

Tennessee Department of Transportation

Federal Title VI Implementation Plan

2020



Clay Bright
Commissioner of Transportation

Vince Malone
Director Civil Rights Division

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U.S. Department
of Transportation
**Federal Highway
Administration**

Tennessee Division

November 18, 2019

404 BNA Drive, Suite 508
Nashville, Tennessee 37217
Phone (615) 781-5770

In Reply Refer To:
HDA-TN

Mr. Clay Bright
Commissioner
Tennessee Department of Transportation
James K. Polk Building, Suite 700
Nashville, TN 37243

Subject: 2020 Tennessee Department of Transportation Title VI Implementation Plan

Dear Commissioner Bright:

The Federal Highway Administration's (FHWA) Tennessee Division Office is in receipt of the Tennessee Department of Transportation's (TDOT) Title VI Implementation Plan. After review, the Division Office approves and accepts the Implementation Plan. We commend TDOT for efforts to involve the entire Department in Title VI activities through Advisory Boards, Title VI newsletters, compliance reviews and training.

I would like to thank you for your commitment to Title VI and look forward to your continued support of Title VI initiatives.

Sincerely,

Pamela M. Kordenbrock
Division Administrator

cc: Ms. Sabrina David, Assistant Division Administrator, FHWA TN Division
Ms. Joi Hamilton Jones, Civil Rights Specialist, FHWA TN Division
Ms. Nichole McWhorter, Division Manager, FHWA Office of Civil Rights
Mr. Joseph Galbato, Deputy Commissioner / Chief Financial Officer, TDOT
Mr. Vince Malone, Civil Rights Director, TDOT
Ms. Cynthia Howard, Title VI Director, TDOT



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

CIVIL RIGHTS DIVISION
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CLAY BRIGHT
COMMISSIONER

BILL LEE
GOVERNOR

October 1, 2019

Ms. Pamela M. Kordenbrock
Division Administrator
Tennessee Division, FHWA
404 BNA Drive, Suite 508
Nashville, TN 37217

Subject: Tennessee Department of Transportation's 2020 Title VI Implementation Plan

Dear Ms. Kordenbrock:

As a recipient of federal-aid funding, TDOT strives to achieve nondiscrimination in all of its programs and activities. It is the policy of TDOT, in adherence to Title VI of the Civil Rights Act of 1964, to ensure that no person shall be excluded or denied benefits or access to services based on race, color, or national origin, or to be in any way otherwise discriminated against in federally funded programs and activities.

Please find enclosed a copy of the Tennessee Department of Transportation's 2020 Federal Title VI Implementation Plan. The plan details the TDOT efforts to comply with federal nondiscrimination mandates.

Should you have questions, please contact Cynthia Howard at 615-253-1066 or Cynthia.Howard@TN.Gov.

Best Regards,

A handwritten signature in blue ink, appearing to read "Vince Malone".

Vince Malone
Civil Rights Division Director

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1. INTRODUCTION

The Tennessee Department of Transportation (TDOT) established in 1915, builds and improves Tennessee's roads and bridges, and focuses on its mission of "Providing a better transportation system for Tennessee through unified and dedicated efforts." With over 4,000 departmental employees, TDOT works diligently to further that mission in an equitable and nondiscriminatory manner. As a recipient of federal financial assistance from the Federal Highway Administration (FHWA), TDOT is required to comply with Title VI of the Civil Rights Act of 1964, which provides:

"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 receiving Federal financial assistance."

Title VI served as the model for subsequent nondiscrimination laws based on receipt of federal funding, including Title IX of the Education Amendments of 1972 (sex) and Section 504 of the Rehabilitation Act of 1973 (disability). However, each of these laws is accompanied by its own regulations and requirements and is not interchangeable with Title VI.

The U.S. Department of Justice (DOJ), as the Federal government's coordinating agency for Title VI, implemented its Title VI program in 28 C.F.R. Part 42 and issued guidance in two main documents: The Title VI Legal Manual¹ and the Complaint Investigation Procedures Handbook.

Title VI authorizes and directs Federal agencies to enact "rules, regulations, or orders of general applicability" to achieve the statute's objectives. The U.S. Department of Transportation (DOT) implemented its Title VI program in 49 C.F.R. Part 21. FHWA's regulations can be found in 23 C.F.R. Part 200.

Title VI is further defined by Executive Orders 12898 (Environmental Justice or EJ), Executive Order 13166 (Limited English Proficiency or LEP):

- Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.
- Executive Order 13166 - Improving Access to Services for Persons with Limited English Proficiency.

Discrimination Under Title VI

There are two types of discrimination prohibited under Title VI and its related statutes: (1) disparate treatment (i.e. intentional discrimination) and (2) disparate impact/effects. An intent claim alleges that similarly situated persons are treated differently because of their race, color, or national origin.

¹ Title VI Legal Manual (Updated), U.S. Department of Justice website, <https://www.justice.gov/crt/fcs/T6manual>.

2. STANDARD DOT TITLE VI ASSURANCES

The second type of discrimination is disparate impact or disparate effects. This type of discrimination occurs when a facially neutral policy, procedure, or practice results in different or inferior services or benefits to members of a protected group. In disparate impact, the focus is on the consequences of a decision, policy, or practice rather than the intent.

TDOT's efforts to prevent such discrimination must address, but not be limited to, a program's impacts, access, benefits, participation, services, contracting, training opportunities, investigation of complaints, allocation of funds, and the prioritization of projects. It applies to all departments within TDOT, especially those with a direct effect on the public such as planning, project design, environmental review, right-of-way, construction, traffic operations, and communications.

Specific Forms of Discrimination Prohibited

- The denial of services, financial aid, or other benefits provided under a program.
- Distinctions in the quality, quantity, or manner in which a benefit is provided.
- Segregation or separation of persons in any part of the program.
- Restriction in the enjoyment of any advantages, privileges, or other benefits provided to others.
- Differing standards or requirements for participation.
- Methods of administration that directly or indirectly, or through contractual relationships would defeat or impair the accomplishment of effective nondiscrimination.
- Discrimination in any activities or services related to a highway, infrastructure or facility built or repaired in whole or in part with federal funds.

In addition, TDOT, as a state agency administering a continuing program which receives federal financial assistance, must establish a Title VI compliance program for all subrecipients that obtain federal assistance through it.²

² 28 C.F.R 42.410.

Appendix 2: Standard USDOT Title VI Assurances

Tennessee Department of Transportation Title VI Assurances

The Tennessee Department of Transportation (hereinafter referred to as the “Recipient”) HEREBY AGREE THAT as a condition to receiving and Federal financial assistance from the Tennessee Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat.252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance from the program or activity for which the Recipient receives Federal financial assistance from the Tennessee Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7 (a) (1) of the Regulations, a copy of which is attached.

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

The United States Department of Transportation (US DOT)

Standard Title VI/Nondiscrimination Assurances

DOT Order No.: 1050.2A

The *Tennessee Department of Transportation* (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the *Federal Highway Administration (FHWA)/United States Department of Transportation (USDOT)*, 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);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 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);

Modal Operating Administration may include additional Statutory/Regulatory Authorities here.

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 any 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 DOT.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination 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 nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Modal Operating Administration may include additional General Assurances in this section, or reference an addendum here.

Specific Assurances

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

1. The Recipient agrees that each "activity," "facility," or "program," as defined in § 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient 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-aid funds and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Tennessee 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 insure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the 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.

Modal Operating System may include additional Specific Assurances in this section.

By signing this ASSURANCE, Tennessee Department of Transportation also agrees to comply (and require any subrecipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA/USDOT 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 *FHWA/USDOT*. You must keep records, reports, and submit the material for review upon request to *FHWA/USDOT*, 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.

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

Name of Recipient: Tennessee Department of Transportation

By:



Clay Bright, Commissioner

Dated:

4/4/2019

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 Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, (US DOT) and the 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, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21. [include Modal Operating Administration specific program requirements.]
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin. [Include Modal Operating Administration specific program requirements.]
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 FHWA/USDOT 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 (FHWA/USDOT, 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 FHWA/USDOT 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 FHWA/USDOT 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.

Appendix B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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 U.S. Department of Transportation as authorized by law and upon the condition that the Tennessee Department of Transportation (TDOT) will accept title to the lands and maintain the project constructed thereon in accordance with the laws of the State of Tennessee, the Regulations for the Administration of all programs, and the policies and procedures prescribed by the Federal Highway Administration (FHWA), Federal Transit Authority (FTA), Federal Aviation Administration (FAA), and the Federal Motor Carrier Safety Administration (FMCSA) of the U.S. Department of Transportation in accordance 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 TDOT 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 Tennessee Department of Transportation (TDOT) 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 TDOT its successors and assigns.

The TDOT in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the TDOT will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil

Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department 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 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 make clear the purpose of Title VI.)

Appendix C

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

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

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

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Tennessee Department of Transportation (TDOT) 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 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, TDOT 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, TDOT will there upon revert to and vest in and become the absolute property of TDOT and its assigns.*

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

Appendix E

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (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 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).

3. ORGANIZATION AND STAFFING OF CIVIL RIGHTS DIVISION

The Civil Rights Division (CRD), which has been established in accordance with federal guidelines, reports directly to the Deputy Commissioner. The CRD administers and oversees the Department's Title VI Program, Disadvantaged Business Enterprise Program (DBE), and Affirmative Action Program. The Title VI Program Director for TDOT and reports directly to the Civil Rights Director for Title VI matters, as indicated in the attached organizational charts. (See Appendix 1)

A. Civil Rights Division Director

The Tennessee Department of Transportation's (TDOT) Civil Rights Division's (CRD) Director is responsible for ensuring full compliance with the provisions of Title VI of the Civil Rights Act of 1964 and has directed that nondiscrimination is required in all TDOT programs and services. The Director, who reports directly to the Deputy Commissioner of TDOT, provides leadership, guidance, direction, and support for TDOT's Title VI Program. Pursuant to 23 CFR 200.9 (b) (1), the Director has established an adequately staffed Civil Rights Division to fulfill the Title VI statutory and regulatory requirements.

B. Title VI Program Director

The Title VI Program Director oversees the Title VI Program, providing day-to-day guidance and support. The Title VI Program is located in the Civil Rights Division. The Title VI Program Director, who reports directly to the CRD Director, is charged with the responsibility for training, implementing, monitoring, investigating and resolving Title VI complaints, and ensuring TDOT and its subrecipients are in compliance with Title VI regulations. The Title VI Program is staffed by a 3 Title VI Specialists.

The Title VI Program Director:

- Develops and coordinates the implementation of TDOT's Title VI and Nondiscrimination Program;
- Processes, investigates, and resolves all Title VI complaints in accordance with the Title VI complaint procedure and time limitation;
- Coordinates the Title VI and Nondiscrimination Program with all TDOT Divisions and other program area managers or designees, including subrecipients;
- Prepares annual reports to Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and the Tennessee Human Rights Commission (THRC)

- Resolves any deficiencies which may be discovered in TDOT's Title VI/Nondiscrimination Program;
- Collects statistical data necessary to evaluate the effectiveness of compliance with Title VI requirements of TDOT's subrecipients;
- Develops Title VI information for dissemination to the public in its education and outreach program, where appropriate;
- Monitors TDOT procedures and programs for compliance with Title VI requirements in all program areas;
- Establishes procedures for resolving Title VI problem areas;
- In accordance with 23 CFR 200.9 (a) (4), conduct reviews of program areas and subrecipients annually to determine the effectiveness of Title VI programs;
- Advises on Title VI matters;
- Reviews TDOT's division's procedures and guidelines as they relate to various program directives, manuals, and other regulations to determine compliance with Title VI Civil Rights provisions. Where corrections are necessary, the Title VI Program Director will coordinate with the appropriate actions;
- Provides and prepares data, information, and reports as requested by the ED; and
- Maintains knowledge of and adheres to TDOT's Title VI and Nondiscrimination Program.

C. Title VI Specialist

- Works closely with the Title VI Program Director to develop and implement policies and procedures to monitor and ensure Title VI compliance in all of TDOT's programs and activities;
- Conducts Title VI training and provides technical assistance;
- Assists subrecipients (contractors, consultants, suppliers, vendors, universities, colleges, planning agencies, cities, counties and all TDOT's divisions) in devising and implementing Title VI programs;
- Reviews TDOT's divisions and subrecipients procedures for Title VI compliance;
- Makes recommendations on corrective action;
- Reviews Public Meeting transcripts for Environment Justice and Title VI issues; Where necessary, make recommendations to Title VI Program Director for corrective action;
- Conducts pre-award and post award reviews;

- Conducts onsite;
- Identifies deficiencies and remedies in subrecipients Title VI Program;
- Maintains Title VI Program website; and
- Develops, writes, and disseminates biannual E-Newsletter.

