

Rhode Island Department of Transportation



Title VI/Nondiscrimination Plan

October 2011

TABLE OF CONTENTS

I. Introduction	1
A. Title VI/Nondiscrimination Policy	2
B. Title VI/Nondiscrimination Assurance	2
II. RIDOT: Title VI & Nondiscrimination.....	3
A. Organization and Responsibility for Title VI Activities.....	4
1. Office of Civil Rights.....	4
2. Title VI Liaisons	5
B. Federal Programs – Process Review.....	6
1. Planning	6
2. Design	9
3. Environment.....	10
4. Right-of-Way	10
5. Contract Administration.....	13
6. Construction	13
7. Maintenance	14
8. Safety	15
C. Complaint Investigation Procedures	16
D. Identifying and Eliminating Discrimination	17
E. Resolving Deficiencies Identified By FHWA	17
F. Data Collection/Data Analysis/Data Reporting	18
G. Monitoring of Sub-recipients.....	18
H. Public Participation Plan.....	19
I. Training Program	20
J. Environmental Justice	20
K. Limited-English Proficiency (LEP) Plan	21
L. Title VI Implementation Plan	24
M. External Communication	25
N. Reporting.....	25

Appendices

- A: RIDOT Policy on Title VI/Nondiscrimination
- B: Title VI/Nondiscrimination Assurance
- C: Title VI Complaint Procedures
- D: RIDOT Rules and Regulations Regarding Public Participation for Federal Aid Highway Projects
- E: Title VI/Nondiscrimination Brochure



Photograph provided courtesy of the RI Secretary of State, State Archives Division

We need Title VI of the Civil Rights Act ... to prevent ... discrimination where Federal funds are involved. ...Title VI is sound; it is morally right; it is legally right, it is constitutionally right. ... Let me say it again: The title has a simple purpose — to eliminate discrimination in Federally financed programs.

Senator John O. Pastore

I. INTRODUCTION

The Rhode Island Department of Transportation (RIDOT or the Department) is a direct recipient of federal funds under the Federal-aid highway program of the Federal Highway Administration (FHWA). RIDOT administers numerous programs, projects and activities and is responsible for a diverse transportation system of more than 1,100 miles of road and approximately 800 bridges, as well as a network of bicycle paths and routes and a nascent commuter rail system. RIDOT's mission is to provide, maintain, and secure an intermodal transportation network that increases the mobility opportunities for the movement of people and goods with the goals of enabling economic development and improved quality of life. In fulfilling its mission, RIDOT conducts its programs, services and activities statewide, thus serving a population estimated to be 996,110.¹



As a direct recipient of FHWA funds, the Department is under an obligation, pursuant to 23 C.F.R. § 200.9(b)(11), to submit a Title VI/Nondiscrimination Plan to FHWA for approval or disapproval. Accordingly, RIDOT has prepared this document, the purpose of which is to describe how RIDOT implements federally-mandated Title VI/Nondiscrimination requirements, including those imposed under Executive Orders No. 12,898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, and No. 13,166, *Improving Access to Services for Persons with Limited English Proficiency*, in its operations.

¹ American Community Survey 2005-2009 5-Year Estimates.

A. Title VI/Nondiscrimination Policy

It is the policy of the Rhode Island Department of Transportation (the Department) to comply fully with both Title VI of the Civil Rights Act of 1964 and the Department's Title VI/Nondiscrimination Program Assurances. To that end the Department certifies that no person in the United States shall, on the grounds of race, color, sex, national origin, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of the Department's programs or activities, whether or not such programs and activities are federally-assisted.

Specifically, the Department will not, on the basis of race, color, sex, national origin, age, or disability:

- deny any service, financial aid, or other benefit to a beneficiary of the Department's programs;
- provide any service, financial aid, or benefit that is different—in quality, quantity, or manner—from that provided to other beneficiaries under Departmental programs;
- subject a person to segregation or separate treatment in any matter related to receipt of any service, financial aid, or other benefit under its programs;
- treat a person differently from others in determining whether the person is eligible for a service, financial aid, or other benefit under a departmental program;
- restrict a person in the enjoyment of any advantage or privilege enjoyed by others receiving services, financial aid, or other benefits of its programs;
- deny a person the opportunity to participate in advisory or planning councils that are an integral part of its programs;
- discriminate in any activities related to highway, facility, or infrastructure built or repaired with federal funds;
- discriminate in any employment resulting in a program which has a primary purpose of providing employment; or
- discriminate in the selection and retention of contractors and consultants.

Furthermore, the Department will not administer its programs in a manner that, directly or by contract, defeats or substantially impairs its goal of effective nondiscrimination. Rather, the Department will identify and address the effects of its programs, policies and activities on minority and low-income populations, as well as provide meaningful access to benefits, information, and services to beneficiaries who are of limited English-speaking ability.

A copy of the Title VI/Nondiscrimination, signed by RIDOT Director Michael P. Lewis, is provided in Appendix A.

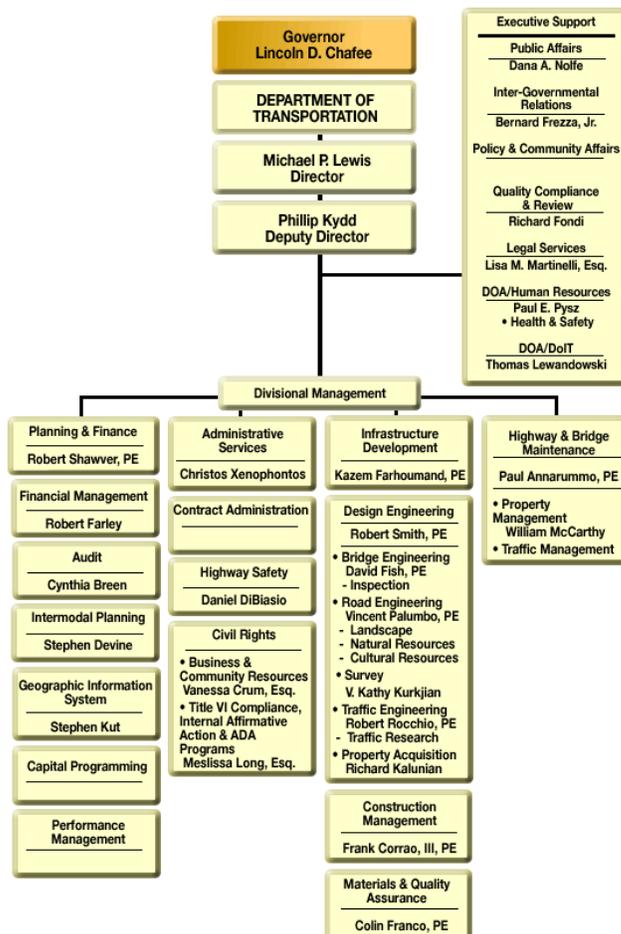
B. Title VI/Nondiscrimination Assurance

Beginning in October 2010, RIDOT undertook a thorough review of agency-wide compliance with the Title VI Assurance required pursuant to 49 C.F.R. § 21.7. RIDOT's review provided an

opportunity not only to assess RIDOT’s compliance with its nondiscrimination commitments in its day-to-day activities, but also to revise and update its Title VI/Nondiscrimination Assurance. Accordingly, on May 15, 2011, Director Lewis signed an updated Title VI/Nondiscrimination Assurance as required by 49 C.F.R. § 21.7. A copy of the Department’s revised and updated Title VI/Nondiscrimination Assurance is included in Appendix B.

II. RIDOT: TITLE VI & NONDISCRIMINATION

RIDOT is committed to fulfilling its obligations under federal and state civil rights laws and equal employment requirements, and to supporting the Department’s contractors, consultants and sub-recipients in achieving full compliance with those laws and requirements as well. The Department does not discriminate in its employment and programs or activities against persons in protected classes, nor does it tolerate any such discrimination by its contractors, consultants, or sub-recipients. Moreover, the Department strives to be a model agency with respect to (1) promoting diversity and equal employment opportunities within its workforce; (2) developing opportunities for full and meaningful participation of minority- and women-owned business enterprises in its programs and projects; and (3) delivering its services, programs and activities in a nondiscriminatory manner.



Last updated September 8, 2011

RIDOT relies on the Office of Civil Rights to honor this commitment. The Office of Civil Rights is responsible for developing the Department’s civil rights programs consistent with federal and state mandates. It also coordinates with RIDOT’s Executive Support staff and operating units, located within RIDOT’s four divisions, to implement those programs, including the Title VI/Nondiscrimination Program.

The Department’s decentralized approach to Title VI implementation is described below.

A. Organization and Responsibility for Title VI Activities

The Office of Civil Rights provides guidance and support agency-wide to ensure effective implementation of Title VI/Nondiscrimination principles in RIDOT's day-to-day operations. This section describes the structure of the office, its functions, and how it interacts with the Department's Executive Support Staff and operating units.

1. Office of Civil Rights

The Assistant Director for Administrative Services is RIDOT's Chief Civil Rights Officer and manager of the Department's Office of Civil Rights, which consists of ten civil rights professionals who administer the Department's external and internal civil rights programs. The Assistant Director for Administrative Services is a top management official at the Department who reports directly to the Director on a daily basis.

a. External Civil Rights Programs.

The Department's external civil rights programs consist of the following programs: Disadvantaged Business Enterprises (DBE), including Mission 360, the Department's DBE Supportive Services program; Contractor Compliance; On-the-Job Training; and Workforce Development. The Administrator of the Office of Business and Community Resources manages the operation of these programs and reports to the Assistant Director for Administrative Services. The Administrator of the Office of Business and Community Resources also briefs the Department Director on the progress of these programs on a monthly basis.

b. Internal Civil Rights Programs.

