programs and activities including 49 CFR Part 21 and 49 CFR Part 303.

Understanding that the Commissioner will not be performing any day-to-day implementation duties, the MaineDOT conducts its Title VI/Environmental Justice Program in a team approach by involving personnel from all program areas, with guidance from the Title VI Coordinator. Responsibility for the day to day administration of the Program will be delegated to the Title VI Program Coordinator which is currently the Director of the Civil Rights Office. The Title VI Program Coordinator has been delegated sufficient authority and responsibility to effectively carry out his/her duties.

The Title VI Program Coordinator ensures MaineDOT's compliance with Title VI/Environmental Justice implementing regulations. Bureau Directors are responsible for Program implementation in their Bureaus and shall identify and delegate Title VI/Nondiscrimination Federal Program Area Liaisons to perform the routine data collection/data analysis and process reviews.

Inquiries concerning the MaineDOT's policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI/Environmental Justice may be directed to:

Theresa Savoy, Director, Civil Rights Office  
Maine Department of Transportation  
# 16 State House Station  
Augusta, Maine 04333-1116  
Telephone (207) 624-3042 | TTY users Dial Relay: 711  
[theresa.savoy@maine.gov](mailto:theresa.savoy@maine.gov)

The MaineDOT is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants, and to ensuring that the public-at-large is afforded access to all of our programs and services whether those programs and activities are federally funded or not.

This Policy Statement will be circulated throughout the MaineDOT, made available to the public, and be included by reference in all contracts, agreements, programs and services administered by the Department of Transportation. Signed Standard Title VI Assurances can be found on MaineDOT's website at:

<http://www.maine.gov/mdot/civilrights/title6/>

  
David Bernhardt, Commissioner

4/5/10  
Date

**The United States Department of Transportation Standard Title VI/Non-Discrimination Assurances**  
**DOT Order No. 1050.2A**

The Maine Department of Transportation (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the Federal Motor Carrier Safety Administration (FMCSA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

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

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

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898, 3 C.F.R. 859 (1995), entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI,

to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice: <http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm>.

Additionally, Executive Order 13166, 3 C.F.R. 289 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the *"application of Title VI's prohibition national origin discrimination when information is provided only in English to persons with limited English proficiency."* When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also

U.S. DOT's *"Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons,"* dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

### General Assurances

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

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

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

### Specific Assurances

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

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 will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The Maine Department of Transportation in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract*

*entered into, pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.";*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, Maine Department of Transportation 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 FMCSA 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 FMCSA. You must keep records, reports, and submit the material for review upon request to FMCSA, 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.

Maine Department of Transportation 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 Department of Transportation under the FMCSA Program. This ASSURANCE is binding on Maine Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FMCSA Program. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

**Maine Department of Transportation**

*(Name of Recipient)*

by



***Robert D. Elder, Director***

DATED

01-13-16

## APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 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, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FMCSA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FMCSA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FMCSA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FMCSA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

### APPENDIX B

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

**NOW, THEREFORE**, the Department of Transportation as authorized by law and upon the condition that the Maine Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with MRSA §23, the Regulations for the Administration of **Federal Motor Carrier Safety Administration (FMCSA) Program**, and the policies and procedures prescribed by the **FMCSA** of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Maine Department of Transportation all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

### (HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto Maine Department of Transportation 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 Maine Department of Transportation, its successors and assigns.

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

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

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

**APPENDIX C**

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

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

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

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

**APPENDIX D**

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

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

With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Maine Department of Transportation 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 Maine Department of Transportation and its assigns.\*

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

## APPENDIX E

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. § 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (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, (102 Stat. 28.), ("*....which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.*");
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*), as implemented by 49 C.F.R. § 25.1 *et seq.*

## **Description of Federal-Aid Programs**

Our interaction with the Federal Motor Carrier Safety Administration grants revolves around the Commercial Vehicle Information Systems and Networks (CVISN) grant program. The program provides funding to advance technological capability and the deployment of intelligent transportation system applications for commercial vehicle operations (CVO). CVO includes commercial motor vehicles, commercial drivers and carrier-specific information systems and networks.

In the past, MaineDOT has used the CBVISN grants for Electronic oversize/overweight routing software that would serve primarily controlled access highways. The funding is also used for maintenance of these systems and for off-site serve installation and maintenance.