D. TDOT Title VI Advisory Committee

The Title VI Advisory Committee serves as an administrative advisory committee to the Civil Rights Division's Title VI Program. The committee helps ensure TDOT programs, contractees, and service beneficiaries comply with the provisions of Title VI.

The committee's primary responsibilities are to:

- Make recommendations to ensure equal access and services are provided to all individuals;
- Assist in the identification and elimination of discrimination;
- Review the Title VI activities and be advisory partners to the Title VI Program;
- Review the Title VI Plans on an annual basis and to make recommendations, if deemed necessary;
- Serve as a resource for identifying racial and ethnic media outlets to ensure various population groups are given equal opportunity to participate in TDOT's programs and services;
- Advise and assist the Civil Rights Division's Title VI Program on how to effectively and efficiently accomplish the Program's goals.

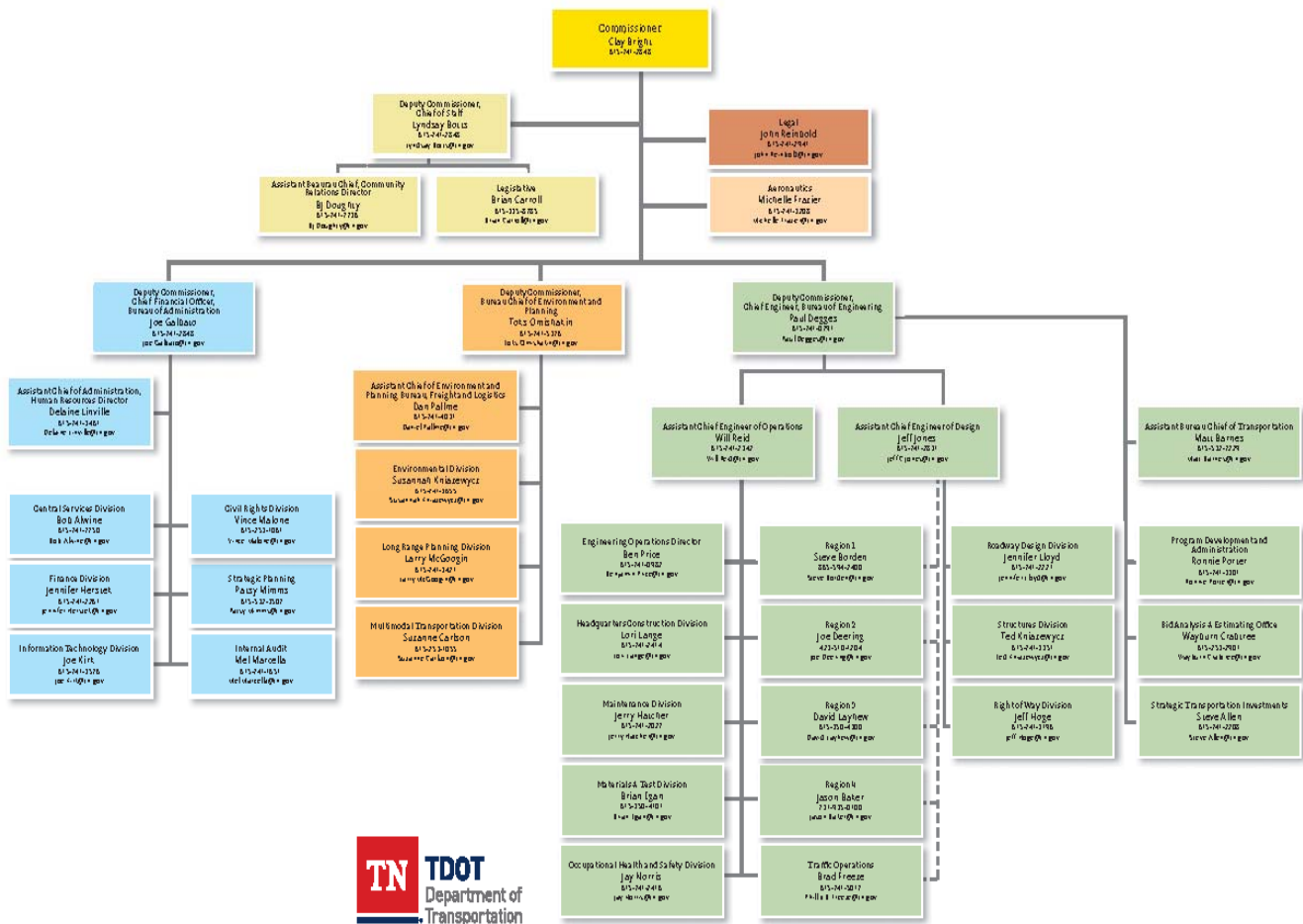
E. TDOT Title VI Liaison Committee

The Title VI Liaisons play an important role in disseminating information to the various regions, division and departments throughout TDOT. Additionally, they serve as the point of contact to assist the Civil Rights Division's Title VI Program with ensuring that Title VI and related federal and state antidiscrimination mandates are followed in all of TDOT's programs and activities.

The Title VI Liaison's key responsibilities include:

- Maintain knowledge of the Title VI complaint process;
- Participate in the coordination and facilitation of Annual Employee Title VI training;
- Disseminate critical project related information in languages other than English, as needed;

- Coordinate and execute Title VI educational collateral materials;
- Collect and maintain data on race and gender (contractors, vendors, subrecipients, and beneficiaries to include any Environmental Justice residents or communities); and,
- Monitor, collect, and report LEP encounters and expenditures.



Updated August 20, 2019

FIGURE 1: TDOT ORGANIZATIONAL CHART

CIVIL RIGHTS DIVISION ORGANIZATIONAL CHART

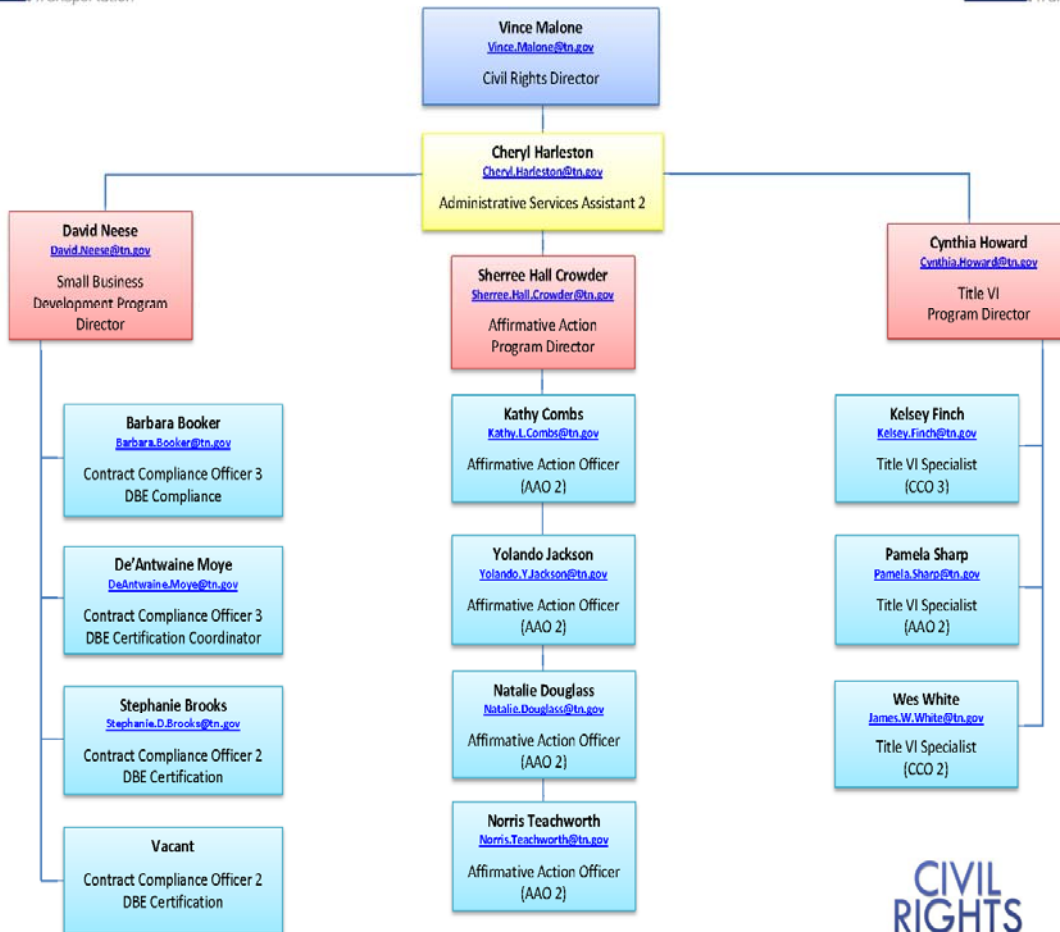


FIGURE 2: CIVIL RIGHTS DIVISION ORGANIZATIONAL CHART

4. KEY DEFINITIONS

Beneficiary: Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, (e.g. relocatees, impacted citizens, communities, etc.)

Disparate Impact: Discrimination that occurs when a facially neutral policy, procedure, or practice results in different or unequal treatment, and such policy or practice lacks a substantial legitimate justification. Under USDOT regulations, recipients may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.³

Disparate Treatment: Intentional discrimination, or disparate treatment, happens when a recipient acts, at least in part, because of the actual or perceived race, color, or national origin of the alleged victims of discriminatory treatment.⁴ Discriminatory intent need not be the only motive, but a violation occurs when the evidence shows that the entity adopted a policy at issue “‘because of,’ not merely ‘in spite of,’ its adverse effects upon an identifiable group.”⁵ While one must show that the recipient was motivated by an intent to discriminate, the recipient’s decision makers do not have to have acted in “bad faith, ill will or any evil motive....”⁶

Federal financial assistance and Federal-aid (49 C.F.R. § 21.23(c)) includes:

- (1) Grants and loans of Federal funds;
- (2) The grant or donation of Federal property and interests in property;
- (3) The detail of Federal personnel;
- (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
- (5) Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

Local Public Agency (LPA) (23 C.F.R. § 635.102): any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with the State transportation department in highway matters.

³ 49 C.F.R. § 21.5(b)(2).

⁴ *Doe ex rel. Doe v. Lower Merion Sch. Dist.*, 665 F.3d 524, 548 (3d Cir. 2011).

⁵ *Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979).

⁶ *Elston*, 997 F.2d at 1406 (quoting *Williams v. City of Dothan*, 745 F.2d 1406, 1414 (11th Cir. 1984)).

Metropolitan Planning Organization (MPO): The policy board of an organization created and designated to carry out the metropolitan transportation planning process for each urbanized area with a population of more than 50,000 individuals (e.g. the Regional Transportation Council (RTC) of Southern [State])—

- (a) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or
- (b) in accordance with procedures established by applicable State or local law.

Minority: [SDOT] uses the race and ethnicity categories established by the Office of Management and Budget in its October 30, 1997 Federal Register Notice: *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*. The race and ethnicity categories below are included in the definition of “Minority” provided by: the Council on Environmental Quality *Environmental Justice Guidance Under the National Environmental Policy Act*, the U.S. Department of Transportation (USDOT) Order 5610.2(a), and FHWA Order 6640.23A.

American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."

Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Programs or Programs and Activities (49 C.F.R. § 21.23(e)): all of the operations of any of the following entities, any part of which is extended Federal financial assistance:

- (1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or
- (ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described above.

Recipient (49 C.F.R. § 21.23(f)): any State, territory, possession, the District of Columbia, or Puerto Rico, or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary.

Statewide transportation improvement program (STIP): A statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and TIPs, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.”

Subrecipient: A recipient entity that receives federal funding from a Primary recipient (e.g. [SDOT] to carry out a federal program.

Transportation improvement program (TIP): A prioritized listing/program of transportation projects covering a period of four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the metropolitan transportation plan, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.

5. NONDISCRIMINATION STATEMENT OF POLICY

The Tennessee Department of Transportation (TDOT) and its Commissioner and Directors are committed to full compliance with Title VI of the Civil Rights Act of 1964 and all related regulations, laws, executive orders and directives. The Commissioner, as the ultimate responsible person for Title VI compliance, assures that no person, on the grounds of race, color or national origin, will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any TDOT services, programs or activities.

Any person who in the State of Tennessee and who believes that they have been discriminated against because of TDOT's programs, policies or activities, may file a written complaint with the Civil Rights Division at the address and telephone number listed below:

Civil Rights Division
Tennessee Department of Transportation
505 Deaderick Street, Suite 1800
James K. Polk Building
Nashville, Tennessee 37243
Office: 615-741-3681
Toll Free: 888-370-3647
Fax: 615-741-3169

TDOT's Commissioner is committed to providing the Civil Rights Division with the resources, authority and responsibility to effectively carry out its mission ensuring nondiscrimination in TDOT's federal and state funded programs and activities.