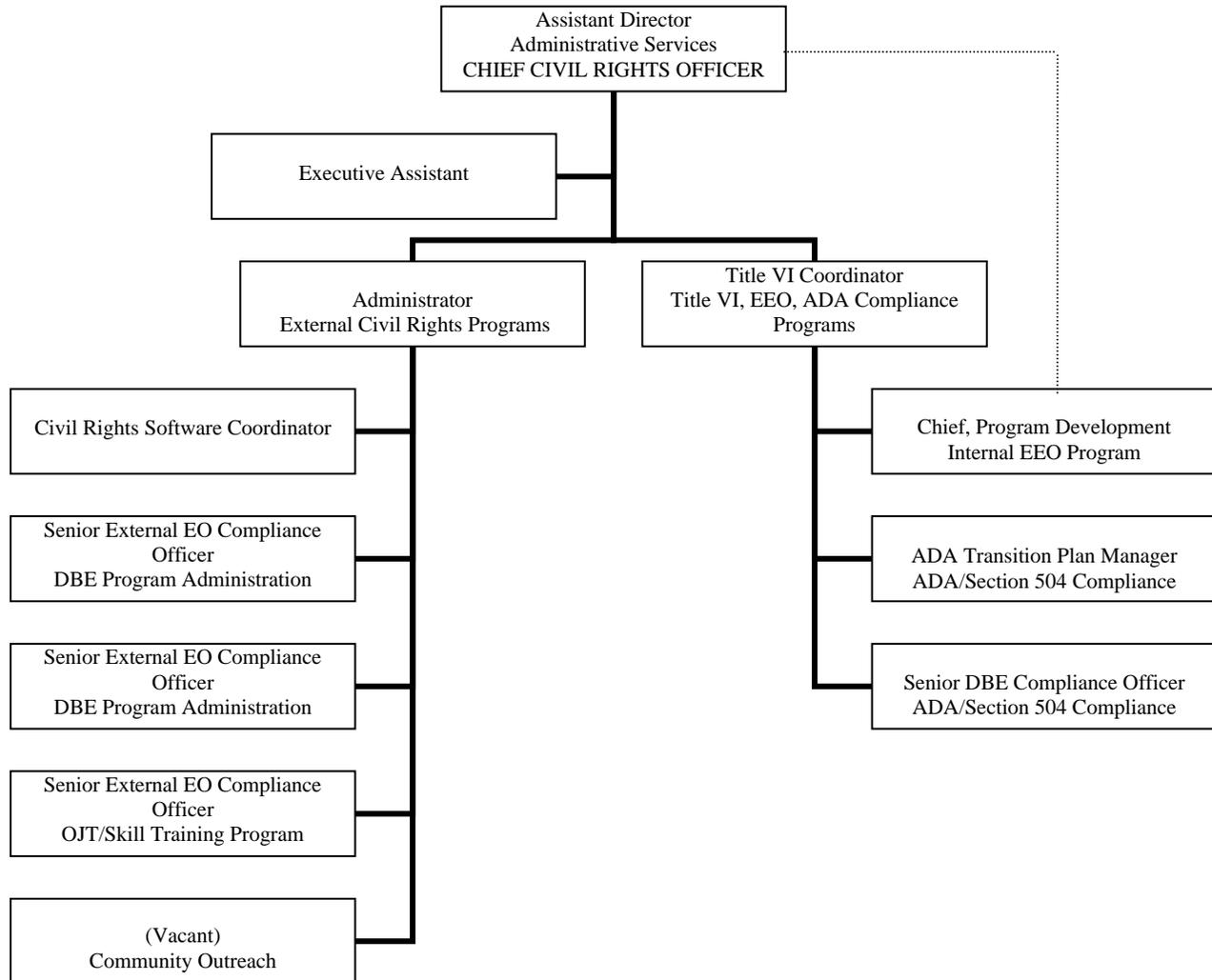
RIDOT's internal civil rights programs include Title VI/Nondiscrimination, Internal Equal Employment Opportunity (EEO), and Americans with Disabilities Act (ADA) compliance. The Department's Title VI Coordinator is primarily responsible for initiating and monitoring RIDOT's Title VI activities and preparing required reports. The Title VI Coordinator also manages the operation of the Internal EEO and ADA programs. The Title VI Coordinator reports to the Assistant Director for Administrative Services daily and briefs the Department Director on the progress of the internal civil rights programs on a monthly basis.

(1) Internal EEO

RIDOT's Affirmative Action Officer has full-time responsibility for developing, implementing, communicating, disseminating, auditing, and monitoring the Department's EEO Program. The Affirmative Action Officer has direct, daily access to the Assistant Director for Administrative Services and briefs the Department Director on the progress of Internal EEO on a monthly basis.

(2) ADA

The Department’s Title VI Coordinator also serves as RIDOT’s ADA Coordinator. The Title VI Coordinator and two civil rights staff members, including the Department’s ADA Transition Plan Manager, work with RIDOT’s Design Engineering and Construction Management Offices to implement the requirements of ADA and Section 504 of the Rehabilitation Act of 1973.



2. Title VI Liaisons

The head of each of the Department’s program divisions is ultimately responsible for adhering to the principles of Title VI and nondiscrimination in RIDOT’s day-to-day activities. To accomplish this duty, each division head has appointed Title VI liaisons

within the operating units;² the objective is to provide a point-person within the operating units who collaborate with the Title VI Coordinator to implement Title VI/Nondiscrimination principles by actively participating in the following efforts:

- program operation and document review to ensure compliance with the Department’s Title VI/Nondiscrimination Assurances;
- collection and analysis of demographic data for project areas, and application of such data to improve project outcomes;
- dissemination of program notices and information such that notices and information are accessible to disabled individuals and Limited-English Proficient (LEP) populations;
- meaningful community outreach, with the goal of involving and educating minority, low-income and LEP populations; and
- the elimination of discrimination, if found.

B. Federal Programs – Process Review

Pursuant to 23 C.F.R. § 200.9(b)(5), RIDOT has an obligation to “[d]evelop a program to conduct Title VI reviews of program areas.” To satisfy this obligation, the Department’s Title VI Coordinator will work with Title VI liaisons in RIDOT’s operating units to complete periodic process reviews of the following federal program areas: planning, design, environment, right-of-way, contract administration, construction, maintenance, and safety. Specifically, the Title VI Coordinator and Title VI liaisons will review program area documents, files and processes to ensure compliance with Title VI/Environmental Justice principles.

1. Planning

The Department’s Division of Planning & Finance coordinates with Rhode Island’s single statewide metropolitan planning organization—the Rhode Island Planning Council—to conduct the work of the Rhode Island Statewide Planning Program, which includes programmatic transportation planning.³ The Rhode Island Statewide Planning Program staff, including staff members responsible for transportation planning, are employees of the Rhode Island Department of Administration.

The Rhode Island Statewide Planning Program is a sub-recipient of FHWA funds. Thus, the Title VI liaison for the Department’s Division of Planning & Finance will work with

² Title VI liaisons are assigned in the following operating units: Planning & Finance, Intermodal Planning, Contract Administration, Maintenance Operations, Property Management, Traffic Management, Road Engineering, Bridge Engineering, Traffic Engineering, Property Acquisition, Construction Management, Materials & Quality Assurance, and Environmental & Capitol Projects.

³ The State of Rhode Island Transportation Improvement Program for Fiscal Years 2009 – 2012 describes the objectives of the Rhode Island Statewide Planning Program as follows: “[T]o plan for the physical, economic, and social development of the state; to coordinate the activities of government agencies and private individuals and groups within this framework of plans and programs; and to provide planning assistance to the Governor, the General Assembly, and the agencies of state government.” R.I. Statewide Planning Program, Dep’t of Administration, Transportation Improvement Program at i (2008).

the Title VI Coordinator to conduct periodic process reviews of Rhode Island Statewide Planning as a RIDOT sub-recipient. The periodic process reviews will explore the topics discussed below.

Rhode Island Statewide Planning Program – Public Participation

- Assess the Public Participation Plan of the Rhode Island Statewide Planning Program: (1) Did the Rhode Island Statewide Planning Program consult with interested parties in developing the Public Participation Plan? (2) Was there an opportunity for public comment on the Public Participation Plan? (3) Is the Public Participation Plan published and/or available electronically?
- Public meeting accessibility: (1) Does the Rhode Island Statewide Planning Program hold its public meetings at locations found on Rhode Island Public Transit Authority (RIPTA) bus routes? (2) Does the Rhode Island Statewide Planning Program hold its public meetings at times that are consistent with RIPTA timetables? (3) Are public meeting locations accessible to disabled individuals? (4) Is the meeting format of public meetings conducive to participation by minority, low-income, and disabled populations?
- Public meeting participation: (1) Does the Rhode Island Statewide Planning Program actively solicit input from minority, low-income, and disabled populations? (2) Does the Rhode Island Statewide Planning Program publish meeting notices and public information using media targeted to minority, low-income, and disabled populations? (3) Does the Rhode Island Statewide Planning Program collect statistical data regarding the race, color, national origin, gender, disability- or income-status of public meeting participants?
- LEP Plan: (1) Has the Rhode Island Statewide Planning Program conducted an LEP four-factor analysis?⁴ (2) Does the Rhode Island Statewide Planning Program have a language implementation plan?

Adequacy of Rhode Island Statewide Planning Program Data Collection and Analysis

- What are the Rhode Island Statewide Planning Program’s methods of data collection?
- Does the Rhode Island Statewide Planning Program collect and analyze data regarding community boundaries, racial and ethnic makeup, income levels, and community services (including schools, hospitals, employment centers, and shopping areas)?

⁴ U.S. Department of Transportation Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons outlines four factors that recipients must assess to determine the extent of their duty to provide LEP services:

(1) The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity or service provided by the recipient to people’s lives; and (4) the resources available to the recipient and costs.

U.S. Department of Transportation Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons, 70 Fed. Reg. 74,091 (2005).

- What data does the Rhode Island Statewide Planning Program use to analyze the benefits and burdens of transportation systems investments on minority, low-income, and disabled populations?

Tribal Coordination

- Does the Rhode Island Statewide Planning Program coordinate with local Native American tribes⁵ in statewide transportation planning? Do coordination activities reflect early involvement, timely information exchange, adequate notice, and consideration of input by the local Native American tribes?
- Does the Rhode Island Statewide Planning Program have training and knowledge of local Native American tribe customs and laws?

Identification of Social, Economic, and Environmental (SEE) Effects and Impacts

- Is there a systematic interdisciplinary approach to identifying SEE effects and impacts?
- What public involvement techniques does the Rhode Island Statewide Planning Program use? If there are minority or disabled citizen advisory committees, what are they, and what is their makeup (race, color, national origin, sex, disability- or income-status)? How does the Rhode Island Statewide Planning Program select those committees?

Consultant Contracts

- Does the Rhode Island Statewide Planning Program provide contracting opportunities—for planning studies, corridor studies, or other work—to DBEs? What are the overall DBE participation levels?
- What outreach strategies does the Rhode Island Statewide Planning Program use to target DBEs?
- How does the Rhode Island Statewide Planning Program monitor consultant compliance with Title VI?

Title VI Plan

- Does the Rhode Island Statewide Planning Program have an up-to-date Title VI/Nondiscrimination Assurance? Has the Rhode Island Statewide Planning Program incorporated relevant Title VI assurance language into its documents, where applicable?
- Does the Rhode Island Statewide Planning Program have an up-to-date Title VI/Nondiscrimination Policy?
- Has the Rhode Island Statewide Planning Program designated a transportation planning staff member to act as a Title VI liaison?
- Does the demographic makeup (race, color, sex, national origin, disability status) of the State Planning Council reflect the demographics of the State of Rhode Island?

⁵ There are four federally recognized Native American tribes in the vicinity of Rhode Island: the Narragansett Indian Tribe, the Mashpee-Wampanoag Tribe, the Wampanoag Tribe of Gayhead (Aquinnah), and the Mashantucket Pequot Tribe.

- What is the demographic makeup (race, color, sex, national origin, disability status) of the Statewide Planning Program staff?
- What process does the Rhode Island Statewide Planning Program use to investigate and track Title VI complaints?
- How does the Rhode Island Statewide Planning Program notify beneficiaries and participants of the protections available under Title VI?
- How does the Rhode Island Statewide Planning Program monitor consultant compliance with Title VI?
- Has the transportation planning staff received training on Title VI/Nondiscrimination?