These systems are used to ensure enforcement of weight and size limits on our highway system for both safety and bridge and roadway sustainability. When the weigh stations are open, all commercial vehicles have to enter. The screening system screens the DOT # on the vehicle and a thermal imaging read of the vehicle brakes to make an initial assessment of any enforceable issues based on those screening.

## **Notification to Beneficiaries/Participants**

MaineDOT has included this Plan, its FMCSA Non-discrimination Policy and MaineDOT's Complaint process, below, on our website at: <http://www.maine.gov/mdot/civilrights/title6/>. The following information is available on our website under General Information:

- 2014 Demographic Profile of Maine ([Word](#)) ([PDF](#))
- Filing a Discrimination Complaint ([Word](#)) ([PDF](#))
- [Discrimination Complaint Form](#) (Word)
- [Foreign Language Interpretation Information](#) (Off site)
- [Language Identification Card](#) (PDF)
- Minority and Outreach Contact Information ([Word](#)) ([PDF](#))
- [MaineDOT Title VI Brochure](#) (PDF)
- Non-Discrimination/Title VI Poster ([Word](#)) ([PDF](#))

## **Sub-Recipient Compliance Reporting**

When MaineDOT applies for Commercial Vehicle Information Systems and Networks (CVISN) grant funding through FMCSA it does so with the intention of providing portions of this funding to other state agencies (i.e., Sub-Recipients of Federal funding). MaineDOT identifies FMCSA subrecipients as those entities that the agency has an agreement with to perform certain tasks within the proposed scope of work for CVISN funding.

MaineDOT ensures that Sub-Recipients understand their Title VI Program responsibilities by providing each subrecipient with a copy of the FMSCA Title VI training webinar, and advising

them of their requirement to ensure that they do not discriminate in the use of federal funding. MaineDOT will also require that the each subrecipient annually provide signed Title VI assurances and that they designate a Title VI representative. They will also need to report to the MaineDOT if any discrimination complaints were filed with their agency and how those were resolved.

- **Training** – MaineDOT has assigned the responsibility for Title VI and Nondiscrimination-compliance on FMCSA to the project manager who is responsible for any grant award. That person has reviewed the FMCSA related responsibilities assigned to Applicant staff in addition to the Title VI Program Coordinator. That person has received a copy of FMCSA Basic Title VI Program Training and understands the FMCSA training provided. When a subrecipient is receiving FMCSA funding from the MaineDOT this training portal will be provided and they will be required to review and understand that training and why Title VI compliance is required. MaineDOT will also put a copy of that Training on its webpage.
- **Access to Records** – MaineDOT is responsible for ensuring that all records relating to the effective implementation of Title VI Program requirements are expected to be available for review by the FMCSA. MaineDOT will make documents available to FMCSA staff upon request by FMCSA staff. This will include documents required for compliance reviews and/or complaint investigations conducted by the FMCSA.

### **Complaint Disposition Process -- Complaint Disposition and Investigation Procedures**

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 and related nondiscrimination authorities, for alleged discrimination in any program or activity administered by the MaineDOT or in the event a complaint is filed against a sub-recipient.

These procedures do not deny the right of the complainant to file formal complaints with other State or Federal agencies or to seek private counsel for complaints alleging discrimination. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the MaineDOT/sub-recipient may be utilized for resolution. Any individual, group of individuals or entity that believes they have been subjected to discrimination prohibited under Title VI and related nondiscrimination authorities may file a written complaint to the following address:

Maine Department of Transportation  
Attn: Title VI Coordinator  
Civil Rights Office  
State House Station 16  
Augusta, Maine 04333

### **PROCESSING PROCEDURES FOR EXTERNAL COMPLAINTS OF DISCRIMINATION**

**Purpose:**

To describe the rights of complainants to file and the responsibilities of the MaineDOT to process, resolve and investigate external complaints of discrimination. These procedures do not preclude the responsible staff from attempting to resolve any verbal or non-written concerns or complaints that it is aware of.

**Definition:**

*Discrimination* -- An act (or action) whether intentional or unintentional, through which a person in the United States, based on race, color, sex, age, national origin, income status, limited English proficiency(LEP), or disability has been subjected to unequal treatment under any program or activity receiving federal financial assistance under title 23 U.S.C.

**Persons Eligible to File:**

Any person who believes that he or she or any specific class of persons to be subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities, based upon race, color, sex, age, national origin, income status, limited English proficiency, or disability may file a written complaint. The complaint may be filed by the individual or the individual's representative.