Departamento de Transportate de Tennessee
Title VI Nondiscrimination Statement
Título VI Declaración de Prohibición de
Discriminación

The Tennessee Department of Transportation ensures compliance with Title VI of the Civil Rights Act of 1964; 49 CFR, part 21; related statutes and regulations to the end that no person shall be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Transportation on the grounds of race, color, or national origin.

El Departamento de Transporte del Estado de Tennessee asegura el cumplimiento del Título VI del Acto de Derechos Civiles de 1964; 49 CFR, Parte 21, relacionados estatutos y normas para asegurar que ninguna persona sea excluida o discriminada, o que se le nieguen los beneficios de cualquier programa o actividad la cual reciba ayuda financiera federal del Departamento de Transporte de los Estados Unidos sin importar su raza, color, o origen nacional.

Any person who believes he or she has been discriminated against should contact:

Cualquier persona quien crea que ha sido discriminada deberá comunicarse con el:

Tennessee Department of Transportation
Departamento de Transporte de Tennessee

Civil Rights Division – La División de Derechos Civiles

505 Deaderick Street Suite 1800, James K. Polk Building Nashville, TN 37243-0347

TELEPHONE (615) 741-3681 or Toll Free 1-888-370-3647 TELÉFONO

(615) 741-3681 or Llamada Gratis 1-888-370-3647



www.tn.gov/tdot/topic/title6

Title VI

FIGURE 3: NONDISCRIMINATION POSTER

6. PROGRAM REVIEW PROCEDURES

The Title VI Program staff collects data from TDOT's divisions and regional offices with its Title VI Assessments. The Data collected is used to evaluate the strengths and weaknesses of the respective division's Title VI program.

Community Relations Division

The Community Relations Division is headed by a director who serves as the chief spokesperson for the agency. The mission is to provide leadership in promoting TDOT, integrating the concerns of our customers into our processes and promoting a consistent message. This involves conducting community outreach activities, managing public meetings and hearings, establishing relationships with the news media and community groups, assisting the general public in accessing TDOT's services, answering questions and concerns, and providing better communication both inside and outside the department. In addition to headquarters communications, constituent services and public involvement staff, each of TDOT's four regions have a community relations officer (CRO).

The Community Relations Director is on the Title VI Advisory Committee and appoints a Title VI Liaison to further the Title VI interdisciplinary approach to promoting nondiscrimination in federally funded projects and activities. The Title VI Staff conducts annual reviews the CRO. Additionally, the Title VI Staff reviews documents and program procedures to ensure compliance with Title VI: Specifically, reviews are conducted to determine:

- Whether a demographic profile of the State that includes identification of minority and low-income populations has been developed;
- Whether a process has been developed to identify the needs of minority and low-income populations and whether demographic information has been used to assess the distribution of benefits across these groups;
- Whether there is an analytical process in place to assess the benefits/burdens of transportation system investment on minority and low-income populations, and what data source and tools are used to support such an analysis;
- Whether there is a public involvement strategy for engaging minority and low-income populations in transportation decision-making and reducing participation barriers;
- Whether the public involvement process is routinely evaluated and whether any efforts were made to improve the process, especially with regard to minority and low-income populations;

- Efforts made to engage minority and low-income populations in the public outreach effort and public outreach efforts made to utilize media targeted to these groups;
- Methods used to ensure that issues/concerns raised by minority and low-income populations as well as other affected groups are considered in the decision-making process;
- Number of consultant planning agreements awarded and the dollar value; number of female and minority-owned firms with dollar value;
- Methods used to encourage the use of female and minority planning contractors and subcontractors;
- Status of any Title VI complaints received regarding transportation planning or the public involvement process;
- Monitor and report LEP encounters and usage;
- Evaluate public involvement process and develop strategies to assess the effectiveness of outreach to minorities and LEP persons, including analysis for, and elimination of, potential barriers to participation, to include review of the Public Participation Plan.
- Ensure that all notices, policies, and complaint procedures required by Title VI are appropriately displayed on the website;
- Ensure that Title VI compliance is integrated into Communication's internal procedures and are reviewed and updated as necessary to maintain Title VI compliance;
- Develop and implement methods to ensure nondiscrimination in the inclusion of formal and informal public comments from stakeholders and individuals in the transportation decision-making process; and
- Any significant accomplishments made during the review period.

Title VI Considerations for Internal Review:

The following items in the Community Relations Division is reviewed by the Title VI Staff as part of the internal Title VI review process:

1. The Public Involvement strategies, programmatic and project-based, used by the Community Relations Division. This includes written procedures as well as implementation.
2. Review of public meeting transcripts to determine:
 - The number and locations of public hearings/informational meetings held;
 - The approximate number of persons attending the meetings;
 - The demographic profiles of the project areas involved.
3. Information regarding any formal or informal comments from minority individuals through public meetings/hearings transcripts.

4. Data and information regarding services requested and/or provided to LEP persons, programmatically as well as per meeting.

Planning Division

The Long Range Planning Division is responsible for the planning, development and management of statewide transportation studies and planning tools that help guide the policies and programs of TDOT and its various divisions. The division identifies transportation needs through the analysis of travel and safety data and engages the communities to obtain public input on transportation investments. Specific responsibilities include developing the statewide long range transportation plan, preparation of corridor studies, university research, travel data collection, feasibility studies and metropolitan and rural transportation planning coordination. The division is also responsible for GIS mapping and data visualization.

The mission of the Long Range Planning Division is to play an active role in planning transportation strategies that improve safety, increase mobility, and encourage economic development in Tennessee.

The Long Range Planning Director or designee is on the Title VI Advisory Committee and appoints a Title VI Liaison to further the Title VI interdisciplinary approach to promoting nondiscrimination in federally funded projects and activities. The Title VI Staff conducts annual reviews the Long Range Planning Division. Additionally, the Title VI Staff reviews documents and program procedures to ensure compliance with Title VI:

Planning's Title VI responsibilities include, but are not limited to, assisting the Title VI Staff with the following tasks:

- Implementing methods to collect and analyze demographic information regarding transportation benefits for both the Long-Range Transportation Plan (LRTP) and the Statewide Transportation Improvement Program Plan (STIP).
- Cooperating with the Communications Division and CRO regarding nondiscrimination in the public involvement process, including the analysis and removal of potential barriers to participation.
- Ensure that MPOs are in compliance with Title VI during the recertification review process.
- Ensuring that MPOs solicit and consider the views of minority populations in the Transportation Improvement Plan (TIP) process.
- Promptly refer Title VI complaints to the Civil Rights Officer and assist with the investigation of these complaints.
- Monitor Planning's Title VI accomplishments and challenges and fulfil CRO data requests timely.

Title VI Considerations for Internal Review:

The following items regarding the Planning Division will be periodically reviewed by the Title VI Staff as part of its internal Title VI review process:

1. Demographic data and information regarding the distribution of State and Federal funds in the aggregate for public transportation projects.
2. The process or strategies used to ensure Title VI issues are addressed in the planning process. This includes written procedures as well as implementation of those procedures.
3. Information on coordination with the Long Range Planning Division to address the needs of individuals with limited English proficiency.
4. Data and information regarding MPO certification reviews, including:
 - Minority population concentrations and issues identified;
 - Groups provided with various opportunities to meaningfully engage in the regional transportation planning process;
 - Strategies to address the needs of individuals with limited English proficiency; and
 - Strategies to ensure that formal and informal public comments are incorporated into the transportation decision-making process.
5. Title VI complaints received regarding transportation planning or the public involvement process.
6. Data concerning consultant contracts entered into for Planning Division activities, including the award amounts and demographic data on firm ownership.

Environmental Division

The Environmental Division is responsible for the protection, preservation and enhancement of the environment with the implementation of transportation projects. The division, under the National Environmental Policy Act (NEPA), assists in transportation project development and decision-making process. Other specific responsibilities include: analysis of air quality and noise impacts and for the avoidance of hazardous materials sites; preparing federal and state environmental documents; assessing, preparing and acquiring environmental permits for transportation projects; and is responsible for Outdoor Advertising control, Vegetation Control, Junkyard Control, Litter Grant and Adopt-A-Highway and the Scenic Highways Program.

The mission of the Environmental Division is to ensure the timely delivery of projects that are in compliance with all environmental laws, Title VI mandates, and regulations while actively involving the general public and resource agencies in planning, developing and maintaining the best multimodal transportation system in the nation.

The Environmental Division's Director is on the Title VI Advisory Committee and appoints a Title VI Liaison to further the Title VI interdisciplinary approach to promoting nondiscrimination in federally funded projects and activities. The Title VI Staff conducts annual reviews the division. Additionally, the Title VI Staff reviews documents and program procedures to ensure compliance with Title VI: Specifically, reviews are conducted to determine:

- Cooperating with the Title VI staff regarding nondiscrimination in the public involvement process, including the analysis and removal of potential barriers to participation.
- Ensure that the scoping process sufficiently considers potential impacts to minority populations.
- Ensure that potential impacts to minority populations are considered in the selection of the type of environmental review for each project.
- Ensure that a reasonable study area is selected regarding community impacts.
- Ensure that adequate mitigation is implemented when potentially disproportionate and adverse effects to minority populations are identified.
- In concert with the Title VI Staff, monitor compliance with E.O. 13166, Limited English Proficiency, to ensure access and understanding of transportation programs and activities for those with limited English proficiency.
- The division promptly refers Title VI complaints to the Civil Rights Office.

Title VI Considerations for Internal Review:

The following items regarding the Environmental Division are reviewed by the Title VI Staff:

1. Data and information regarding the demographics of public meeting participation, including comparisons to the relevant population for each project.
2. Information on coordination to ensure that formal and informal public comments are incorporated into the transportation decision-making process.
3. The public involvement strategies used for engaging minority and limited English proficiency populations in transportation decision-making and for reducing participation barriers.
4. A description of the methods used to ensure that issues/concerns raised by minority and populations were appropriately considered in the transportation decision-making process. This includes formal and informal records of public comments and integration into environmental documents.
5. The number and types of environmental reviews.
6. The methods for identifying minority populations for Title VI purposes.
7. Data and information regarding the potential impacts on minority populations with regard to:

- a. Air quality
 - b. Noise
 - c. Community cohesion
 - d. Relocations
 - e. Community services
 - f. Mitigation measures
8. Title VI complaints received regarding the environmental review process.

Design Division

The Roadway Design Division consists of the Design Standards and Policy, Contract Management, Aerial Surveying, and Consultant Management sections. The key responsibility of the Design Standards and Policy Section is to provide guidance and oversight for TDOT personnel by establishing roadway design criteria, maintaining and developing roadway design standards and training manuals, ensuring roadway plans meet the state and federal policies as well as the targeted quality assurance and compliance standards.

The division's responsibilities include support activities such as maintaining the TDOT GNSS Reference Network for ground surveyors and providing CADD support and Microstation training and for TDOT personnel and consultant firms. This section also reviews locally administrated projects for the Program Development Division for Quality Assurance and Compliance. The Aerial Surveys office is tasked with the planning and acquisition of digital imagery, which is then used in the assembly of and the delivery of geo-referenced mosaics encompassing the entire geographic extent of the state of Tennessee, as well as high-resolution aerial images for use in precision corridor design for engineering projects. The Contract Management section performs the pre-qualification of consultant engineering firms, advertisement of consultant projects, oversight and payment of contracts, and provides pavement design, value engineering studies, plan sales, and file management. The Consultant Management section oversees consultant developed roadway projects.

The Design Director or designee is on the Title VI Advisory Committee and appoints a Title VI Liaison to further the Title VI interdisciplinary approach to promoting nondiscrimination in federally funded projects and activities. The Title VI Staff conducts annual reviews on the Design Division. Additionally, the Title VI Staff reviews documents and program procedures to ensure compliance with Title VI.

The Division's Title VI responsibilities include, but are not limited to, assisting the Title VI Staff with the following tasks:

- Ensure that all consultant and subconsultant agreements include Title VI contract provisions.
- Ensure nondiscrimination with regard to procurement for consultant design agreements.
- Ensure that Title VI is integrated into the Design Division's internal procedures and is reviewed and updated as necessary to maintain Title VI compliance;

- Promptly refers Title VI complaints to the Title VI Staff; and,
- Monitors and reports LEP encounters and translation/interpreting services used.

Title VI Considerations for Internal Review:

The following items regarding the Design Division are reviewed by the Title VI staff.

1. Data concerning consultant contracts entered into for Design Division activities, including the award amounts and demographic data on firm ownership.
2. Description of your internal procedures that illustrate where and how Title VI compliance is integrated.
3. Title VI complaints received regarding transportation planning or the public involvement process.

Right-of-Way

The Right-of-Way (ROW) Division is responsible for the appraisal and acquisition of land needed for state highway construction and relocation of displaced families and businesses. This division is also responsible for the coordination and relocation of utility and railroad facilities necessary for highway construction projects. Excess land is administered and disposed of through this division.