2. Design

The Department's Office of Design Engineering, within RIDOT's Infrastructure Development Division, is responsible for managing project development—from design study to preparation of Plans, Specifications & Estimates (PS&E)—for the construction and reconstruction of state-owned and maintained highways, bridges, traffic signal systems, and bicycle and pedestrian paths.

The Office of Design Engineering has designated Title VI liaisons for the following engineering operating units: Road Engineering, Bridge Engineering, and Traffic Engineering. The Title VI liaisons for Design Engineering will collaborate with the Title VI Coordinator to conduct periodic process reviews that will explore the issues outlined below.

Public Involvement

- Do the engineering operating units actively solicit input from and participation by minority, low-income, and disabled populations?
- Do the engineering operating units hold meetings and forums that are conducive to participation by minority, low-income, and disabled populations?

Adequacy of Data Collection and Analysis

- How do the engineering operating units collect statistical data regarding the race, color, national origin, gender, disability- or income-status of individuals affected by RIDOT projects?
- Do the engineering operating units analyze data regarding community boundaries, racial and ethnic makeup, income levels, and community services (including schools, hospitals, employment centers, and shopping areas)?

Identification and Consideration of SEE Effects and Impacts

- How do the engineering operating units identify the benefits and burdens of transportation systems investments on minority, low-income, and disabled populations?
- What mitigation and enhancement strategies do the engineering operating units apply to projects to address the concerns of minority, low-income, and disabled populations?

3. Environment

RIDOT's Environmental and Capitol Projects unit is part of the Department's Office of Design Engineering. The unit manages permitting for projects affecting natural and cultural resources; it is also involved in the project documentation process required under the National Environmental Policy Act (NEPA).

The Title VI liaison for the Environmental and Capitol projects unit will work with the Title VI Coordinator to conduct periodic process reviews that explore the issues discussed below.

NEPA documentation review

- Does NEPA documentation include a compilation and analysis of demographic data, including breakdowns by characteristics protected under Title VI and related nondiscrimination authorities?
- Does NEPA documentation address disproportionate adverse environmental or health effects on minority, low-income, or disabled populations?
- Does NEPA documentation consider and evaluate the effects of a proposed activity on the following:
 - community cohesion;
 - neighborhood access to community facilities;
 - social and economic disruption, including impacts to low-income and the local tax base; and
 - unlawful discrimination?

4. Right-of-Way

Responsibility for RIDOT's right-of-way functions—the process of acquiring property in preparation for construction projects and the process of managing RIDOT-owned real estate—lies in two different operating units. Both are discussed below.

a. Property Acquisition.

The Department's Property Acquisition unit operates from within the Infrastructure Development Division and is responsible for appraising, negotiating for and acquiring

real estate needed for RIDOT projects. The Property Acquisition unit also provides relocation assistance to displaced individuals and businesses.

The Title VI liaison for RIDOT's Property Acquisition unit will work with the Title VI Coordinator to conduct periodic process reviews of the Department's activities related to appraisals, negotiations, acquisitions, and relocation assistance; the focus of such reviews is outlined below.

Contracting Opportunities

- Does the Property Acquisition provide contracting opportunities—title searching, appraisal assignments, relocation-related services—to DBEs? What are DBE participation levels?
- How does the Property Acquisition unit solicit interest for potential contractors to perform work related to RIDOT's acquisition of real estate?

Data Collection & Analysis

- Does the Property Acquisition unit collect demographic data concerning minority, low-income, and disabled owners or occupants of residential or commercial properties affected by RIDOT projects?
- Does the Property Acquisition unit analyze demographic data to determine whether discriminatory impacts exist?

Appraisal Process

- How does the Property Acquisition unit choose fee appraisers?
- How is a fair market value estimate appraisal assignment performed?
- Is a nondiscriminatory process used to arrive at value?
- Is the review appraiser process nondiscriminatory in its application?
- Do adjustments to the comparable sales and rental properties reflect discrimination or stereotypes?
- Is there consistency in the determination of severance and/or consequential damages?

Negotiation/Acquisition

- How does the Property Acquisition unit initiate negotiations with a property owner?
- What efforts does the Property Acquisition unit make to negotiate before filing a condemnation action?
- Are property owners provided a minimum period of time to negotiate, regardless of race, color, national origin, sex, age or disability?
- Are property owners fully informed of their rights to receive just compensation for required property?
- How does the Property Acquisition unit perform bona fide negotiations? Does the Property Acquisition unit perform bona fide negotiations with all property owners?

- Does the Property Acquisitions unit offer the full amount of the review appraiser's determination of compensation?
- Is there consistency in the application of any minimum payment policy?
- How does the Property Acquisition unit process administrative settlement requests from property owners?

Relocation Advisory Assistance and Payments

- Does the Department provide relocation advisory assistance equitably and without discrimination to displaced individuals?
- How does the Property Acquisition unit identify the eligibility of relocatees? When does the Property Acquisition unit notify relocatees of their eligibility for benefits?
- Does the Property Acquisition unit solicit information concerning an owner/tenant's immigration or citizenship status? How?
- How does the Property Acquisition unit evaluate replacement housing to determine whether replacement housing is decent, safe and sanitary? Does the Property Acquisition unit apply the same evaluation standards consistently and regardless of race, color, national origin, sex, age or disability?
- How does the Property Acquisition unit process relocation appeals, including fair housing complaints?
- How does the Property Acquisition unit establish the amount of relocation benefits?
- How does the Property Acquisition unit notify relocatees of the date when they must vacate the property? Does the Property Acquisition unit provide all relocatees at least 90 days from the date RIDOT initiates negotiations?
- How does the Property Acquisition unit determine when to use the Housing of Last Resort? Does the Property Acquisition unit apply this process uniformly?
- How do staff members identify and communicate with LEP populations?

b. Property Management.

RIDOT's Property Management office operates from within the Department's Division of Highway and Bridge Maintenance. The Property Management office manages the use and disposition of Department-owned real estate.

The Title VI liaison for the Property Management unit will work with the Title VI Coordinator to conduct periodic process reviews of the Department's activities related to leasing, licensing or otherwise permitting use of RIDOT-owned property, as well as the Department's disposition of such property.

Property Management

- Does the Property Management unit provide contracting opportunities to DBEs? What are DBE participation levels?

- How does the Property Management unit award specific work to individual contractors?
- Does the procurement of bids provide equal opportunity?
- How does the Property Management unit calculate rental amounts applied to each occupant? Is the determination of rental amounts equitable and nondiscriminatory?
- How does the Property Management unit maintain and repair RIDOT-owned properties? Is maintenance and repair work adequate and consistently performed for all renters?
- Do all conveyance documents include nondiscrimination covenants and clauses, consistent with the Department's Title VI/Nondiscrimination Assurance?
- How does the Property Management unit determine whether to dispose of RIDOT-owned property?
- Is a nondiscriminatory process used to decide whether to dispose of RIDOT-owned property?
- How does the Property Management unit solicit proposals for the purchase of RIDOT-owned property?

5. Contract Administration

The Contract Administration Office is responsible for construction contract procurement through electronic bidding, as well as for the procurement of Architectural & Engineering and other professional-type services and for the preparation and negotiation of professional services contracts.

The Title VI liaison for the Contract Administration Office will work with the Title VI Coordinator to conduct periodic reviews of Contract Administration documents and processes to ensure the following:

- That all contract documents include Title VI/Nondiscrimination notices, consistent with the Department's Title VI/Nondiscrimination Assurances;
- That Federal Form 1273 is incorporated in Federal-aid construction contracts; and
- That no discriminatory barriers exist in prequalification and approval of subcontractors, and that RIDOT applies bonding and licensing requirements in a nondiscriminatory manner.

6. Construction

The Department's Construction Management section oversees all active construction projects and ensures compliance with all RIDOT design and material specifications. The Title VI liaisons for Construction Management will work with the Title VI Coordinator to conduct periodic reviews that will explore the following issues as they relate to RIDOT's construction processes:

- Whether RIDOT's monitoring and inspection of work results in disparate treatment of protected groups;
- Whether RIDOT has effectively implemented required mitigation measures, i.e., safety through construction zones, noise and air impacts, employment and contracting goals;
- Whether uniformity exists in the approval of plan changes and supplemental agreements; and
- Whether uniformity exists in the assessment of sanctions, liquidated damages, withholding of payments, contract suspension and/ or termination, and decertification.

7. Maintenance

The Division of Highway and Bridge Maintenance is responsible for routine maintenance of approximately 1,100 miles of state highways, over 800 bridges, and associated roadsides and highway appurtenances. The Division of Highway and Bridge Maintenance also processes Physical Alteration Permit Applications and Utility Permit applications, and administers the Department's Adopt-a-Spot and Adopt-a-Highway programs.

The Title VI liaison for the Division of Highway and Bridge Maintenance will work with the Title VI Coordinator to conduct periodic reviews of those programs and operations and explore Title VI/Nondiscrimination compliance in the areas discussed below.

Contracting Opportunities

- Does the Division of Highway and Bridge Maintenance provide contracting opportunities—e.g., for winter maintenance operations—to DBEs? What are DBE participation levels?
- How does the Division of Highway and Bridge Maintenance solicit interest for potential contractors to perform work related to RIDOT's maintenance operations?

Permits

- Do all applications and permits include nondiscrimination covenants and clauses, consistent with the Department's Title VI/Nondiscrimination Assurance?

Data Collection & Analysis

- Does the Division of Highway and Bridge Maintenance collect demographic data concerning minority, low-income, and disabled owners or occupants of residential or commercial properties affected by RIDOT maintenance operations?
- Does the Division of Highway and Bridge Maintenance analyze demographic data to determine whether discriminatory impacts exist?

8. Safety

a. Highway Safety Improvement Program (HSIP).

RIDOT's Traffic Engineering unit, within the Department's Infrastructure Development Division, is responsible for administering HSIP. A core Federal-aid program, the objective of HSIP is to implement infrastructure-related highway safety improvements with the goal of significantly reducing traffic fatalities and serious injuries on all public roads.

The Title VI liaison for the Traffic Engineering unit will work with the Title VI Coordinator to review HSIP and to ensure that RIDOT administers HSIP consistent with Title VI/Nondiscrimination principles.

Public Involvement

- Does Traffic Engineering actively solicit input from and participation by minority, low-income, and disabled populations?
- Does Traffic Engineering hold meetings and forums that are conducive to participation by minority, low-income, and disabled populations?

Adequacy of Data Collection and Analysis

- How does Traffic Engineering collect statistical data regarding the race, color, national origin, gender, disability- or income-status of individuals affected by HSIP projects?

Identification and Consideration of SEE Effects and Impacts

- How does Traffic Engineering identify the benefits and burdens of HSIP on minority, low-income, and disabled populations?
- What mitigation and enhancement strategies does Traffic Engineering apply to HSIP projects to address the concerns of minority, low-income, and disabled populations?

b. Safe Routes to School (SRTS).