**Time Limits for Filing:**

A complaint must be filed no later than 180 days<sup>1</sup> after the following:

1. The date of the alleged act of discrimination; or
2. The date when the person(s) became aware of the alleged discrimination; or
3. Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.

**Form of Complaints:**

1. Complaints shall be in writing and signed by the individual or his/her representative, and will include the complainant's name, address and telephone number; name of alleged discriminating official, basis of complaint (race, color, national origin, sex, disability, age, income status, LEP), and the date of alleged act(s). Complaints shall explain as fully as possible the facts and circumstances surrounding the alleged discriminatory action, and identify the individual(s) and/or organization(s) responsible for the alleged discriminatory action.
2. In cases where the Complainant will be assisted in converting an oral complaint into a written complaint, the Complainant is required to sign the written complaint. Signed allegations of discrimination received by facsimile or e-mail will be acknowledged and processed. Complaints received by telephone will be reduced to writing and provided to the complainant for confirmation, revision and signature before processing.
3. The MaineDOT Civil Rights Office will investigate complaints filed with the MaineDOT against it's against contractors, consultants, or other subrecipients. Except for the Federal Motor Carrier Safety Agency, Complaints filed directly with the MaineDOT against the MaineDOT shall be forwarded to the appropriate USDOT agency for investigation.

---

<sup>1</sup> All days refer to calendar days.

### **Complaint Acceptance and Notifications:**

1. When a complaint is received, the Title VI Coordinator will provide written acknowledgment to the complainant, within ten days by registered mail with a read receipt request. At the same time, the complaint will be sent to the appropriate USDOT agency.
2. If a complaint is deemed incomplete, additional information will be requested, and the complainant will be provided sixty business days to submit the required information. Failure to do so may be considered good cause for a determination of no investigative merit.
3. Within fifteen business days from receipt of a complete complaint, the MaineDOT will determine its jurisdiction in pursuing the matter and whether the complaint has sufficient merit to warrant investigation. Within five business days of this decision, the Commissioner or his/her authorized designee will notify the complainant and respondent, by registered mail, informing them of the disposition.
  - a. If the decision is not to investigate the complaint, the notification shall specifically state the reason for the decision.
  - b. If the complaint is to be investigated, the notification shall state the grounds of the MaineDOT's jurisdiction, while informing the parties that their full cooperation will be required in gathering additional information and assisting the investigator.
4. When the MaineDOT does not have sufficient jurisdiction, the Commissioner or his/her authorized designee will refer the complaint to the appropriate State or USDOT agency holding such jurisdiction.
5. If the complaint has investigative merit, the Commissioner or his/her authorized designee will assign an investigator trained in compliance investigations.

### **Investigation Procedure:**

The Investigation Procedure includes the following documents/actions:

- Investigative plan
- Investigative log
- Request for information
- Conducting interviews
- On-site visit
- Obtaining evidence
- Analyzing data
- Writing the investigative report

### **Investigative Plan**

The Investigative Plan is a procedural document to provide a framework with which to conduct and complete the investigation. The Investigative Plan is an internal document for use by the Investigator to investigate the merit of the filed complaint. The following are the elements contained in the Investigative Plan:

- Investigative Log will be maintained which will document all activities related to the complaint
- Complainant(s) name and address
  - Attorney for complainant name, address and telephone
- Respondent(s) name and address
  - Attorney for respondent with name, address and telephone
- Applicable Law (i.e., Title VI, Title VIII, compliance review under regulations)

- Basis of the complaint
- Issue(s)
- Background summary of complaint
- Name of person(s) to be interviewed
  - Questions for the complainant
  - Questions for the respondent, and
  - Questions for the witness(es)
- Evidence to be obtained during the investigation

### Request for Information

The investigator will contact the respondent to advise him/her of the complaint and determine the appropriate official(s) to whom the Request for Information (RFI) should be sent and eventually interviewed.

The investigator will prepare a cover letter to transmit the RFI. The cover letter will explain the investigative process and provide information regarding any meetings that have been scheduled. The investigator will modify the cover letter to satisfy the circumstances and provide the RFI to the respondent prior to conducting the on-site visit. This will facilitate the availability and review of the evidence during the on-site visit.

### Conducting Interviews

The main objective of conducting interviews is to obtain information from witnesses that will either support or refute the allegations. Interviews will be conducted by telephone unless an on-site visit is required. A list of relevant questions will be prepared to address the issues raised in the complaint.