The ROW Division reports to the Assistant Chief Engineer of Design. It consists of Right-of-Way and Utilities offices. The headquarters offices oversee administration of policy and procedures. The regional offices oversee the daily operations.

The ROW Director or designee is on the Title VI Advisory Committee and appoints a Title VI Liaison to further the Title VI interdisciplinary approach to promoting nondiscrimination in federally funded projects and activities. The Title VI Staff conducts annual reviews on the ROW Division. Additionally, the Title VI Staff reviews documents and program procedures to ensure compliance with Title VI.

The Division's Title VI responsibilities include, but are not limited to, assisting the CRO with the following tasks:

- Ensure nondiscrimination with regard to procurement for appraisers and other Right-of-Way related agreements.
- Ensure equitable treatment of businesses and persons displaced by highway projects, regardless of race, color, or national origin. This includes appraisals, offers of just compensation, relocation counseling, relocation assistance packages, and other
- Ensure that necessary steps are taken to overcome language barriers during the right-of-way process regarding LEP persons.
- Ensure that Title VI compliance is integrated into ROW internal procedures and are reviewed and updated as necessary to maintain compliance during the right-of-way process.

- Ensure that Title VI complaints are referred to the Civil Rights.
- Monitor Right-of-Way's Title VI accomplishments and challenges

Title VI Considerations for Internal Review:

The following items regarding the Right-of-Way Division are reviewed for Title VI compliance:

1. Data and information related to the demographics of relocatees and other beneficiaries.
2. Demographic data on the ownership of consultant firms used in the right of way/relocation process. This includes bidders, awardees, and contracts.
3. Efforts made to provide information in appropriate languages and/or number of times interpreters used.
4. Title VI complaints received regarding the right-of-way process, i.e., appraisals, negotiations, relocation assistance, and payments.
5. Significant Title VI accomplishments.

Construction

The Construction Division head has the primary responsibility for assuring that highway-construction practices adhere to Title VI requirements. The Construction Director or designee is on the Title VI Advisory Committee and appoints a Title VI Liaison to further the Title VI interdisciplinary approach to promoting nondiscrimination in federally funded projects and activities. The Title VI Staff conducts annual reviews on the Construction Division. Additionally, the Title VI Staff reviews documents and program procedures to ensure compliance with Title VI.

The Division's Title VI responsibilities include, but are not limited to, assisting the Title VI Staff with the following tasks:

- Ensure that Title VI compliance is integrated into the Construction Division's internal procedures and is reviewed and updated as necessary to maintain Title VI compliance, including the assurance that Appendices A and E of the standard FHWA Assurances for Title VI and Other Nondiscrimination Statutes and Regulations document are included in all prime contracts/consultant agreements and that prime contractors are ensuring the Appendices are included in all sub-contracts regardless of tier;
- Administer and enforce the terms of construction contracts in a nondiscriminatory manner; and
- Promptly refer Title VI complaints to the Civil Rights Office.

Title VI Considerations for Internal Review:

The following items regarding the Construction Division are reviewed for Title VI compliance.

1. Data and information regarding mitigation commitments made during the environmental process and progress toward completion of the commitments;
2. Description of your internal procedures that illustrate where and how Title VI compliance is integrated within such procedures;
3. Title VI complaints received regarding the construction process; and
4. Significant Title VI accomplishments.

7. SUBRECIPIENT REVIEW PROCEDURES

Staggered Compliance Review Process

Title VI Program staff utilizes a staggered compliance review schedule in monitoring its subrecipients' Title VI Programs. The Staggered Compliance Review Process (SCRPP) was designed to assist the Title VI Program staff in managing its monitoring and training workload. Specifically, it staggers the desk assessments and onsite reviews over a three year period for subrecipients who have demonstrated a strong commitment to Title VI and its mandates. It allows additional time for staff to provide technical assistance and training to the subrecipients who have marginal Title VI programs.

Subrecipients with strong programs are required to submit an annual "No Change Affidavit" and Assurance statement. If changes occur in the existing Title VI program, the subrecipient is required to notify the Civil Rights Division (CRD) within 7 calendar days and provide documentation demonstrating the agency's Title VI Program is still in compliance. Subrecipients are required to submit an annual assurance statement with a desk assessment, onsite review and/or with the submission of a "No Change Affidavit". TDOT has 423 subrecipients. The Title VI staff conducted compliance reviews on 56.7% (240) of TDOT's subrecipients.

8. DATA COLLECTION – REPORTING- ANALYSIS

Data Collection and Analysis plays a critical role in the transportation industry. The process of collecting data and analyzing begins as early as the planning phase of a proposed project, and it is continuous throughout the project. Throughout TDOT the process is used to:

To evaluate the impact of federal and state funded programs and/or activities to ensure non-discrimination.

- TDOT, through its various divisions, collects demographic and social economic data. The data collected helps the divisions to:
 - a. Identify problem areas and prioritize projects, e.g., Limited English Proficiency (LEP) populates, low-income and minority communities affected by transportation decisions;
 - b. Initiate and evaluate the effectiveness of policies and programs to ensure non-discrimination, e.g., relocates, fare changes, route changes;
 - c. Assess the relationship between specific programs and beneficiaries to develop non-discrimination strategies, e.g., public meeting locations; and
 - d. Draw agency attention and resources to resolve issues and problems, e.g., local advocacy groups.



TDOT's **Long Range Planning Division** collects and analyzes data to aid in the planning, development and management of statewide transportation studies. Their planning tools help guide the policies and programs of TDOT and its various divisions. The division identifies transportation needs through the analysis of travel and safety data. Specific responsibilities include developing the statewide long range transportation plan, preparation of corridor studies, University research, travel data collection, feasibility studies and metropolitan and rural

transportation planning coordination. The division is also responsible for Geographic Information System Mapping.

The Title VI Program staff reviews all planning documents for e.g., the TN 25 Year Statewide Long Range Plan, State Transportation Improvement Program (STIP) etc. for Title VI issues, to include effective public Involvement and outreach efforts, consideration of the minority and low income populations input in transportation decisions, whether the potential for disproportionate or discriminatory impacts have been adequately addressed, and if there are in suggested mitigation to lessen adverse impacts.



The **Environmental Division** is responsible for the preparation of environmental documents required for The National Environmental Policy Act (NEPA) for federal and state funded transportation projects in Tennessee. Data is collected and analyzed in the development of the environmental documents.

This office compiles and collates information on various social, economic and environmental issues for each transportation project. This information includes a discussion of the purpose and need, social and economic structure of the affected community, land use, farmland, energy, conservation, floodplains, hazardous waste, visual concerns as well as the construction impacts. This information, combined with the technical studies reports containing information about impacts to streams, wetlands and other ecological and water resources, historical and archaeological resources, air quality and noise, is presented in the environmental documents.

These documents can range from the most basic classification known as Categorical Exclusion (CE) for the projects through the more comprehensive Environmental Assessment (EA), to the most complex Environmental Impact Statement (EIS). The Environmental Documentation Office coordinates project development with federal, state, local officials and the public.

The Division of Environment's staff conducts on-site data collection, coordinates with resource agencies and other TDOT divisions to minimize impacts, prepares designs and conducts follow-up monitoring for mitigation sites, and prepares reports for inclusion in environmental documents or to satisfy specific statutes. Avoidance of impacts to social and cultural resources is the initial goal of this office. When unavoidable impacts to resources occur, the Environment Division works closely with internal and external entities to mitigate those impacts; it often requires preserving archaeological resources, providing vegetative screening to historic properties near highway projects, and designing noise barriers for neighborhoods affected by high levels of highway noise. Understanding the community makeup, its values and goals, is crucial to implementation of a transportation facility that meets both its transportation goals but also blends into and enhances the community.

The Title VI Program staff reviews all Environmental documents e.g., Environmental Impact Studies (EIS), Environmental Assessment (ES), and Draft Environmental Impact Statements (DEIS) for Title VI issues, to include effective public Involvement and outreach efforts, consideration of the minority and low income populations input in transportation decisions, whether the potential for disproportionate or discriminatory impacts have been adequately addressed, and if there is suggested mitigation to lessen adverse impacts.



The **Right-Of-Way Division** is responsible for the appraisal and acquisition of land needed for state highway construction and relocation of families and businesses affected. This division is also responsible for the coordination and relocation of utility and railroad facilities necessary for highway construction projects. Excess land is administered and disposed of through this division.

The Title VI Program staff reviews Right-of-Way processes and data, to determine whether there is diversification in the use of appraisers, and whether relocation advisory assistance was provided equitably and without discrimination to displaced individuals and businesses.



The **Construction Division** is responsible for preparing proposals and letting to contract all TDOT transportation highway and bridge projects. Contract administration on TDOT projects and writing TDOT specifications and special provisions are also the responsibility of this division. The Construction Division is also responsible for the pre-qualification of all contractors that perform TDOT projects. The division also approves all first tier subcontracts for our road and bridge construction.

The CRD's Equal Employment/Affirmative Action Program collects data, monitors and reviews contractors for compliance with federal nondiscrimination mandates and Disadvantage Businesses Enterprise (DBE) utilization.



The **Roadway Design Division** consists of the Design Standards and Policy, Contract Management, Aerial Surveying, and Consultant Management sections. The key responsibility of the Design Standards and Policy Section is to provide guidance and oversight for TDOT personnel by establishing roadway design criteria, maintaining and developing roadway design standards and training manuals, ensuring roadway plans meet the state and federal policies as well as the targeted quality assurance and compliance standards.

The division's responsibilities include support activities such as maintaining the TDOT GNSS Reference Network for ground surveyors and providing CADD support and Microstation training and for TDOT personnel and consultant firms. This section also reviews locally administrated projects for the Program Development Division for Quality Assurance and Compliance. The Aerial Surveys office is tasked with the planning and acquisition of digital imagery, which is then used in the assembly of and the delivery of geo-referenced mosaics encompassing the entire geographic extent of the state of Tennessee, as well as high-resolution aerial images for use in precision corridor design for engineering projects. The Contract Management section performs the pre-qualification of consultant engineering firms, advertisement of consultant projects, oversight and payment of contracts, and provides pavement design, value engineering studies, plan sales, and file management. The Consultant Management section oversees consultant developed roadway projects.

In addition to the CRD Title VI Program staff analyzing the 5 Core Division's processes, procedures and subsequent documentation for Title VI implications/issues, this office collects and reviews all of the internal divisions for Title VI implications/issues. This office evaluates the following areas, when applicable, to the specific division, department, and regions:

- Strategies used to ensure that all components of the transportation planning process comply with Title VI;
- Whether a demographic profile of the State that includes identification of minority and low-income populations has been developed;

- Whether a process has been developed to identify the needs of minority and low-income populations and whether demographic information has been used to assess the distribution of benefits across these groups;
- Whether there is an analytical process in place to assess the benefits/burdens of transportation system investment on minority and low-income populations, and what data source and tools are used to support such an analysis;
- Whether there is a public involvement strategy for engaging minority and low-income populations in transportation decision-making and reducing participation barriers;
- Whether the public involvement process is routinely evaluated and whether any efforts were made to improve the process, especially with regard to minority and low-income populations;
- Whether efforts made to engage minority and low-income populations in the public outreach effort are made to utilize media targeted to these groups;
- Whether methods used to ensure that issues/concerns raised by minority and low-income populations as well as other affected groups are considered in the decision-making process;
- Number of consultant planning agreements awarded and the dollar value; number of female and minority-owned firms with dollar value;
- Methods used to encourage the use of female and minority planning contractors and sub-contractors;
- Status of any Title VI complaints received regarding transportation planning or the public involvement process; and
- Any significant accomplishments made during the review period.

The Title VI Program staff collects data from TDOT's subrecipients through the use of its Title VI Assessments. The Data collected is used to evaluate the strengths and weaknesses of the respective subrecipient's Title VI program.