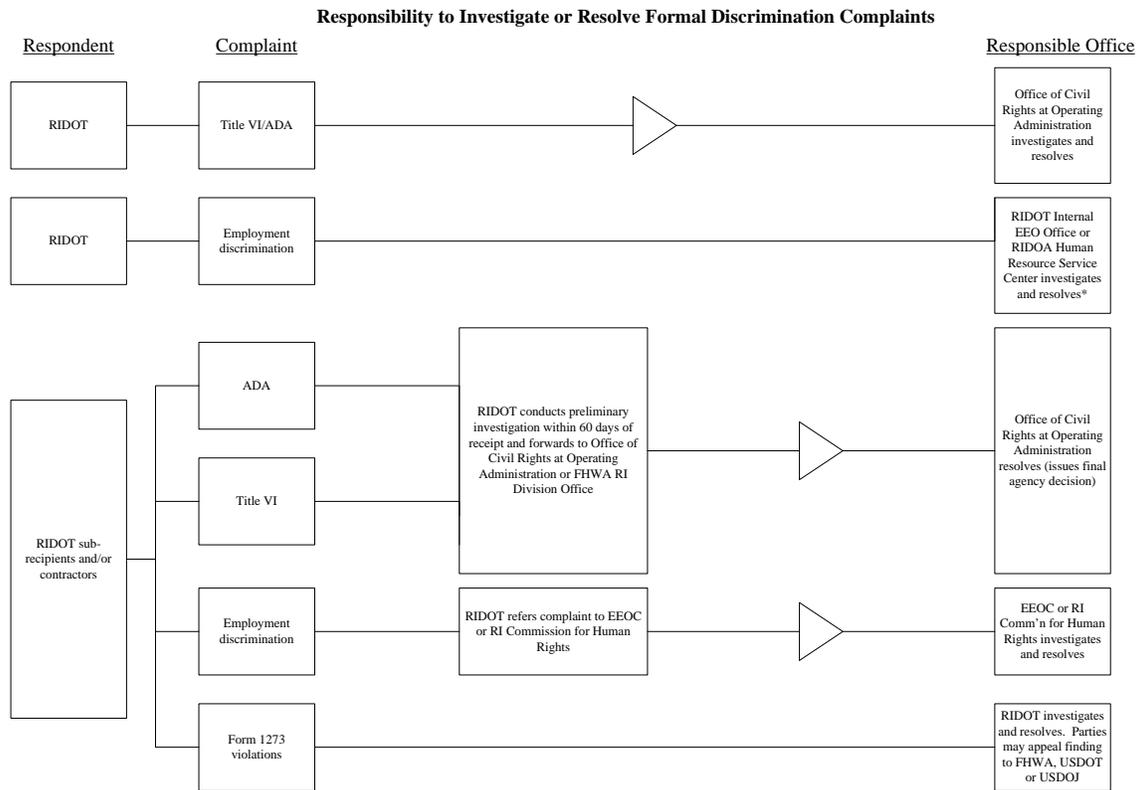
The Department's Division of Planning & Finance coordinates with the Rhode Island Statewide Planning Program to administer SRTS. The Title VI liaison for the Department's Division of Planning & Finance will work with the Title VI Coordinator to conduct process reviews to ensure that the Rhode Island Statewide Planning Program administers SRTS consistent with Title VI/Nondiscrimination principles. Areas of exploration include the following:

- In issuing calls for proposals to participate in SRTS, what outreach strategies does the Rhode Island Statewide Planning Program use to target schools and communities with high percentages of minority, low-income and disabled populations?

- How does the Rhode Island Statewide Planning Program monitor sub-recipient compliance with Title VI?
- How does the Rhode Island Statewide Planning Program identify the benefits and burdens of SRTS on minority, low-income, and disabled populations?

C. Complaint Investigation Procedures

In the fall of 2010, RIDOT’s Office of Civil Rights began to reevaluate how the Department processes discrimination complaints—including Title VI/ADA complaints, Internal EEO complaints, and complaints under its Contractor Compliance program—to ensure proper handling of such complaints across different civil rights program areas. The graphic below outlines responsibility for investigating or resolving formal discrimination complaints, including Title VI complaints received by the Department’s Title VI Coordinator.



*RIDOT employees may file complaints with RIDOT Internal EEO Office or RIDOA Human Resource Service Center

RIDOT’s Title VI Coordinator recently revised the Department’s procedures for processing and disposition of Title VI complaints for two primary reasons: (1) to clarify that the purpose of the procedures is to describe an administrative process aimed at identifying and eliminating discrimination in federally-funded programs and activities, and (2) to reflect the fact that responsibility for accepting formal complaints and issuing findings lies solely with the Office of Civil Rights at FHWA.

A copy of the revised procedures is included in Appendix C.

D. Identifying and Eliminating Discrimination

Pursuant to 23 C.F.R. § 200.9(b)(14), the Department must “[e]stablish procedures to identify and eliminate discrimination when found to exist.”

RIDOT’s Title VI Coordinator will rely on periodic process reviews of RIDOT’s Federal-aid programs and Executive Staff support offices to identify areas of concern.

E. Resolving Deficiencies Identified By FHWA

As stated in the Department’s revised and updated Title VI/Nondiscrimination Assurance, RIDOT has agreed as follows:

The Department shall provide for such methods of administration for its federally-assisted programs as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such programs will comply with all requirements imposed or pursuant to [Title VI of the Civil Rights Act of 1964, nondiscrimination regulations and the] Assurance.⁶

The purpose of this Title VI/Nondiscrimination Plan is to describe how RIDOT administers its programs and operations consistent with its obligations, not only under the Title VI/Nondiscrimination Assurance, but also under Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities. However, in the event that FHWA finds that the Department’s implementation efforts are deficient, the Department further commits to promptly resolve such deficiencies, as required by 23 C.F.R. § 200.9(b)(15).

Specifically, upon receipt of a notice of deficiency from FHWA, RIDOT’s Title VI Coordinator will contact the Regional Civil Rights Officer and schedule a meeting to discuss the notice and any findings within 30 days. The Title VI Coordinator will cooperate with FHWA’s Regional Civil Rights Officer to resolve identified problems and issues within 90 days of receipt of the notice of deficiency. In the event more time is require, the Department will cooperate with FHWA’s Regional Civil Rights Officer in the preparation of a corrective action plan outlining specific timeframes for resolving the identified deficiencies.

⁶ RIDOT Title VI/Nondiscrimination Program Assurance ¶ 9 (May 15, 2011).

F. Data Collection/Data Analysis/Data Reporting

Although census data is currently available from a variety of sources external to the Department, accessing such external data is often cumbersome and difficult. As such, the Department's ability to collect and analyze census data in a routine, consistent, and efficient manner is compromised.

In an effort to overcome this difficulty, the Department's Title VI Coordinator has been collaborating with RIDOT's Geographic Information Systems (GIS) unit to seek modifications to the Department's GIS database. Specifically, the Title VI Coordinator seeks to enhance the functionality of the GIS by including census data as a project-level overlay. Mapping census tracts and block groups according to low-income and minority populations, as well as by LEP status, will be an extremely useful tool that will allow the Department to integrate Title VI/Environmental Justice and LEP analyses into its program and project planning activities routinely, consistently, and efficiently.

Additionally, the Department's Title VI Coordinator seeks to increase the Department's collaboration with state and local partners—such as RIPTA, the Rhode Island Department of Environmental Management, the Rhode Island Department of Education, and local school departments—to share data and information that will be useful in program delivery.

G. Monitoring of Sub-recipients

As part of its monitoring obligations under 23 C.F.R. § 200.9(b)(7), RIDOT's Office of Civil Rights aims to provide leadership, assistance and oversight to RIDOT's sub-recipients of federal funds to ensure their compliance with Title VI and related nondiscrimination authorities.

RIDOT's formal monitoring program is currently under development. Nevertheless, RIDOT regards sub-recipient training and education as the foundation of Title VI compliance. Consequently, RIDOT has provided training on Title VI/Environmental Justice to six sub-recipients,⁷ and is planning additional training for the upcoming calendar year. Moreover, the Department is in the process of preparing an agency-wide manual for use by RIDOT sub-recipients; RIDOT will include guidance on Title VI/Nondiscrimination as one component of the manual.

Another foundational element of RIDOT's sub-recipient compliance review program is the proper identification of all current sub-recipients and their Title VI designees. As the Department's Title VI Coordinator identifies current sub-recipients and Title VI designees, the Title VI Coordinator will begin working with sub-recipient Title VI designees to conduct periodic compliance reviews. The focus of such reviews will be the sub-recipient's Title VI compliance document, which should address the topics outlined below.

⁷ In February 2011, the Department hosted National Highway Institute training on the Fundamentals of Title VI/Environmental Justice. In addition to transportation planners from Rhode Island Statewide Planning, representatives from four cities and one consultant contractor attended: the City of Cranston, the City of East Providence, the City of Providence, the City of Warwick, and Turino Group.

Sub-recipient Title VI Compliance Document

- Does the sub-recipient have an up-to-date Title VI/Nondiscrimination Assurance? Has the sub-recipient incorporated relevant Title VI Assurance language into its documents, where applicable?
- Does the sub-recipient have an up-to-date Title VI/Nondiscrimination Policy?
- Has the sub-recipient named a Title VI designee?
- What process does the sub-recipient use to comply with its Title VI/Nondiscrimination Assurance?
- What are the sub-recipient's methods of data collection?
- Does the sub-recipient have a plan for public participation? Does the sub-recipient actively solicit input from minority, low-income, and disabled populations? Does the sub-recipient publish meeting notices and public information using media targeted to minority, low-income, and disabled populations?
- Has the sub-recipient conducted an LEP four-factor analysis? Does the sub-recipient have a language implementation plan?
- Does the sub-recipient have an EEO Plan? What is the demographic makeup of the sub-recipient's workforce?
- What process does the sub-recipient use to investigate and track Title VI complaints?
- How does the sub-recipient notify beneficiaries and participants of the protections available under Title VI?
- How does the sub-recipient monitor consultant compliance with Title VI?
- Has the sub-recipient program staff received training on Title VI/Nondiscrimination?

Additionally, sub-recipients will submit to RIDOT an annual Title VI/Nondiscrimination Update Report that describes the sub-recipient's Title VI goals and accomplishments for the reporting period.

Where RIDOT finds deficiencies, either during a sub-recipient review or in an annual Title VI/Nondiscrimination Update Report, the Title VI Coordinator will notify the sub-recipient accordingly and look to the sub-recipient to address deficiencies expeditiously.

H. Public Participation Plan

A robust and inclusive Public Participation Plan satisfies NEPA and is key to meeting RIDOT's obligations under Title VI and related nondiscrimination authorities, because an effective Public Participation Plan is essential to identifying potential problems and controversies—statewide and regardless of minority- or income-status—in a proactive manner. An effective Public Participation Plan thus would allow RIDOT to avoid or mitigate adverse impacts associated with its projects, or to offer alternative enhancements where it cannot avoid adverse impacts.

In 1991, the Department adopted the Rhode Island Department of Transportation Rules and Regulations Regarding Public Participation for Federal Aid Highway Projects (Public Participation Rules). The Department promulgated the regulations to satisfy NEPA; the Public

Participation Rules identify requirements and outline a process for public involvement whenever projects have significant social, economic, environmental, or other effects. (A copy of the Department's Public Participation Rules is provided as Appendix D.)