The complainant will be interviewed to gain a full understanding of the situation outlined in the discrimination complaint. Appropriate changes to the Investigative Plan will be made based upon any new information provided by the complainant.

The respondent will be interviewed to provide him/her an opportunity to respond to the allegations raised by the complainant as well as to provide the investigator the opportunity to understand the respondent's operation or policies that complainant cites in the complaint. As the keeper of the records, the investigator will discuss the RFI with the respondent and explain the need for requesting documentation. The respondent will be informed that he/she has the right to submit a formal position statement addressing the complainant's allegations.

Only witnesses who have information relevant to the allegations raised in the complaint of discrimination will be interviewed. The investigator will determine whether the testimony to be provided is relevant and when sufficient interviews have been conducted in order to make a finding.

### On-Site Visit

An On-Site visit will be conducted when:

- Personal contact with the complainant and the respondent may yield information and clarification that might not otherwise be discovered by only reviewing the written documents or telephone contacts;
- It is necessary to review the physical environment;
- More effective communication can be established with representatives and witnesses of the complainant and respondent; and
- Documentation can only be examined on-site for reasons of convenience, cost, format, or volume.

### Obtaining Evidence

Evidence requested will relate to the issues cited in the complaint and should contain some or all of the following:

- The policies and procedures regarding the practice that complainant has alleged;
- All documents relating to respondent's dealing with the complainant in the situation described in the complaint;
- Documents which exhibit how others, not in the complainant's group, were treated under similar circumstances;
- Respondent's reason(s) for the action taken; and
- A formal position statement from respondent responding to complainant's allegations.

### Types of Evidence include the following

- Circumstantial Evidence – Includes facts from which may be inferred intent or discriminatory motive and proves intent by using objectively observable data;
- Comparative Evidence – A comparison between similarly situated individuals;
- Direct Evidence – Related to the respondent's motive, it is defined as any statement or action by an official of the respondent that indicates a bias against members of a particular group;
- Documentary Evidence – Written material, which is generated during the course of normal business activity;
- Statistical Evidence – Statistics, facts, or data of a numerical type, which are assembled, classified, and tabulated so as to present significant information about a given subject; and
- Testimonial Evidence – Evidence which is provided orally.

### Analyzing Data

Data must be analyzed to determine whether a violation has occurred. When analyzing data, the following elements will be considered:

- Review what happened to the complainant;
- Compare complainant's treatment with the appropriate policies and procedures;
- Compare complainant's treatment with others in the same situation;
- Review respondent's reason(s) for the treatment afforded the complainant; and
- Compare respondent's treatment of the complainant with the treatment afforded others.

### Writing the Investigative Report

The Investigative Report (IR) will be submitted to the Commissioner within sixty days from receipt of the complaint and will contain the sections noted below. A copy of the investigative report shall be forwarded to the respective sub-recipient and USDOT agency within the same time period.

- Complainant(s) Name and Address
- Respondent(s) Name and Address
- Applicable Law
- Basis of the complaint
- Analysis of the issues raised in the course of the investigation
- Findings for each issue with a corresponding conclusion for each issue. Findings are based upon the preponderance of the evidence that the allegation was more likely to have occurred or not occurred.
- Recommended decision
- Recommendations for remedial action (if applicable)

### Records

The MaineDOT shall maintain records of external complaints, identifying each complaint by race, color, sex, age, income status, limited English proficiency, disability, national origin or retaliation. The records will indicate:

- The nature of the complaint;
- The recipient agency with which the complaint was filed;
- The date the complaint was filed;
- The investigative report;
- The complaint disposition and date; and
- Other pertinent information.

### Final Decision

1. The Commissioner or his/her authorized designee will issue letters of finding to the complainant and respondent within ninety days from receipt of the complaint.
2. If the complainant is dissatisfied with the MaineDOT's resolution of the complaint, he/she has the right to file a complaint with the:

U.S. Department of Transportation  
Departmental Office of Civil Rights  
1200 New Jersey Avenue, SE  
Washington D.C. 20590  
Tel: (202) 366-4648  
Fax: (202) 366-7717  
TTY Access: (202) 366-9696  
DC Relay: (202) 855-1000

At the time of submittal, there are currently no active complaints against MaineDOT or its subrecipients.

**Status of Corrective Actions Implemented by Applicant to Address Deficiencies Previously Identified During a Title VI Program Compliance Review**

MaineDOT has not previously been reviewed by FMCSA OCR or other Federal agency for its Title VI Program implementation, therefore no deficiencies have identified.