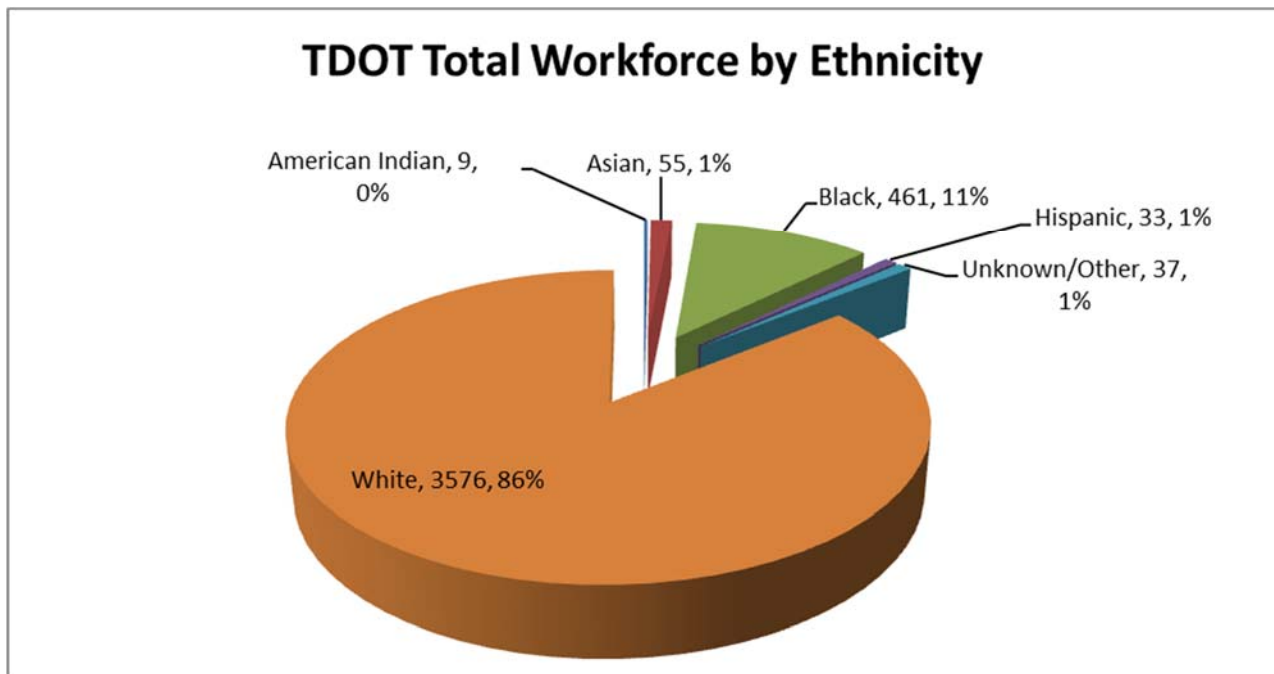


FIGURE 4: TDOT TOTAL WORKFORCE BY ETHNICITY

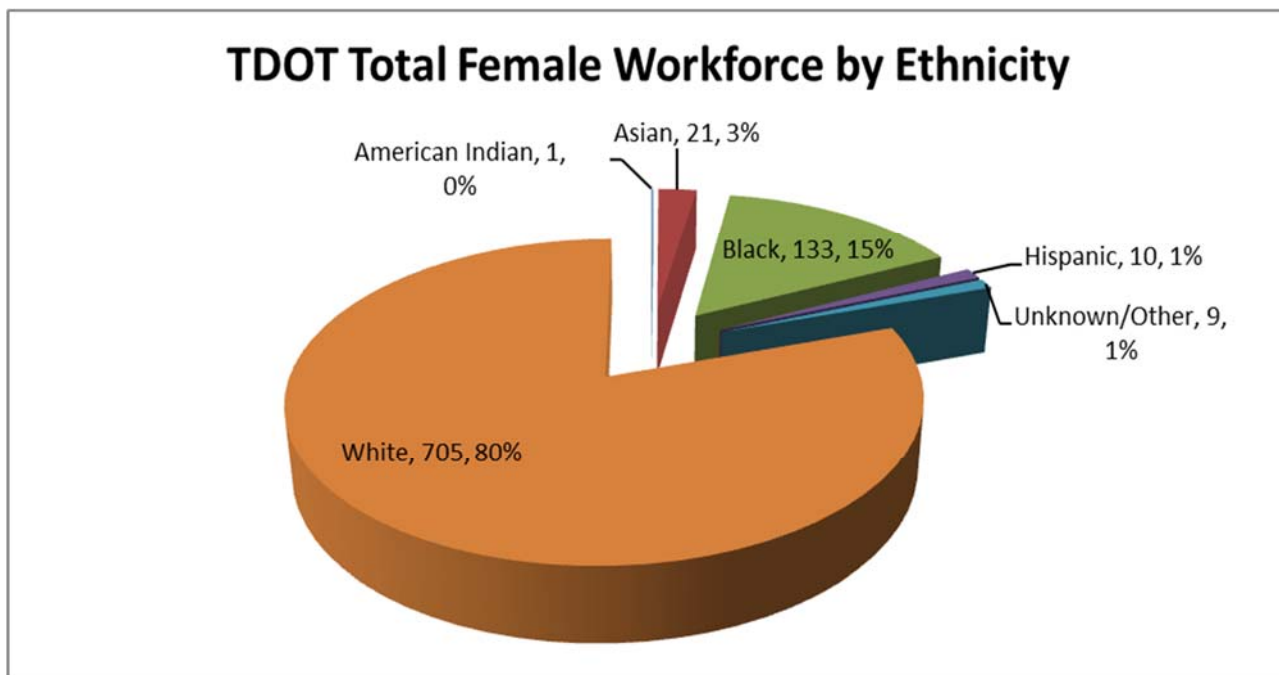


FIGURE 5: TDOT FEMALE WORKFORCE BY ETHNICITY

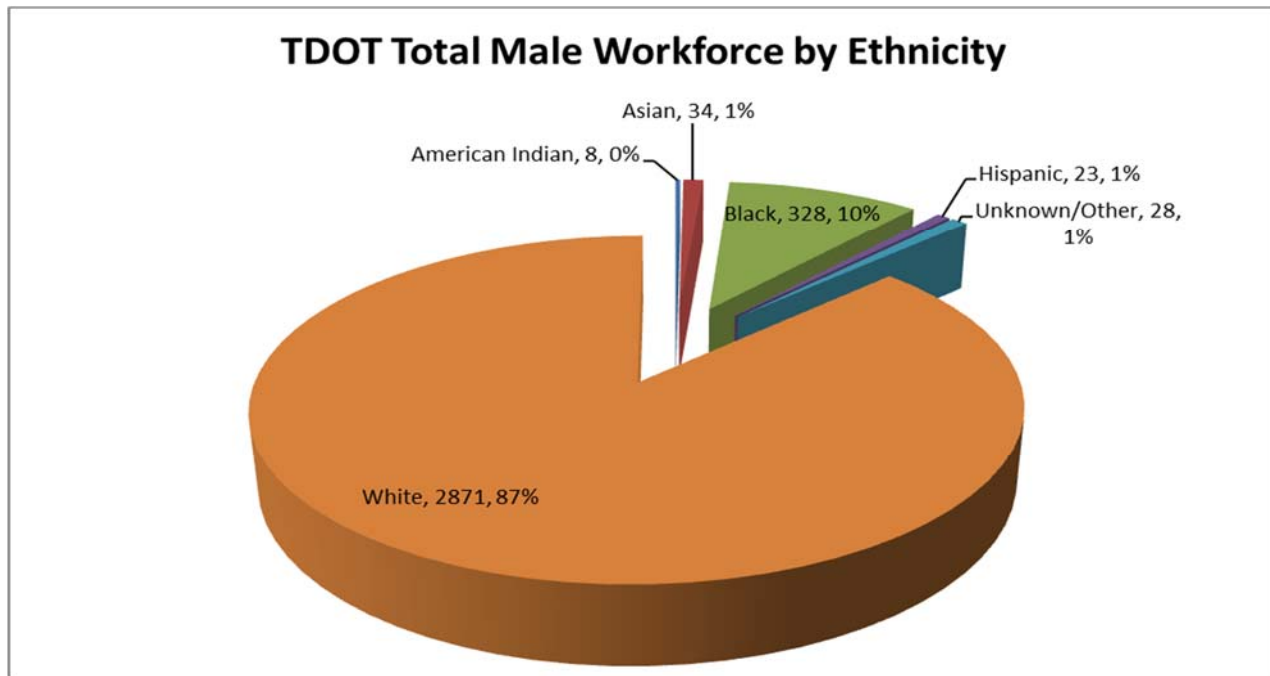


FIGURE 6: TDOT MALE WORKFORCE BY ETHNICITY

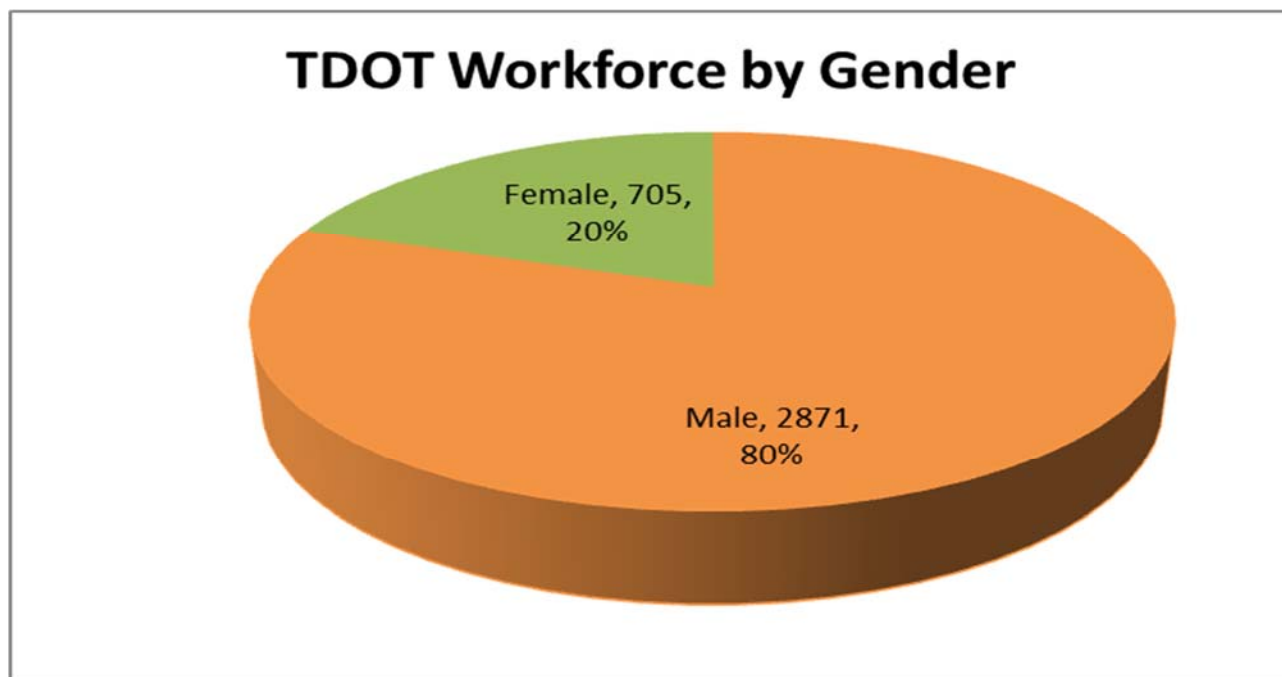


FIGURE 7: TDOT WORKFORCE BY GENDER

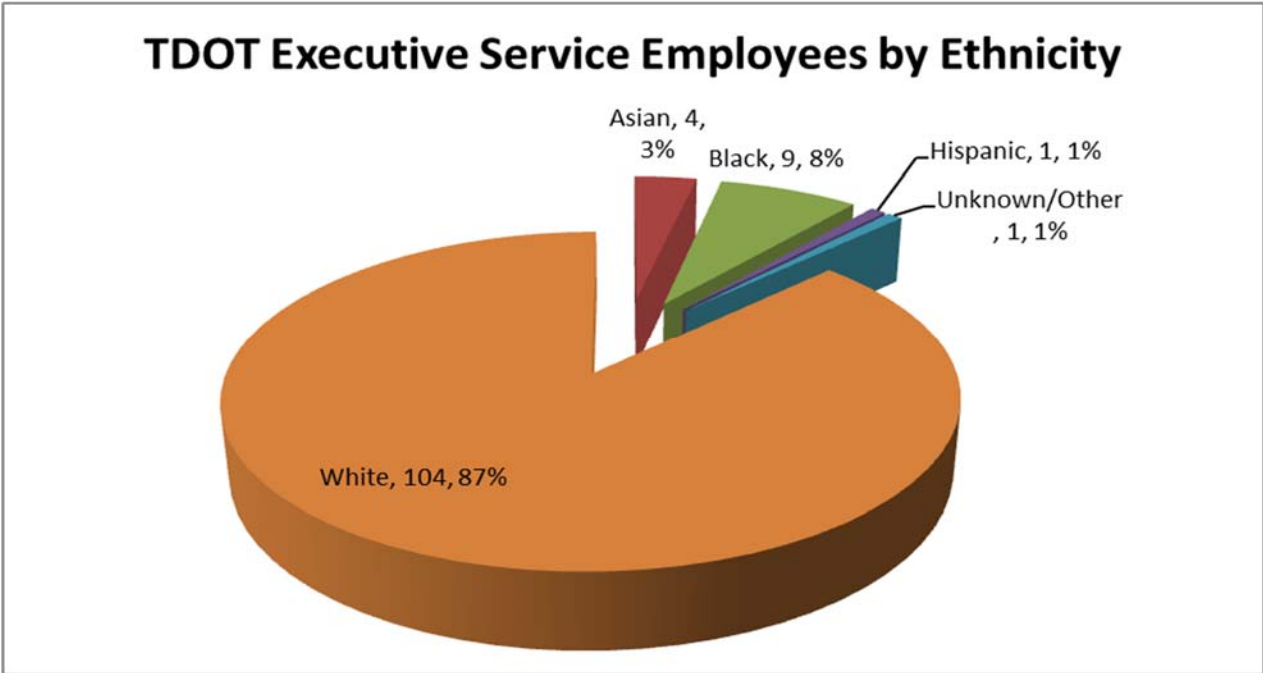


FIGURE 8: TDOT EXECUTIVE SERVICE EMPLOYEES BY ETHNICITY

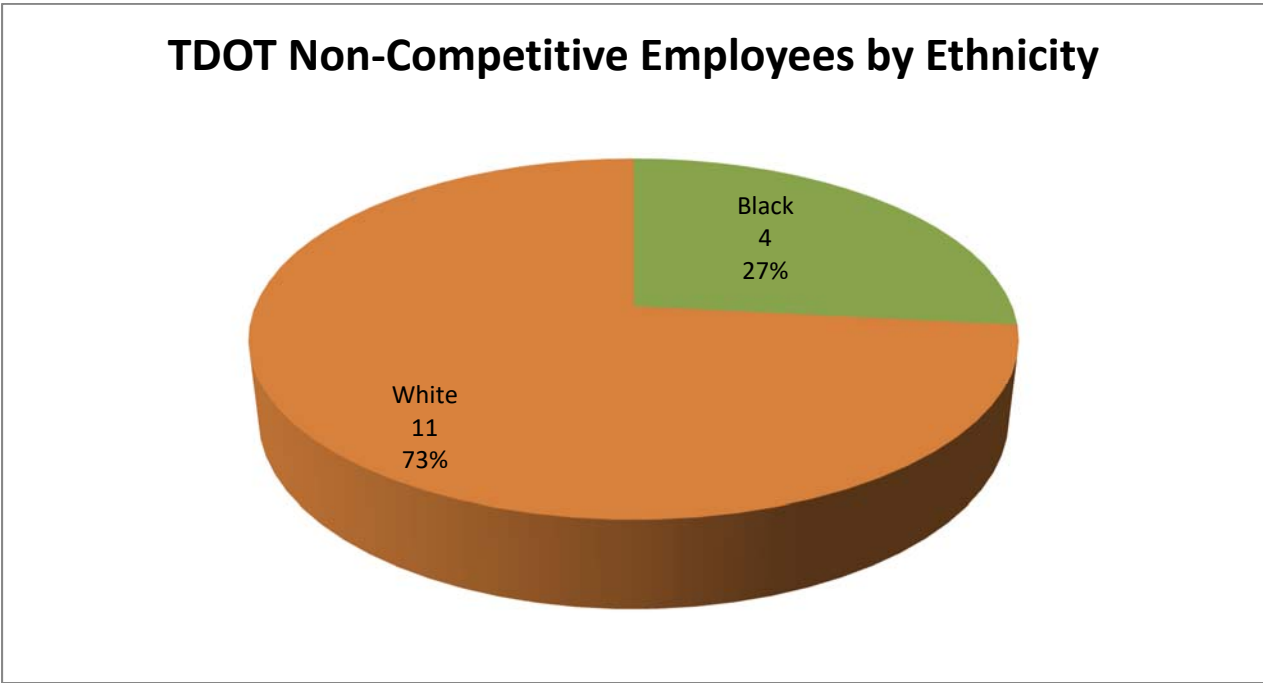


FIGURE 9: TDOT NON-COMPETITIVE EMPLOYEES BY ETHNICITY

TDOT Preferred Employees by Ethnicity

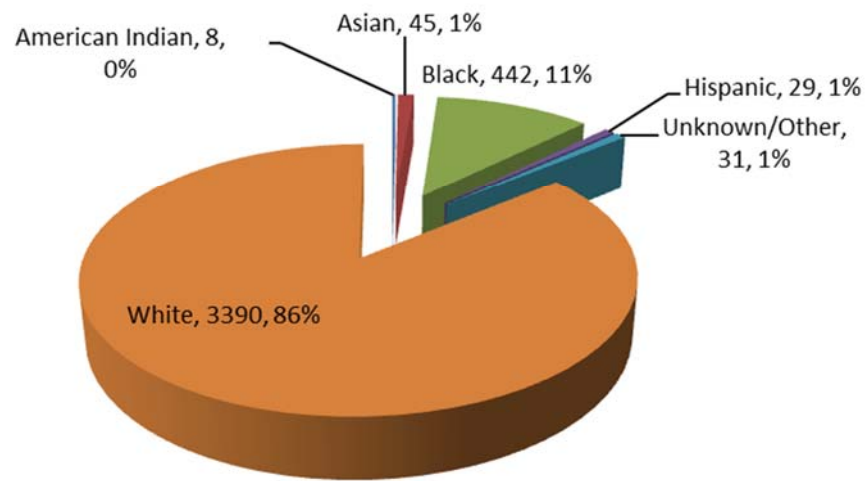


FIGURE 10: TDOT PREFERRED EMPLOYEES BY ETHNICITY

TDOT Non-Preferred Employees by Ethnicity