RIDOT is currently in the process of improving its implementation of the Public Participation Rules to enhance coordination and communication with the public. In doing so, the Department will better satisfy its obligations under Title VI and related nondiscrimination authorities.

I. Training Program

Pursuant to 23 C.F.R. § 200.9(b)(9), RIDOT is responsible for "conducting training programs on Title VI and related statutes for state program and civil rights officials."

The Office of Civil Rights hosted two training seminars in 2011: Fundamentals of Title VI/Environmental Justice, and FHWA's Basic Civil Rights training. Staff from the Office of Civil Rights attended both seminars. Additionally, six sub-recipients attended Fundamentals of Title VI/Environmental Justice, and several Title VI liaisons from RIDOT's operating units attended FHWA's Basic Civil Rights training.

The Department's ADA Transition Plan Manager also conducted ADA training for approximately 400 RIDOT staff members in early 2011, and RIDOT's Title VI Coordinator gave a brief presentation on RIDOT's Title VI/Nondiscrimination Program to various Federal-Aid program staff.

The Office of Civil Rights is currently developing a training program for RIDOT staff and sub-recipients on the following topics: Diversity in the Workplace and Preventing Sexual Harassment. The Title VI Coordinator will also provide further training on Title VI/Nondiscrimination for RIDOT staff and sub-recipients.

J. Environmental Justice

As a recipient of federal funds, RIDOT has an obligation to implement the requirements of Executive Order No. 12,898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. As discussed above, the Department is in the process of enhancing the functionality of its GIS by including census data as a project-level overlay. Mapping census tracts and block groups according to low-income and minority populations, as well as by LEP status, will be an extremely useful tool that will allow the Department to integrate Title VI/Environmental Justice and LEP analyses into its program and project planning activities routinely, consistently, and efficiently.

As a related matter, the Department's Title VI Coordinator and Title VI liaisons are researching and planning to develop an Environmental Justice analysis checklist—modeled on the Washington State Department of Transportation's Environmental Justice Decision Matrix—to guide RIDOT staff in conducting an Environmental Justice analysis of projects in development.

K. Limited-English Proficiency (LEP) Plan

The Department is committed to providing meaningful access to benefits, information, and services to beneficiaries who are of limited English-speaking ability. The Department is currently in the process of developing a written LEP Plan. However, in the absence of a written LEP plan, the Department has attempted to fulfill its obligation to ensure meaningful access on a project-level basis, depending upon the demographic composition of the project area. Two examples of projects where the Department applied this alternative framework for providing language assistance are discussed below.

1. Improvements to the Route 6/Route 10 Interchange

On June 28, 2005, the Department held a public hearing concerning the Environmental Impact Statement (EIS) for Improvements to the Route 6/Route 10 Interchange. The Route 6/Route 10 Interchange is located in Providence; demographic data for the neighborhoods in the vicinity of the interchange reveal that more than ten percent of the population speak English less than well, and school district information indicates that the population is largely Spanish-speaking. As such, the Department prepared public hearing notices and collected comments on the EIS in both English and Spanish.

Thereafter, the Department distributed a Site Specific Fact Sheet concerning contamination discovered within the Magnolia Street Bridge area of the Interchange Reconstruction Project.

2. High-Intensity Activated CrossWalk (HAWK) Pedestrian Signal Installation

The Department has begun installing HAWK pedestrian signals in Providence to help pedestrians safely cross urban streets. Initial installation took place on Elmwood Avenue in Providence; demographic data for the Elmwood Avenue neighborhoods in the vicinity of the HAWK signal installations indicates that high percentages of the population speak Spanish, Cambodian and Laotian. Accordingly, the Department prepared its User Guide in English, Spanish, Cambodian and Laotian.

The written LEP Plan will adopt and formalize the Department's historical approach of ensuring meaningful access on a project-level basis by (1) documenting past practice in written plan format, (2) modifying RIDOT's GIS database to include demographic data as a project-level overlay, and (3) providing training on the use of the new GIS database with demographic LEP data as a project-level overlay.

As a precursor to drafting its LEP Plan, RIDOT has developed a demographic profile of the statewide population by primary language spoken. The most prominent non-English languages spoken in Rhode Island – defined as those languages spoken at home by 1000 people or more – are Spanish/Spanish Creole, French, French Creole, Italian, Portuguese/Portuguese Creole, German, Greek, Russian, Polish, Armenian, other Indic languages, Chinese, Korean, Mon-Khmer/Cambodian, Laotian, Tagalog, Arabic and African languages.⁸ However, the most

⁸ American Community Survey 2005-2009 5-Year Estimates.

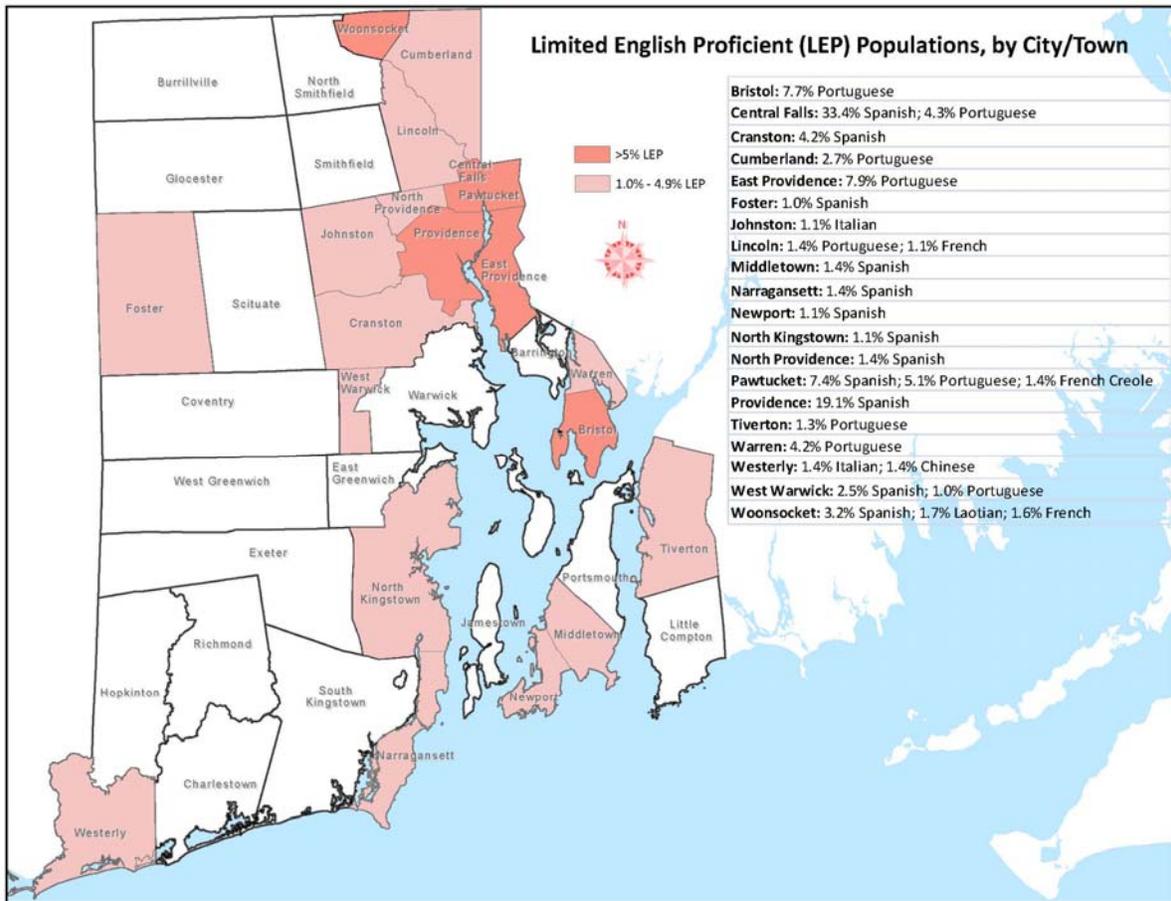
prominent non-English languages spoken by Rhode Island’s LEP population – defined as those individuals who speak English less than “very well” – are a subset of that group, as shown in Table 1.

Table 1
Most Prominent Non-English Languages Spoken by Rhode Island’s LEP Population

Non-English Language Spoken	Estimate of population that speaks English < “very well”	Approximate percentage of total population
Spanish or Spanish Creole	49,965	5%
Portuguese or Portuguese Creole	14,305	1.4%
French (incl. Patois, Cajun)	2,621	.3%
Chinese	2,387	.2%
Italian	2,347	.2%
French Creole	1,942	.2%
on-Khmer, Cambodian	1,923	.2%
Laotian	1,624	.2%
African languages	1,313	.1%

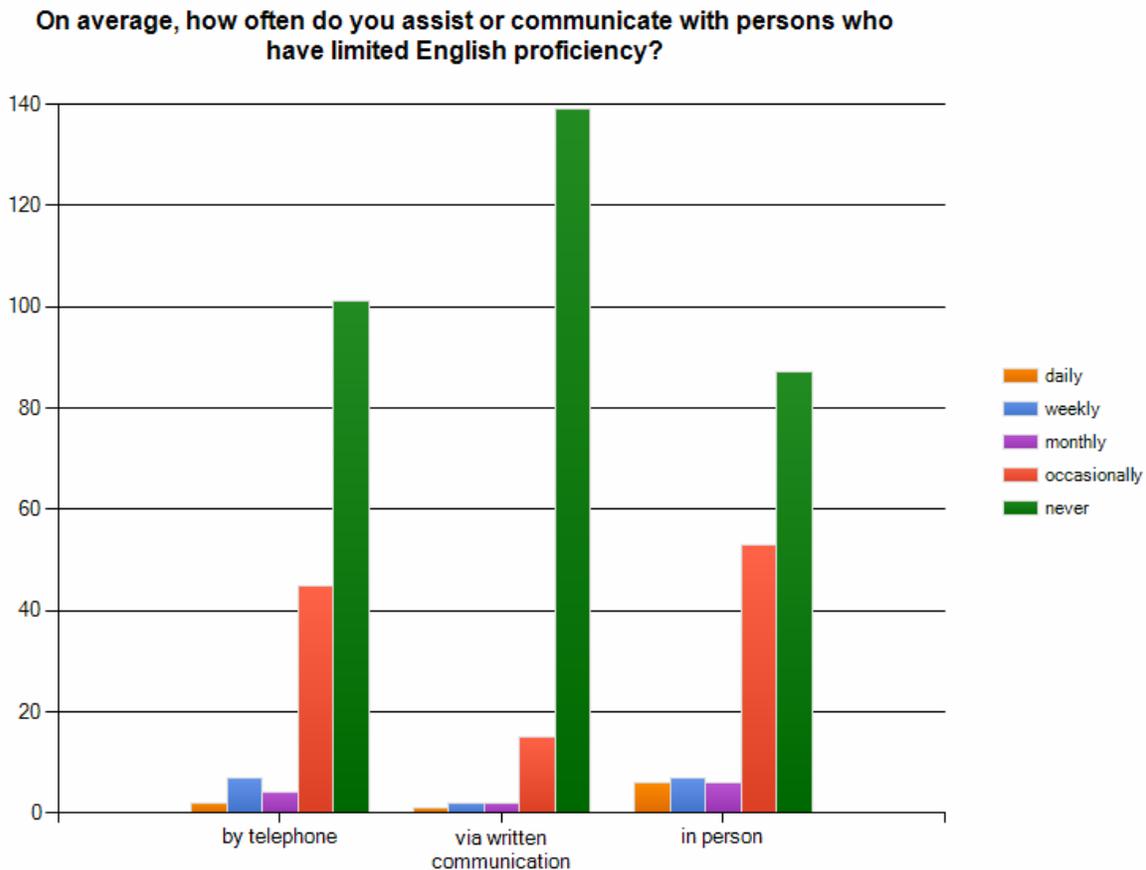
Source: *American Community Survey 2005-2009 5-Year Estimates*

The figure below depicts geographic concentrations of Rhode Island’s LEP communities, where over one-percent of a municipality’s population is an LEP population.