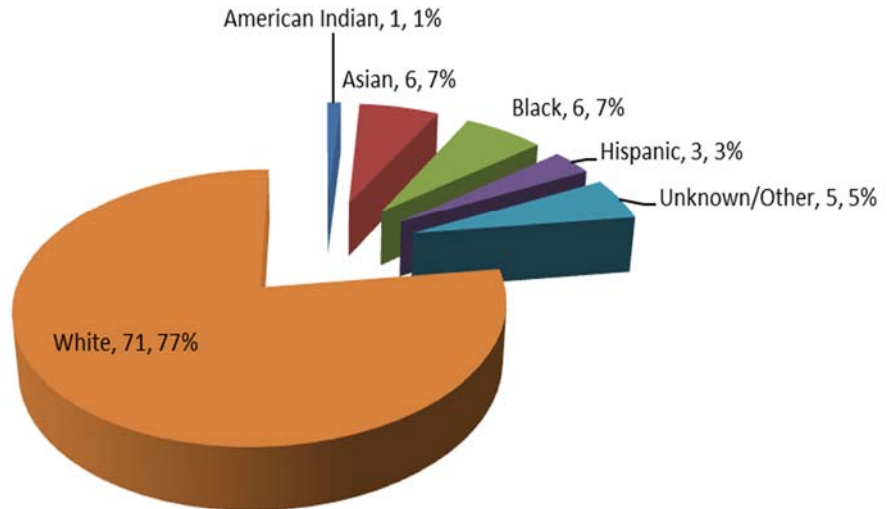


FIGURE 11: TDOT NON-PREFERRED EMPLOYEES BY ETHNICITY

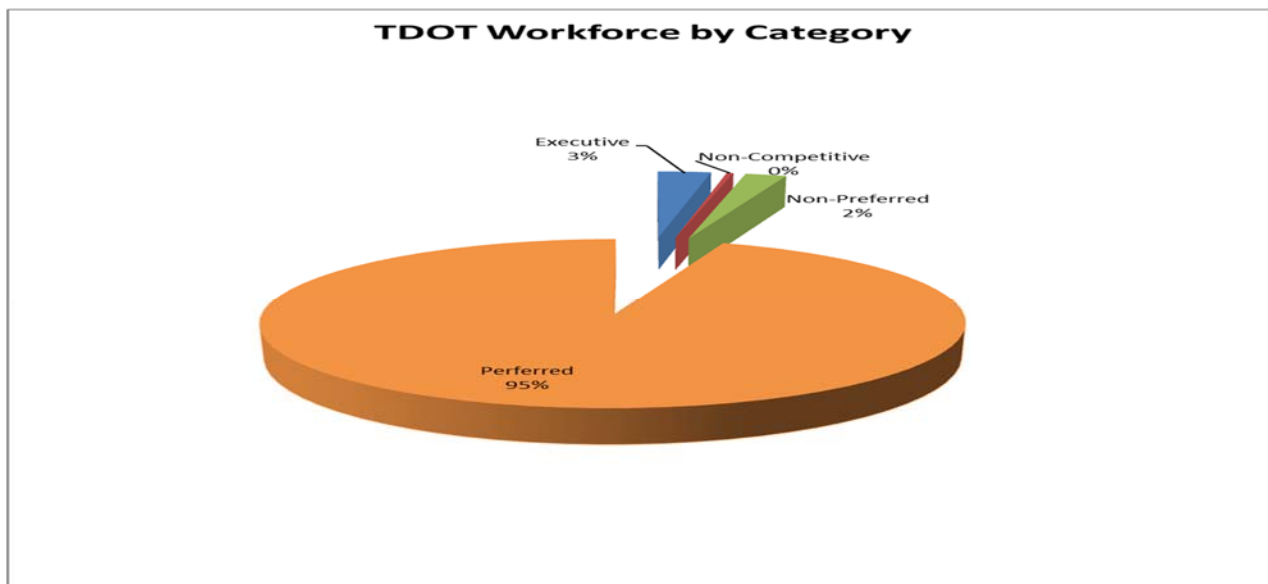


FIGURE 12: TDOT WORKFORCE BY CATEGORY

- TDOT CRD did not receive any Title VI complaints during the reporting period.
- The current estimated population for 2019 is 6.83 million, up from 6.34 million at the 2010 Census. Tennessee currently has a growth rate of 0.86%, which ranks 23rd in the country.⁷
- The last official population count for the state of Tennessee was taken during the last nationwide census held in 2010.

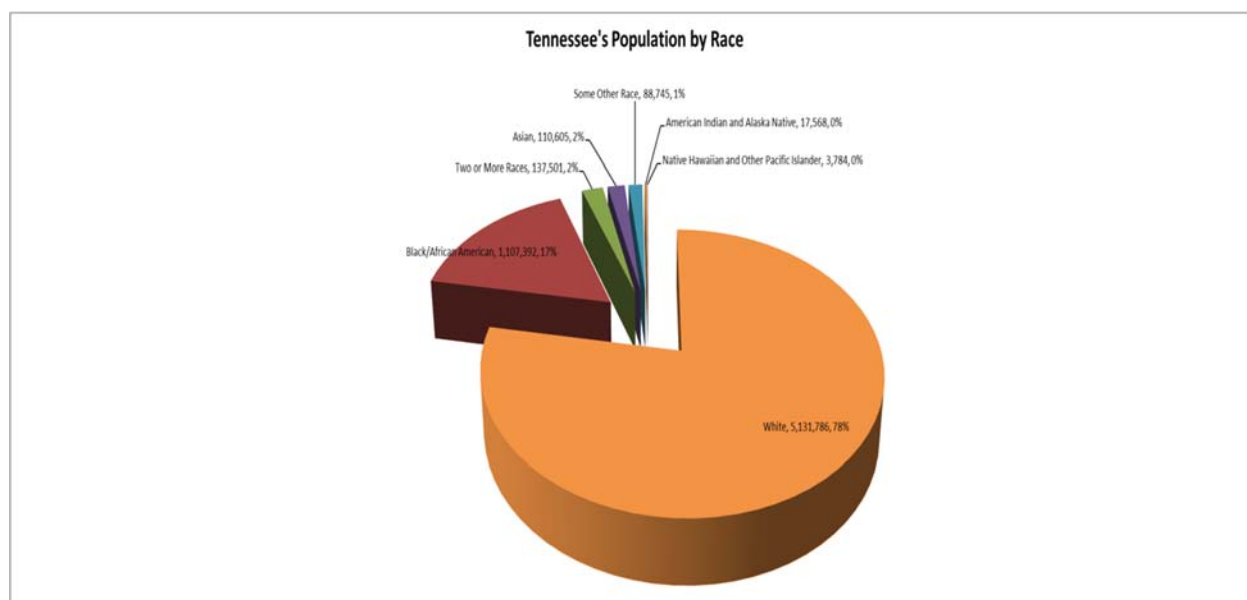


FIGURE 13: TENNESSEE'S POPULATION BY RACE

⁷ Source: [US Census 2017 ACS 5-Year Survey](#)

UNIFORM REPORT OF DBE COMMITMENTS/AWARDS AND PAYMENTS										
1	Submitted to (check only one):	<input checked="" type="checkbox"/> FHWA	<input type="checkbox"/> FAA	<input type="checkbox"/> FTA--Recipient ID Number						
2	AIP Numbers (FAA Recipients); Grant Number (FTA Recipients):									
3	Federal fiscal year in which reporting period falls:	FY 2019	4. Date This Report Submitted: 5/23/2019							
5	Reporting Period:	<input checked="" type="checkbox"/> Report due June 1 (for period Oct. 1 - Mar. 31)	<input type="checkbox"/> Report due Dec 1 (for period April 1 - Sept. 30)						<input type="checkbox"/> FAA Annual Report due Dec. 1	
6	Name and address of Recipient:	Tennessee Department of Transportation 505 Deaderick Street, Suite 1800 James K. Polk Building Nashville TN 37243								
7	Annual DBE Goal(s):	Race Conscious Projection 6.84%		Race Neutral Projection 1.43%			OVERALL Goal 8.27%			
Awards/Commitments this Reporting Period										
A	AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (total contracts and subcontracts awarded or committed during the reporting period)	A	B	C	D	E	F	G	H	I
		Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs /Race Conscious (dollars)	Total to DBEs /Race Conscious (number)	Total to DBEs /Race Neutral (dollars)	Total to DBEs /Race Neutral (number)	Percentage of total dollars to DBEs
8	Prime contracts awarded this period.	\$557,984,823	537	\$0	0			\$0	0	0.0%
9	Subcontracts awarded/committed this period.	\$204,892,550	615	\$51,298,209	498	\$44,415,826	268	\$6,882,383	230	25.0%
10	TOTAL			\$51,298,209	498	\$44,415,826	268	\$6,882,383	230	9.2%
B	BREAKDOWN BY ETHNICITY & GENDER	Contracts Awarded to DBEs this Period								
		A	B	C	D	E	F			
		Total to DBE (dollar amount)			Total to DBE (number)					
		Women	Men	Total	Women	Men	Total			
11	Black American	\$3,351,354	\$4,421,078	\$7,772,432	8	53	61			
12	Hispanic American	\$22,048	\$4,044,796	\$4,066,844	1	14	15			
13	Native American	\$0	\$3,214,672	\$3,214,672	0	19	19			
14	Asian-Pacific American	\$1,585,725	\$833,764	\$2,419,489	3	3	6			
15	Subcontinent Asian American	\$0	\$0	\$0	0	0	0			
16	Non-Minority	\$33,824,772	\$0	\$33,824,772	397	0	397			
17	TOTAL	\$38,783,899	\$12,514,310	\$51,298,209	409	89	498			
Payments Made this Period										
C	PAYMENTS ON ONGOING CONTRACTS (report activity of ongoing contracts)	A	B	C	D	E	F			
		Total Number of Contracts	Total Dollars Paid	Total Number of Contracts with DBEs	Total Payments to DBE firms	Total Number of DBE firms Paid	Percent to DBEs			
18	Prime and sub contracts currently in progress	2,635	\$280,045,661	651	\$5,837,273	203	2.1%			
D	TOTAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	A	B	C	D	E				
		Number of Contracts Completed	Total Dollar Value of Prime Contracts Completed	DBE Participation Needed to Meet Goal (Dollars)	Total DBE Participation (Dollars)	Percent to DBEs				
19	Race Conscious	68	\$89,027,692	\$7,362,590	\$6,779,089	7.6%				
20	Race Neutral	1	\$1,034,468		\$244,434	23.6%				
21	Totals	69	\$90,062,160		\$7,023,523	7.8%				
23	Submitted by David Neese	24. Signature (type your name as your signature) David Neese					25. Phone Number 615-253-1075			

Generated in FHWA Civil Rights Connect by David Neese (Tennessee Department of Transportation) on 9/13/2019

FIGURE 14: UNIFORM REPORT OF DBE COMMITMENTS

9. TITLE VI TRAINING PLAN

For the 2018 – 2019 reporting period, CRD TDOT Title VI Program utilized its online Title VI training module to provide annual Title VI training to TDOT employees. The training module provides an overview of Title VI and applicable nondiscrimination rules, regulations, and laws. Just as important, the training module provides resources and guidance to employees, ensuring that an employee is aware of responsibilities and how to find resources quickly to ensure Title VI compliance in all TDOT's activities and programs. During the reporting period the Title VI Staff trained 4,201 TDOT employees.

The CRD Title VI Program staff also utilizes its external online training module to satisfy the training needs of subrecipients in an expeditious manner. Staff provides individual (one-on-one) technical training to subrecipients on an “as needed basis” and specialized training upon request. In addition to the online training for subrecipients, the CRD Title VI Program staff offers Title VI training in each region of the state for its subrecipients as well, one per region annually. Additionally, the Title VI Staff provide 4 regional trainings annually. During the reporting period the Title VI Staff trained 1,163 individuals.

The CRD TDOT Title VI Program staff relies on its Internal Title VI Liaisons to disseminate information and materials to their respective divisions/department/regions' staff to ensure effective enforcement.

Title VI Training Conducted

Entity Trained	Number of Participants	Training Date
TDOT Annual Employee Title VI Training	4,201	March 3- September 8, 2019
TDOT Online Subrecipient Title VI Training	1,113 people (157 subrecipients)	July 19, 2017 - June 29, 2018
Mental Health America of Middle TN	26	July 20, 2018
Region 1 – Subrecipient Title VI Training	4	May 17, 2019
Region 2– Subrecipient Title VI Training	9	September 7, 2018
Region 3– Subrecipient Title VI Training	3	August 23, 2019
Region 4– Subrecipient Title VI Training	8	August 22, 2019

TABLE 1: 2018 - 2019 TITLE VI TRAININGS

Proposed Future Title VI Trainings Dates

Types of Training	Proposed Training Dates
Region 1 – Subrecipient Title VI Training	May 2020
Region 2 – Subrecipient Title VI Training	September 2020
Region3 – Subrecipient Title VI Training	August 2020
Region 4 – Subrecipient Title VI Training	August 2020
TDOT Annual Employee Title VI Training	April 1- June 30, 2020
TDOT Online Subrecipient Title VI Training	Ongoing

TABLE 2: 2019 - 2020 PROPOSED TITLE VI TRAINING DATES

As indicated in the table above, TDOT's Title VI staff has trained approximately 207 of TDOT's 423 subrecipients and 100 % of TDOT's workforce during the reporting period.

10. COMPLAINT PROCEDURES

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964, relating to any program or activity administered by TDOT or its subrecipients, consultants, and/or contractors. Intimidation or retaliation of any kind is prohibited by law.

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. These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant.

Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Title VI Program Director may be utilized for resolution, at any stage of the process. The Title VI Program Director will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

Procedures

1. Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by Title VI nondiscrimination provisions may file a written complaint with TDOT's Title VI Program Director. A formal complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant. The complaint must meet the following requirements.
 - a. Complaint shall be in writing and signed by the complainant(s).
 - b. Include the date of the alleged act of discrimination (date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct).
 - c. Present a detailed description of the issues, including names and job titles of those individuals perceived as parties in the complained-of incident.
 - d. Allegations received by fax or e-mail will be acknowledged and processed, once the identity (ies) of the complainant(s) and the intent to proceed with the complaint have been established. The complainant is required to mail a signed, original copy of the fax or e-mail transmittal for TDOT to be able to process it.
 - e. Allegations received by telephone will be reduced to writing and provided to complainant for confirmation or revision before processing.
2. A complaint form will be forwarded to the complainant for him/her to complete, sign, and return to TDOT for processing.
3. Upon receipt of the complaint, the Title VI Program Director will determine its jurisdiction, acceptability, and need for additional information, as well as investigate the merit of the complaint. In cases where the complaint is against one of TDOT's subrecipients of federal funds, TDOT will assume jurisdiction and will investigate and

adjudicate the case. Complaints against TDOT will be referred to FHWA or the appropriate federal agency for proper disposition pursuant to their procedures.

4. In order to be accepted, a complaint must meet the following criteria:
The complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant. The allegation(s) must involve a covered basis such as race, color, national origin. The allegation(s) must involve a program or activity of a federal-aid recipient, sub-recipient, or contractor.
5. A complaint may be dismissed for the following reasons:
 - a. The complainant requests the withdrawal of the complaint.
 - b. The complainant fails to respond to repeated requests for addition information needed to process the complaint.
 - c. The complainant cannot be located after reasonable attempts.
5. Once TDOT decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within seven calendar days. The complaint will receive a case number and will then be logged into TDOT's records identifying its basis and alleged harm.

In cases where TDOT assumes the investigation of the complaint, TDOT will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have 10 calendar days from the date of TDOT written notification of acceptance of the complaint to furnish his/her response to the allegations.

TDOT's final investigative report and a copy of the complaint will be forwarded to FHWA (or appropriate federal agency) and affected parties within 60 calendar days of the acceptance of the complaint.

TDOT will notify the parties of its final decision.

If complainant is not satisfied with the results of the investigation of the alleged discrimination and practices the complainant will be advised of the right to appeal to FHWA (or appropriate federal agency).

TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT)
COMPLAINT DISPOSITION PROCEDURES

The following procedures cover complaints filed under Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987. Any person who believes they, or any specific class of persons, to be subjected to prohibited discrimination prohibited may by themselves or by a representative file with a written complaint.¹ A complaint must be filed not later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Federal Highway Administration (FHWA). TDOT will ensure that all complaints are sent to the appropriate authority for disposition.

Complaints alleging violations of Title VI by TDOT should be filed in writing directly with the following FHWA agencies:

Federal Highway Administration – TN Division	OR	Federal Highway Administration
404 BNA Drive #508		Office of Civil Rights
Nashville, TN 37217		HCR - 20, Room E81-320
		1200 New Jersey Avenue, SE
		Washington, DC 20590

Complaints alleging violations of Title VI filed against a subrecipient to TDOT (e.g. city, county, college or university, contractor, consultant, etc.) may be filed in writing at:

Tennessee Department of Transportation	OR	Tennessee Human Rights Commission
505 Deaderick ST, Suite 1800		William T. Snodgrass BLD/TN Tower
James K. Polk Building		312 Rosa Parks Avenue, 23 rd Floor
Nashville, TN 37243		Nashville, TN 37243

Additionally, complaints filed against subrecipients to TDOT may be filed with FHWA or the U.S. Department of Justice at:

Federal Coordination and Compliance Section - NWB
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

NOTE: Additional information regarding the Title VI complaint process will be made available to the public via TDOT's website at: www.tn.gov/tdot/civil-rights/title-vi-program.html.

Complaint and investigation files are confidential and will be maintained by TDOT Civil Rights Division. The contents of such files will only be disclosed to appropriate TDOT personnel and federal authorities in accordance with Federal and State laws. TDOT will retain files in accordance with records retention schedules.

¹ 49 C.F.R. § 21.11(b).

FIGURE 15: COMPLAINT PROCEDURES

**TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT)
CIVIL RIGHTS DIVISION TITLE VI COMPLAINT FORM**

The following information is needed in order to process your complaint.

1. What is/are the basis(es) on which you believe these alleged discriminatory actions were taken?

- ☐ Race
- ☐ Color
- ☐ National Origin
- ☐ Other, explain _____

2. What is/are the date(s) of alleged discrimination? _____

3. Complainant's Contact Information:

Name:		
Mailing Address:		
City	State:	Zip Code:
Home Telephone Number:	Work Telephone Number:	Cell Phone Number:

4. Name of agency, department or program that you believe discriminated against you: Agency or Department:

Name:		
Mailing Address:		
City	State:	Zip Code:
Telephone Number:		

5. In your own words, describe the alleged discrimination. Explain what happened and who you believe was responsible (add additional sheets of paper for space).

FIGURE 16: COMPLAINT FORM

6. List names and contact information of persons who may have knowledge of the alleged discrimination.

7. Have you filed this complaint with any other federal, state, or local agency, or with any federal or state court? Check all that apply.

- ☐ Federal Agency
- ☐ Federal Court
- ☐ State Agency
- ☐ State Court
- ☐ Local Agency

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

Name:		
Mailing Address:		
City	State:	Zip Code:
Telephone Number:		

The complaint will not be accepted if it has not been signed. Please sign and date this complaint form below. You may attach any written materials or other supporting information that may be relevant to your claim.

Print Name

Signature

Date:

Submit complaint form and any additional information to:

TDOT Civil Rights Division
Title VI Program Director 505 Deaderick Street, Suite 1800
Nashville, Tennessee 37243
Phone: 615.741.3681 Toll Free: 1.888.370.3647 Fax: 615.741.3169

*A formal complaint must be filed within 180 days of the occurrence of the alleged discriminatory act.

*If this allegation is in regards to Employment Discrimination, please contact the **Tennessee Human Rights Commission** or the **Equal Employment Opportunity Commission**.

Additionally, there are no known lawsuits filed against TDOT on the basis of race, color and or national origin.

2018 - 2019 Title VI Complaint Log							
#	Complainant Name	Respondant Names	Date of Alleged Discriminatory Act(s)	Date Case Accepted	Base(s)	Final Report	Disposition
1							
2							
3	TDOT did not receive nor refer any Title VI Complaints during FY 2018-2019.						
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
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16							
17							
18							
19							
20							
21							
22							
23							
24							
25							

TABLE 3: TDOT 2018-2019 COMPLAINT LOG



Appeals Process

If a complainant is not satisfied with the result(s) of an investigation that alleged discrimination on the basis of race, color, and/or national origin, the complainant will be advised of the right to appeal to TDOT (resulting from an investigation by a TDOT subrecipient).