Graphic provided courtesy of the Rhode Island Public Transit Authority.

The Department also recently surveyed employees to determine (1) how often they interact with persons who speak English with limited proficiency (understand English "not well" or "not at all"), and (2) what non-English language(s) RIDOT employees are encountering during the course of delivering its programs, services and activities. Survey results⁹ indicate that while more than half of the survey participants never assist or communicate with LEP persons, the most commonly encountered non-English language groups are Spanish and Portuguese.



RIDOT is still in the process of assessing the nature and importance of its programs, services and activities, as well as the resources available to RIDOT and the most cost-effective means of delivering accurate language services.

L. Title VI Implementation Plan

RIDOT began implementing a renewed Title VI/Nondiscrimination Program 11 months ago, when the Department designated a Title VI Coordinator with full-time responsibility for initiating and monitoring RIDOT's Title VI activities. Among the Title VI Coordinator's highest

⁹ Survey participation was optional; 159 employees responded.

priorities for 2011 was to meet with the Title VI liaisons working in RIDOT's Federal program areas and to establish a baseline of RIDOT's functioning with respect to its Title VI/Nondiscrimination obligations.

Having completed a baseline review of RIDOT's Federal program areas, the Department's Title VI Coordinator intends to conduct a process review of the Planning program in 2012. Additionally, the Title VI Coordinator intends to begin monitoring sub-recipients by (1) continuing sub-recipient training on Title VI/Nondiscrimination obligations; (2) identifying all current sub-recipients and their Title VI designees; and (3) establishing a schedule for compliance reviews. Moreover, the Title VI Coordinator aims to provide more effective linkages between RIDOT's Public Participation Rules and Title VI/Environmental Justice, as well as to complete the LEP four-factor analysis and language implementation plan.

M. External Communication

In compliance with 23 C.F.R. § 200.9(b)(12), the Department has developed information about RIDOT's Title VI/Nondiscrimination Program for dissemination the general public. Specifically, RIDOT has created a webpage that informs the public about the Office of Civil Rights and its major programs, including Title VI/Nondiscrimination. Moreover, the Office of Civil Rights has also created an informational brochure to educate the public about Title VI and related nondiscrimination authorities. (A copy of RIDOT's Title VI brochure is attached as Appendix E.) Lastly, the Department has begun to include a Title VI Statement as a document footer on documents such as its Physical Alteration Permit Application instructions and Outdoor Advertising Permit Renewal Application.

N. Reporting

RIDOT will meet its reporting obligations under 23 C.F.R. § 200.9(b) by:

- Preparing an annual accomplishment report in December of each year;
- Submitting an annual Title VI/Nondiscrimination Plan by October 1 of each year;
- Providing other reports and documents as requested; and
- Meetings with the Regional Civil Rights Officer once or twice per quarter, or as requested.

A

Appendix A: RIDOT Policy on Title VI/Nondiscrimination



RIDOT POLICY

DATE: June 3, 2011

REFERENCE: Title VI/Nondiscrimination

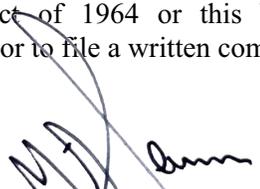
It is the policy of the Rhode Island Department of Transportation (the Department) to comply fully with both Title VI of the Civil Rights Act of 1964 and the Department's Title VI/Nondiscrimination Program Assurances. To that end the Department certifies that no person in the United States shall, on the grounds of race, color, sex, national origin, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of the Department's programs or activities, whether or not such programs and activities are federally-assisted.

Specifically, the Department will not, on the basis of race, color, sex, national origin, age, or disability:

- deny any service, financial aid, or other benefit to a beneficiary of the Department's programs;
- provide any service, financial aid, or benefit that is different—in quality, quantity, or manner—from that provided to other beneficiaries under Departmental programs;
- subject a person to segregation or separate treatment in any matter related to receipt of any service, financial aid, or other benefit under its programs;
- treat a person differently from others in determining whether the person is eligible for a service, financial aid, or other benefit under a departmental program;
- restrict a person in the enjoyment of any advantage or privilege enjoyed by others receiving services, financial aid, or other benefits of its programs;
- deny a person the opportunity to participate in advisory or planning councils that are an integral part of its programs;
- discriminate in any activities related to highway, facility, or infrastructure built or repaired with federal funds;
- discriminate in any employment resulting in a program which has a primary purpose of providing employment; or
- discriminate in the selection and retention of contractors and consultants.

Furthermore, the Department will not administer its programs in a manner that, directly or by contract, defeats or substantially impairs its goal of effective nondiscrimination. Rather, the Department will identify and address the effects of its programs, policies and activities on minority and low-income populations, as well as provide meaningful access to benefits, information, and services to beneficiaries who are of limited English-speaking ability.

Any person with questions or seeking additional information about the Department's non-discrimination obligations should contact Melissa A. Long, Esq., Title VI Coordinator, at 2 Capitol Hill, Room 109, Providence, Rhode Island 02903; (401) 222-3260 extension 4411; or mlong@dot.ri.gov. Similarly, any person who believes that the Department or any of its sub-recipients has violated Title VI of the Civil Rights Act of 1964 or this Nondiscrimination Policy should contact the Department's Title VI Coordinator to file a written complaint.



Michael P. Lewis, Director
Rhode Island Department of Transportation

B

Appendix B: Title VI/Nondiscrimination Assurance

Rhode Island Department of Transportation Title VI/Nondiscrimination Program Assurance

The State of Rhode Island and Providence Plantations, acting through its Department of Transportation (the Department), agrees that as a condition to receiving any federal financial assistance from the U.S. Department of Transportation, the Department will comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d - 2000d-4 (the Act), 49 C.F.R. Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (the Regulations), and other pertinent anti-discrimination directives that form the basis of the Department’s Title VI/Nondiscrimination Program, including 23 U.S.C. § 109(h); 23 U.S.C. § 324; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601 – 3619; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §§ 4601 – 4655; the Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 – 6107; Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 – 12165; 49 U.S.C. § 5332; Executive Order No. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; and Executive Order No. 13166, Improving Access to Services for Persons with Limited English Proficiency.

In accordance with the Act, Regulations, and the Title VI/Nondiscrimination Program, no person in the United States shall, on the grounds of race, color, sex, national origin, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Department receives federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the National Highway Traffic Safety Administration (NHTSA). Moreover, the Department acknowledges that its nondiscrimination obligations extend to all programs and activities of the Department, whether or not such programs and activities are federally-assisted. The Department HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance (the Assurance) is required by subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general Assurance, the Department agrees as follows with respect to its Federal Aid Highway Program:

1. Each “program” and each “facility”, as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be conducted (with regard to a “program”) or operated (with regard to a “facility”) in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. The Department shall insert the following notification in all solicitations for bids for work or material subject to the Regulations:

The Rhode Island Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d - 2000d-4 and 49 C.F.R. Part 21, Nondiscrimination in Federally-Assisted Programs of the Department

Rhode Island Department of Transportation
Title VI/Nondiscrimination Program Assurance

of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in 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, sex, national origin, age, or disability in consideration for an award.

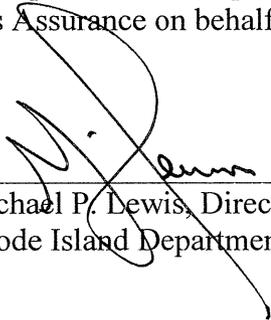
The Department shall also include an adapted form of the above notification in all proposals for negotiated agreements.

3. The Department shall insert the clauses of Appendix A of this Assurance in every contract subject to the Act and the Regulations.
4. The Department shall insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. Where the Department receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
6. Where the Department receives federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the Assurance shall extend to rights to space on, over or under such property.
7. The Department shall include the appropriate nondiscrimination covenants and clauses set forth in Appendix C of this Assurance, as covenants running with the land where appropriate, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Department with other parties:
 - (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and
 - (b) for the construction or use of, or access to space on, over or under real property acquired, or improved under the Federal Aid Highway Program.
8. This Assurance obligates the Department for the period during which federal financial assistance is extended to its programs, 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 Department 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

Rhode Island Department of Transportation
Title VI/Nondiscrimination Program Assurance

- (b) the period during which the Department retains ownership or possession of the property.
9. The Department shall provide for such methods of administration for its federally-assisted programs as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such programs will comply with all requirements imposed or pursuant to the Act, the Regulations and this Assurance.
10. The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this Assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Rhode Island Department of Transportation under federally-assisted programs of the U.S. Department of Transportation and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the federally-assisted programs of the U.S. Department of Transportation. The person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Rhode Island Department of Transportation.



Michael P. Lewis, Director
Rhode Island Department of Transportation

5/15/11

Date

During the performance of this Contract, the contractor, for itself, its assignees and successors in interest (the Contractor) agrees as follows:

- (1) **Compliance with Regulations:** The Contractor shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Rhode Island Department of Transportation (the Department), 49 C.F.R. Part 21, as they may be amended from time to time (the Regulations), and which are herein incorporated by reference and made a part of this Contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, national origin, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, age, or disability.
- (4) **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Department, or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the Contractor under the Contract until the Contractor complies, and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.

- (6) **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The Contractor shall take such action with respect to any subcontract or procurement as the Department or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the Department to enter into such litigation to protect the interests of the Department and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Rhode Island Department of Transportation
Title VI Assurance

Appendix B

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

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that the State of Rhode Island, acting through its Department of Transportation (the Department) will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23 of the United States Code, the regulations for the Federal Highway Administration, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to 49 C.F.R. Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d – 2000d-4, does hereby remise, release, quitclaim and convey unto the Department all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the State of Rhode Island, acting through its Department of Transportation (the Department) 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 involving the provision of similar services or benefits and shall be binding on the Department, its successors and assigns.

The Department, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that:

- (1) no person shall, on the grounds of race, color, sex, national origin, age, or disability, 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;
- (2) the Department shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to 49 C.F.R. Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended; and

Rhode Island Department of Transportation
Title VI Assurance

Appendix B

- (3) in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction.¹

¹ Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

Rhode Island Department of Transportation
Title VI Assurance

Appendix C

A. Where the State of Rhode Island, through its Department of Transportation (the Department), subsequently transfers or grants an interest in real property acquired or improved under the Federal Aid Highway Program, the Department shall include the following nondiscrimination covenants in all deeds, licenses, leases, permits, or similar instruments entered into by the Department, pursuant to the provisions of Assurance No. 7(a).

The **[Grantee, Licensee, Lessee, Permittee, etc., as appropriate]** for himself, his 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this **[deed, license, lease, permit, etc.]** for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the **[Grantee, Licensee, Lessee, Permittee, etc.]** shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 C.F.R. Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (the Regulations), and as the Regulations may be amended.

B. Where the Department authorizes the construction or use of, or access to space on, over or under real property acquired or improved under the Federal Aid Highway Program, the Department shall include the following nondiscrimination covenant in all deeds, licenses, leases, permits, or similar instruments entered into by the Department, pursuant to the provisions of Assurance No. 7(b).

The **[Grantee, Licensee, Lessee, Permittee, etc., as appropriate]** for himself, his 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 shall, on the grounds of race, color, sex, national origin, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities;
- (2) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person shall, on the grounds of race, color, sex, national origin, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination; and
- (3) the **[Grantee, Licensee, Lessee, Permittee, etc., as appropriate]** shall use the premises in compliance with all other requirements imposed by or pursuant to 49 C.F.R. Part 21, Nondiscrimination in Federally-assisted Programs of the Department

Rhode Island Department of Transportation
Title VI Assurance

Appendix C

of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (the Regulations), and as the Regulations may be amended.

C. The Department shall include the following reverter clause and related language only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

[Reverter Clause for Licenses, Leases, Permits, etc.]

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

[Reverter Clause for Deeds]

That in the event of breach of any of the above nondiscrimination covenants, the Department shall have the right to re-enter said land and the facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of the Department and its assigns.

C

Appendix C: Title VI Complaint Procedures

Rhode Island Department of Transportation Procedures for the Processing and Disposition of Discrimination Complaints

Purpose and Applicability

The purpose of this document is to establish a procedure for the processing and disposition of discrimination complaints filed directly with the Rhode Island Department of Transportation (RIDOT) under Title VI of the Civil Rights Act of 1964 (Title VI) and related nondiscrimination authorities, including the Americans with Disabilities Act (ADA).

The procedures describe an administrative process aimed at identifying and eliminating discrimination in federally-funded programs and activities. The procedures do not provide an avenue for relief for complainants seeking individual remedies, including punitive damages or compensatory remuneration, nor prohibit complainants from filing complaints with other state or federal agencies, nor deny complainants the right to seek private counsel to address acts of alleged discrimination.

The procedures described in this document apply to RIDOT, its sub-recipients, contractors, and subcontractors in their administration of federally-funded programs and activities.

Definitions

Complainant – a person who files a complaint with the Rhode Island Department of Transportation.

Complaint – written or electronic statement concerning an allegation of discrimination that contains a request for the receiving office to take action. Where a complaint is filed by a person with a disability, the term complaint encompasses alternative formats to accommodate the disabled complainant.

Discrimination – that act or inaction, whether intentional or unintentional, through which a person in the United States, solely because of race, color, national origin, gender, age or disability, has been otherwise subjected to unequal treatment or disparate impact under any program or activity receiving Federal assistance.

Operating Administrations – agencies of the U.S. Department of Transportation, including the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA) and the Federal Rail Administration (FRA), that fund transportation programs or activities.

Respondent – the person, agency, institution, or organization alleged to have engaged in discrimination.

Filing of Complaints

A. Persons eligible to file.

Any person who believes that RIDOT, a RIDOT sub-recipient or a RIDOT contractor has engaged in discrimination, against that person or a specific class of persons, may submit a written complaint to:

Rhode Island Department of Transportation
2 Capitol Hill, Room 109
Providence, RI 02903
ATTN: Title VI Coordinator and/or ADA Coordinator
Fax: (401) 222-6168

B. Time Limits for Filing.

Pursuant to 49 C.F.R. § 21.11(b), any person who believes that RIDOT, a RIDOT sub-recipient or a RIDOT contractor has engaged in discrimination must file a complaint within 180 days after the last date of the alleged discrimination. Complainants who file a complaint beyond 180 days of the last date of the alleged discrimination must request a waiver from the Office of Civil Rights at the Operating Administration.

C. Form of Complaints.

A complainant may complete and submit a signed Title VI Complaint Form provided by the Rhode Island Department of Transportation.¹ Alternatively, a complainant may submit correspondence² that:

1. explains the alleged discrimination or violation;
2. provides contact information for the complainant (if the complaint is filed electronically, RIDOT should request the sender's full name, telephone number and mailing address, if not provided);
3. identifies the person or group injured by the alleged discrimination, as well as the person, agency, organization, or institution alleged to have discriminated;
4. states the basis for the alleged discrimination (e.g., race, sex, age, disability, etc.); and
5. provides sufficient information to understand the facts that led the complainant to believe that discrimination has occurred, as well as the date of the alleged discrimination.

Any complainant requiring technical assistance with filing a complaint may contact RIDOT's Title VI/ADA Coordinator at (401) 222-3260.

Processing Complaints

The Operating Administrations each have an Office of Civil Rights that is responsible for all phases of the Title VI complaint process, including accepting, rejecting and investigating complaints; making and issuing compliance findings; and obtaining voluntary compliance.

¹ A copy of RIDOT's Title VI Complaint Form is included as Attachment 1.

² RIDOT will receive complaints in alternative formats from persons with disabilities.

A. Responsibility of RIDOT.

RIDOT will process discrimination complaints filed directly with RIDOT according to the procedure described below.

1. Complaints against RIDOT

Where RIDOT receives a complaint alleging that RIDOT has discriminated against a complainant in its programs or activities on the basis of race, color, national origin, gender, age or disability, RIDOT shall forward the complaint to the Office of Civil Rights at the appropriate Operating Administration.

- a. Where RIDOT's Title VI Coordinator receives a complaint alleging that RIDOT has engaged in employment discrimination against a complainant, RIDOT's Title VI Coordinator will refer such complaints to RIDOT's Internal Equal Employment Opportunity (EEO) Office for investigation and resolution pursuant to RIDOT's Internal EEO Complaint Procedures.

2. Complaints against RIDOT sub-recipients or contractors

Where RIDOT receives a complaint alleging that a RIDOT sub-recipient or contractor has discriminated against a complainant in its programs or activities on the basis of race, color, national origin, gender, age or disability, RIDOT shall review, log and forward the complaint to the appropriate Operating Administration within 60 days of receipt.

- a. For discrimination complaints regarding the Federal-aid highway program, RIDOT shall review and log the complaint, conduct a preliminary investigation of the allegations, and forward the complaint and preliminary investigation summary to the Rhode Island Division Office of FHWA for resolution and issuance of the final agency decision.
- b. For discrimination complaints regarding FTA sponsored grant programs, RIDOT shall review, log and forward the complaint to the FTA Office of Civil Rights for resolution and issuance of the final agency decision. RIDOT may also conduct a preliminary investigation of the allegations.
- c. For discrimination complaints regarding FRA sponsored grant programs, RIDOT shall review, log and forward the complaint to the FRA Office of Civil Rights for resolution and issuance of the final agency decision. RIDOT may also conduct a preliminary investigation of the allegations.
- d. Where RIDOT receives a complaint alleging that a sub-recipient or contractor has engaged in employment discrimination against a complainant, RIDOT will refer such complaints to the U.S. Equal Employment Opportunity Commission or Rhode Island Commission for Human Rights.
- e. Where RIDOT's Title VI Coordinator receives a complaint alleging that a RIDOT contractor has violated one or more nondiscrimination provisions of Form FHWA-1273, RIDOT's Title VI Coordinator will refer such complaints to RIDOT's

Contractor Compliance Office for investigation and resolution pursuant to RIDOT's Contractor Compliance Manual.

B. Receipt, Review and Handling of Complaint.

Upon receipt of correspondence concerning alleged discrimination, RIDOT's Title VI Coordinator will proceed according to the following process:

1. The Title VI Coordinator will date stamp and review the correspondence to confirm that it is a complaint within the meaning of these procedures.³
2. The Title VI Coordinator will record the complaint in RIDOT's Title VI Log⁴ and assess whether (a) additional information is required, (b) the complaint is timely filed, and (c) jurisdiction exists over the subject matter of the complaint.
3. The Title VI Coordinator will handle all complaints in a confidential manner and will not disclose complainant's identity to a respondent unless (a) disclosure is necessary in order to conduct a preliminary investigation, and (b) complainant has submitted a Complainant Consent/Release Form⁵ authorizing disclosure.

C. Acknowledge Receipt of Complaint.

After reviewing and recording the complaint, RIDOT's Title VI Coordinator will acknowledge receipt of complainant's correspondence and notify complainant of the right to file the complaint directly with the Office of Civil Rights at the Operating Administration.

1. Requests for additional information
Where RIDOT requires additional information to identify more precisely the nature of the discrimination complaint or the nexus to RIDOT's federally-funded programs and activities, RIDOT will request that the complainant provide such information within 15 days of the date of RIDOT correspondence acknowledging receipt of the complaint.
2. Complainant Consent/Release Form
RIDOT will provide a Complainant Consent/Release Form and request that complainant complete and return the form within 15 days of the date of RIDOT correspondence acknowledging receipt of the complaint.
3. Right to request a waiver of timeliness requirement
Where a complainant files a complaint beyond 180 days of the last date of the alleged discrimination, RIDOT will notify the complainant of the right to request a waiver from the Office of Civil Rights at the Operating Administration.

³ The following are not complaints within the meaning of these procedures: anonymous complaints, requests for advice or information, courtesy copies of letters or complaints filed with other agencies, and oral assertions. However, RIDOT will receive complaints in alternative formats from persons with disabilities.

⁴ A sample copy of RIDOT's Title VI Log is included as Attachment 2.

⁵ A copy of the Complainant Consent/Release Form is included as Attachment 3.

4. Referral to appropriate agency

- a. Where a complaint alleges that RIDOT has discriminated against a complainant in RIDOT's programs or activities on the basis of race, color, national origin, gender, age or disability, RIDOT shall forward the complaint to the Office of Civil Rights at the appropriate Operating Administration and notify complainant of such referral.
- b. Where the allegations in a complaint do not involve discrimination relating to RIDOT's federally-funded programs or activities, RIDOT will refer the complaint to the appropriate agency and notify complainant of such referral.
- c. Where RIDOT receives a complaint alleging that a sub-recipient or contractor has engaged in employment discrimination against a complainant, RIDOT will refer the complaint to the U.S. Equal Employment Opportunity Commission or Rhode Island Commission for Human Rights.

D. Assess Jurisdiction and Identify Issues.

Upon receipt of a complaint, Complainant Consent/Release Form and, if necessary, any additional information needed to identify more precisely the nature of the alleged discrimination or the nexus to RIDOT's federally-funded programs and activities, RIDOT will assess whether it has jurisdiction over the subject matter of the complaint. RIDOT will also identify the specific practice, procedure, policy, or service involved in the alleged discrimination.