If the complainant disagrees with TDOT's subrecipient's decision, he or she may send a written appeal to the Director Civil Rights Office. If the complainant has documentation to support the appeal, the documentation must be submitted with the complainant's appeal.

In an appeal, the complainant must explain why he or she believes the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, *and* how this would change the determination in the case. Failure to do so may result in the denial of the appeal.

In order to be timely, an appeal (including any supporting documentation) must be submitted within **60 days of the date of the determination letter**. The Civil Rights Office Director may exercise discretion in granting a waiver of the 60-day timeframe where:

1. the complainant was unable to submit the appeal within the 60-day timeframe because of illness or other incapacitating circumstances and the appeal was filed within 30 days after the period of illness or incapacitation ended; or
2. unique circumstances generated by agency action have adversely affected the complainant.

A written response to an appeal will be issued within 30 business days. The decision of the Civil Rights Office constitutes the agency's final decision. The decision will inform the complainant that he or she "may have the right to file a private suit in federal court or whether the Civil Rights Office finds a violation."

Send appeal to: Tennessee Department of Transportation
Civil Rights Office
ATTN: Deborah Luter, Director
505 Deaderick ST. Suite 1800
James K. Polk Building
Nashville, TN 37243

FIGURE 17: TDOT APPEALS PROCESS

11. DISSEMINATION OF TITLE VI INFORMATION

In accordance with 49 CFR § 21.9(d), TDOT uses an interdisciplinary approach to inform its beneficiaries of their protections against discrimination under Title VI in the following manner:

1. All contracts contain nondiscrimination language;
2. All TDOT's divisions and regional offices post TDOT's Title VI Nondiscrimination Policy in visible areas;
3. The Community Relations Division displays TDOT's VI Nondiscrimination Policy at all public meetings and hearings;
4. The Human Resource division uses nondiscrimination in its recruiting advertisement;
5. All TDOT divisions utilize nondiscrimination language in their solicitations and/or advertisements;
6. TDOT's Title VI Program staff provides Title VI brochures, in English and Spanish, to subrecipients and residents of Tennessee upon request;
7. TDOT's Title VI Program staff conduct specialize Title VI training upon request from subrecipients, stakeholders, and other agencies;
8. TDOT's Title VI Program staff distributes a biannual E-Newsletter to TDOT employees, subrecipients, and stakeholders; and,
9. TDOT's Title VI Program staff utilizes its website, which displays the Title VI complaint form and procedures, the nondiscrimination policy, and other resources.

The Title VI Staff works with the Community Relations Division (CRO) to gather data on public meeting attendance and demographics when available.

12. REVIEW OF STA DIRECTIVES

The Title VI Program staff reviews planning manuals, directives, guidelines, meeting and hearing transcripts, and policies for Title VI compliance. TDOT divisions ensure that the Title VI staff are included the review processes, and recommendations are made as needed.

13. COMPLIANCE AND ENFORCEMENT PROCEDURES

If following completion of a pre-award or post-award desk audit review, compliance review or complaint investigation a subrecipient is not in compliance with Title VI the following steps are taken.

A. NONCOMPLIANCE PROCEDURES AS SPECIFIED IN 23 C.F.R. § 200.11:

1. CRD Director/Title VI Director will forward report with a cover letter to the Subrecipient for corrective action.
2. CRD Director/Title VI Director will schedule a meeting or teleconference with Subrecipient, to be held no later than 30 days from receipt of deficiency report.
3. Subrecipients placed in deficiency status shall be given a reasonable time, not to exceed 90 days after receipt of deficiency letter, to voluntarily correct deficiencies.
4. CRD Director/Title VI Director shall seek cooperation from Subrecipient to correct deficiencies found during review. The Title VI Program staff will provide technical assistance and guidance needed to aid the Subrecipient comply voluntarily.
5. When the recipient fails or refuses to voluntarily comply with requirements within allotted timeframe, the CRO Director/Title VI Director will seek assistance from the Director of the funding program, e.g., Local Program, Long Range Planning, etc. in getting the subrecipient into compliance.
6. If voluntarily compliance is not possible, case file and recommendation that the Subrecipient be found in noncompliance is submitted to Chief of Administration/Deputy Director and Commissioner of Transportation.
7. After review, TDOT will send recommendations to Federal Highway Administrator and/or Federal Transportation Administration. Should the Federal Highway Administrator and/or Federal Transportation Administration recommendation concur with recommendation, the file is referred to the Office of the Secretary, US DOT for appropriate action in accordance with 49 C.F.R. (Also See 23 C.F.R. § 200.11(a)-(f))

When Compliance Cannot be Achieved Voluntarily: (49 C.F.R. § 21.13)

Referral to DOJ for litigation in federal court, these “other means” include administrative avenues such as:

Consulting with or seeking assistance from State or local agencies with nondiscrimination enforcement authority; Refusal to Grant or Termination of Funds: (49 C.F.R. § 21.13). In the event that compliance cannot be achieved, Title VI also provides one other sanction in the event that a State DOT may refuse to grant or may terminate funds after notice and an opportunity for a hearing. DOT guidelines provide procedures for conducting fund termination or denial hearings. They also permit, in limited circumstances, a State DOT to defer action on an assistance application temporarily pending initiation and completion of the notice and hearing. Such temporary suspension of funds allows agencies to prevent the continuation of the alleged discrimination pending a final determination.

- practices we have observed that we believe to be potentially discriminatory with the contractor community. This has been effective in letting them know that we are cognizant of those potentially discriminatory trends and patterns and they are advised not to engage in them.
- We are continuously monitoring our programs and projects to identify any instances of discrimination, at the earliest point.

14. LIMITED ENGLISH PROFICIENCY

Subject	Tennessee							
	Total		Percent		Limited English-speaking households		Percent limited English-speaking households	
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
All households	2,588,655	+/-10,916	(X)	(X)	40,872	+/-3,444	1.6%	+/-0.1
Households speaking --								
Spanish	98,677	+/-4,109	3.8%	+/-0.2	23,968	+/-2,544	24.3%	+/-2.5
Other Indo-European languages	38,090	+/-3,004	1.5%	+/-0.1	3,850	+/-1,187	10.1%	+/-2.9
Asian and Pacific Island languages	31,182	+/-2,607	1.2%	+/-0.1	7,406	+/-1,430	23.8%	+/-4.2

Subject	Tennessee							
	Total		Percent		Limited English-speaking households		Percent limited English-speaking households	
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
Other languages	17,626	+/-2,704	0.7%	+/-0.1	5,648	+/-1,554	32.0%	+/-7.1

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TDOT Four Factor Analysis

Factor 1: Number or Proportion of LEP Persons eligible to be served or likely to encounter TDOT programs, activities or services. To determine the number of LEPs in TDOT's service area (statewide), the CRD utilized the population estimations provided in the Migration Policy Institute tabulations from the US Census Bureau's American Fact Finder.

The data was used to determine 1) the LEP populations represented in the state, 2) Percentages of LEPs in the service areas, 3) whether LEP groups reach and/or exceed 5% the Safe Harbor stipulation, and 4) where the greatest population of LEPs residents of Tennessee.

Factor 2: Frequency with which LEP individuals come in contact with TDOT programs, activities or services. Based on the assessments conducted in the area of LEP utilization, there has been little to no contact with LEP individuals in the service areas during the 2018 -2019 reporting period. In the 4th quarter, TDOT's paid \$247 to have its Title VI Complaint procedures translated into Spanish.

Factor 3: Nature and importance of the program, activity or services provided by TDOT to the LEP population. Transportation plays an importance role in the lives of the all Tennesseans, particularly the LEP individuals. Generally speaking, when transportation decisions are made, the LEP, low income and minority communities are normally impacted the greatest. TDOT is committed to providing safe and reliable transportation services to the LEP population as well as all residents of Tennessee.

TDOT's most critical services are those related to public transportation, Right-of-Way acquisitions, public involvement (public information or planning meetings), safety during construction, and providing the ability to file complaints.

Factor 4: Resources available to TDOT and overall costs to provide LEP assistance. Currently, utilizes an employee volunteer roster for expediency. In situations where TDOT employees cannot provide services, i.e., an unfamiliar Language or dialect spoken, a legal matter, or

⁸ U.S. Census Bureau American Fact Finder

need for expert testimony, TDOT utilizes AVAZA for its translation and interpreting needs. Payment for these professional services are expended when service is rendered.

How does LEP affect the Department of Transportation?

The following matrix illustrates legal and policy considerations that require TDOT to provide LEP persons with meaningful access to programs, activities, and services.

Title VI of Civil Rights Act of 1964	Limited English Proficiency Executive Order 13166
<ul style="list-style-type: none"> Federal Law 	<ul style="list-style-type: none"> Federal Policy
<ul style="list-style-type: none"> Enacted July 2, 1964 	<ul style="list-style-type: none"> Signed August 11, 2000
<ul style="list-style-type: none"> Considers all persons 	<ul style="list-style-type: none"> Considers eligible population
<ul style="list-style-type: none"> Contains monitoring and oversight compliance review requirements 	<ul style="list-style-type: none"> Contains monitoring and oversight requirements
<ul style="list-style-type: none"> Factor criteria is required, no numerical or percentage thresholds 	<ul style="list-style-type: none"> Factor criteria is required, no numerical or percentage thresholds
<ul style="list-style-type: none"> Provides protection on the basis of race, color, and national origin 	<ul style="list-style-type: none"> Provides protection on the basis of race, color, and national origin
<ul style="list-style-type: none"> Focuses on eliminating discrimination in federally funded programs 	<ul style="list-style-type: none"> Focuses on providing LEP persons with meaningful access to services using factor criteria
<ul style="list-style-type: none"> Annual accomplishments and goals reports to FHWA, FTA, and THRC 	<ul style="list-style-type: none"> Annual accomplishments and goals reports to FHWA, FTA, and THRC

TABLE 4: LEP MATRIX OF LEGAL AND POLICY CONSIDERATIONS

TDOT Divisions/Programs Responsibilities

EO 13166 directs recipients of federal financial assistance to take reasonable steps to provide LEP individuals with meaningful access to its programs, activities and services.

The following chart, although not exhaustive, illustrates TDOT divisions/programs and Title VI Program activities and responsibilities relative to LEP services.

Activities	Responsibilities	
	TDOT Divisions & Programs	Title VI Program
1. Assessing and addressing the needs of eligible persons	X	
2. Taking reasonable steps or ensuring that responsible steps are taken to ensure meaningful access	X	
3. Developing and implementing control mechanisms to ensure delivery of service and ongoing compliance	X	X
4. Compliance, monitoring, and oversight	X	X
5. Providing technical assistance and guidance	X	X
6. Reporting accomplishments and goals	X	X
7. Data collection and analysis	X	X
8. Ensuring that programs and activities provide for a full coordinated process (interdisciplinary approached)	X	X

TABLE: LIST OF LEP ACTIVIES AND RESPONSIBILITES



TITLE VI PROGRAM LIMITED ENGLISH PROFICIENCY (LEP) ANNUAL REPORT

Each quarter a Limited English Proficiency (LEP) report is submitted to the Title VI Liaison of each department in TDOT to collect information on any LEP language assistance used in the previous quarter. The following usage was reported from 4th Quarter 2018 to 3rd Quarter 2019:

3rd Quarter 2018 – no usage reported

4th Quarter 2018– Civil Rights Division – document translated from English to Spanish - \$247.41

1st Quarter 2019 – No usage reported

2nd Quarter 2019– No usage reported

No additional language service usage within TDOT departments reported.

LANGUAGE SERVICE USAGE IS REPORTED QUARTERLY TO:

Wes White, Title VI Specialist
Civil Rights Division
505 Deaderick Street, Suite 1800
Phone: 615-253-1076 • fax: 615-741-3169 • Email: James.W.White@tn.gov

Revised 12/2015

FIGURE 18: LIMITED ENGLISH PROFIECENCY REPORT

15. ACCOMPLISHMENT AND GOALS REPORT

By October 1st of each year, [SDOT]'s Civil Rights Division will provide the FHWA Nashville Division Office with a report of Title VI accomplishments for the past year and goals for the next year.⁹ This report will include:

Accomplishments

- Program Area Reviews – The Title VI Program conducted 25 internal Program reviews
- Subrecipient Reviews - The Title VI Program conducted 240 Subrecipient reviews
- Training - Title VI Program conducted 4 regional training, an annual employee training, and 1 specialized training.
- There were no Title VI complaints received. There were no corrective actions plans given.

Goals

- 25 Program reviews planned for the next year
- 250 Program reviews planned for the next year
- 4 Regional Title VI Trainings planned for next year sessions
- Employee Title VI Trainings planned for next year sessions
- Online Subrecipient Title VI Training planned for next year
- Conduct 5 internal onsite next year