1. Referral to appropriate agency

Where a complaint alleges matters that are outside of RIDOT's jurisdiction, RIDOT will make a good-faith effort to refer the complaint to the appropriate agency and notify complainant accordingly.

E. Recommend Dismissal.

RIDOT will contact the Office of Civil Rights for the Operating Administration and recommend dismissal in the following circumstances:

1. The complainant withdraws the complaint;
2. The complainant fails to respond to repeated requests for information needed to process the complaint, or otherwise fails to cooperate in the investigation;
3. The complaint is so weak, insubstantial, or lacking in detail that it is without merit, or so replete with incoherent or unreadable statements that RIDOT cannot consider the complaint, on the whole, to be grounded in fact; or
4. RIDOT cannot locate the complainant after making reasonable attempts to contact him or her.

Preliminary Investigations

The Operating Administrations have sole authority for accepting Title VI complaints. Nevertheless, RIDOT may conduct a preliminary investigation of discrimination complaints filed directly with RIDOT as described below.

A. Preliminary Investigation Plan.

After assessing jurisdiction and identifying the specific practice, procedure, policy, or service involved in the alleged discrimination complaint, RIDOT's Title VI Coordinator may assign the preliminary investigation to an investigator, who will prepare a Preliminary Investigation Plan. The Preliminary Investigation Plan highlights the issues raised in the complaint and serves as a guide for completing the preliminary investigation. The Preliminary Investigation Plan includes the following elements:

1. Complainant name and contact information.
2. Respondent name and contact information.
3. Date filed.
4. Date of last discrimination.
5. Complaint allegations.
6. Potential violations (applicable laws).
7. Basis/bases.
8. Background/Information on file.
9. Information needed.
10. Sources of information needed.

B. Notifications and Requests for Information.

RIDOT will notify the complainant and respondent that RIDOT is investigating matters raised in the complaint. The notification letter will state the following:

1. The basis/bases for the complaint.
2. Allegations over which RIDOT has jurisdiction.
3. RIDOT's jurisdiction over the respondent.
4. An admonition that respondent shall not intimidate, threaten, coerce, retaliate, or discriminate against anyone involved in the investigation of the complaint, including the complainant, witnesses and sources of information regarding matters alleged or related to the complaint.
5. A request that the respondent submit a position statement to RIDOT responding to the allegations within 15 days of the date of RIDOT's notification letter.
6. A request for additional information relevant to matters raised in the complaint, if appropriate, to be submitted to RIDOT within 15 days of the date of RIDOT's notification letter.

C. Interviews, Data Collection and On-site Visits.

After preparing a Preliminary Investigation Plan, RIDOT will gather information needed to complete the preliminary investigation by conducting interviews and on-site visits, if necessary, and collecting relevant data, if available.

D. Preliminary Investigation Summary.

No later than 60 days after receiving a complaint, RIDOT will transmit the complaint and preliminary investigation summary to the Rhode Island Division Office of FHWA. The Preliminary Investigation Summary will discuss the issues raised in the complaint, describe the information obtained during the preliminary investigation, and explain how RIDOT obtained and evaluated that information. The Preliminary Investigation Summary will also analyze each allegation and provide RIDOT’s recommendations.

The Preliminary Investigation Summary shall follow the following format:

1. Introduction
2. Allegations
3. Applicable laws/regulations
4. Bases
5. Evaluation/Investigation: Methodology
6. Analysis of each allegation
7. Recommendations

Nondiscrimination Authorities

Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d – 2000d-4.

42 U.S.C. § 2000d states: “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601 – 3619 (Fair Housing Act).

42 U.S.C. § 3601 declares that “[i]t is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.”

Federal-Aid Highway Act of 1973, 23 U.S.C. §§ 140, 324.

23 U.S.C. § 324 provides:

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established . . . under title VI of the Civil Rights Act of 1964.

Section 504 of the Rehabilitation Act of 1973.

29 U.S.C. § 794 provides: “No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

The Age Discrimination Act of 1975, 29 U.S.C. §§ 6101 – 6107.

42 U.S.C. § 6102 states, in relevant part, that “no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.”

The Civil Rights Restoration Act of 1987, 100 Pub. L. No. 100-259, 102 Stat. 28 (1988).

Enacted in response to Grove City College v. Bell, 465 U.S. 555 (1984), the Civil Rights Restoration Act restores the broad scope of coverage of various nondiscrimination statutes and clarifies that statutory prohibitions against discrimination extend to all programs and activities of an entity receiving Federal financial assistance, regardless of whether those programs and activities are federally-funded.

Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 – 12134.

42 U.S.C. § 12132 provides, in relevant part, that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

Exec. Order No. 12,898, 59 Fed. Reg. 7629 (1994), *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.*

Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (2000), *Improving Access to Services for Persons with Limited English Proficiency.*

23 C.F.R. Part 200: Title VI Program and Related Statutes—Implementation and Review Procedures.

49 C.F.R. Part 21: Nondiscrimination in Federally-assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964.

External Civil Rights Programs Division, U.S. Dep’t of Transp., Order No. 100.18, External Civil Rights Complaint Processing Manual (2007).

Federal Transit Administration, U.S. Dep’t of Transp., Circular No. 4702.1A, Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients (2007).

R.I. Governor’s Commission on Disabilities Rules and Regulations

Chapter D Grievance Procedures Regarding Complaints Alleging Discrimination by a State Agency on the Basis of Disability

Federal Highway Administration, U.S. Dep’t of Transp., External Complaint Processing Procedures (20xx).

Attachment 1



TITLE VI COMPLAINT FORM

Complainant:

Name: _____

Address: _____

_____ Zip _____

Telephone No.: (Home) _____ (Cell) _____ (Work) _____

Person(s) discriminated against, if different from above:

Name: _____

Address: _____

_____ Zip _____

Telephone No.: (Home) _____ (Cell) _____ (Work) _____

Please describe your relationship to this person(s).

Agency, institution, or organization that discriminated:

Name: _____

Any individual if known: _____

Address: _____

_____ Zip _____

Telephone No.: _____

Does your complaint concern discrimination in the delivery of services or in other discriminatory actions of the agency, institution, or organization? If so, please indicate below the base(s) on which you believe these discriminatory actions were taken:

___ Race/Color: _____

___ National Origin: _____

___ Sex: _____

___ Age: _____

___ Disability: _____

If you have an attorney representing you concerning the matters raised in this complaint, please provide the following:

Name: _____

Address: _____

_____ Zip _____

Telephone No.: _____

To the best of your recollection, on what date(s) did the alleged discrimination take place?

Earliest date of discrimination: _____

Most recent date of discrimination: _____

Please explain as clearly as possible what happened, why you believe it happened, and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently from you. (Please use additional sheets if necessary.)

If you believe that you have been retaliated against for complaining about discrimination or cooperating in an investigation of alleged discrimination, please explain the circumstances below. Be sure to explain what actions you took which you believe were the basis for the alleged retaliation. (Please use additional sheets if necessary.)

Please list below any persons (witnesses, fellow employees, supervisors, or others), if known, whom RIDOT may contact for additional information to support or clarify your complaint. (Please be sure to provide contact information, and use additional sheets if necessary.)

Please provide any other information that you think is relevant to your discrimination complaint.

What remedy are you seeking for the alleged discrimination?

Please sign and date the complaint below. (Please note that RIDOT cannot process the complaint without a signature.)

SIGNATURE

DATE

Attachment 2

Title VI Complaint Log
2011

No.	Complainant	Race	Color	National Origin	Sex	Age	Disability	Nature of Complaint	Date Filed	Recipient	Investigation Completion Date	Disposition	Disposition Date
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													

Attachment 3



COMPLAINANT CONSENT/RELEASE FORM

Name: _____

Address: _____

Complaint Number(s): _____

Please read the information below, check the appropriate box, and sign this form.

I am aware that under Section 9-1-28.1 of the Rhode Island General Laws, I have a right to privacy. As a complainant, I understand that in the course of an investigation it may become necessary for the Rhode Island Department of Transportation (RIDOT) to reveal my identity to persons at the organization(s) under investigation, or to refer a copy of my complaint to another investigatory agency. I am also aware of RIDOT's obligations to honor requests under the Access to Public Records Act. I understand that it may be necessary for RIDOT to disclose information, including personally identifying details that RIDOT has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by federal regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes.

CONSENT/RELEASE

CONSENT GIVEN – I have read and understand the above information and authorize RIDOT to reveal my identity to persons at the organization(s) under investigation, or to refer my complaint to another investigatory agency. I hereby authorize the Rhode Island Department of Transportation (RIDOT) to receive material and information about me pertinent to the investigation of my complaint. This release includes, but is not limited to, personal records and medical records. I understand that the material and information will be used for authorized civil rights compliance activities. I further understand that I am not required to authorize this release, and do so voluntarily.

CONSENT DENIED – I have read and understand the above information and do not want RIDOT to reveal my identity to persons at the organization(s) under investigation, or to review, receive copies of, or discuss material and information about me pertinent to the investigation of my complaint. I understand that this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

SIGNATURE

DATE

D

Appendix D: RIDOT Rules and Regulations Regarding Public Participation for Federal Aid Highway Projects

RHODE ISLAND DEPARTMENT OF TRANSPORTATION
RULES AND REGULATIONS REGARDING PUBLIC PARTICIPATION
FOR FEDERAL AID HIGHWAY PROJECTS

SEPTEMBER, 1991

TABLE OF CONTENTS

			<u>PAGE</u>
SECTION	1.00	- INTRODUCTION	1
SECTION	2.00	- APPLICABILITY	1
SECTION	3.00	- DEFINITIONS	1
	3.01	- Annual Program of Projects	1
	3.02	- Categorical Exclusion (CE)	1
	3.03	- Environmental Assessment (EA)	1
	3.04	- Environmental Impact Statement (EIS)	2
	3.05	- FHWA	2
	3.06	- Jurisdiction by Law	2
	3.07	- NEPA	2
	3.08	- PAC	2
	3.09	- RIDOT	2
SECTION	4.00	- PROJECT CLASSIFICATION	2
	4.01	- Classes Defined	2
	4.02	- Designation of Classification	3
SECTION	5.00	- CLASS I PROJECT - ENVIRONMENTAL IMPACT STATEMENT (EIS)	3
	5.01	- Early Coordination and Scoping	3
	5.02	- Project Advisory Committees	3
	5.03	- Informational Workshops/Meetings	4
	5.04	- Completion and Circulation of Draft EIS	5
	5.05	- Notice of Availability of Draft EIS	6
	5.06	- Public Hearing Requirement	6
	5.07	- Public Hearing Notice	6
	5.08	- Public Hearing Procedures	6
	5.09	- Certification to FHWA	7
	5.10	- Consideration of Public Comments	8
	5.11	- Preparation of Final EIS	8
	5.12	- Submittal of Final EIS to FHWA	8
	5.13	- Distribution of Final EIS	8
	5.14	- Record of Decision	9
	5.15	- Supplemental EIS	9
	5.16	- Re-Evaluation of EIS	9

			<u>PAGE</u>
SECTION	6.00	-	CLASS II PROJECT - CATEGORICAL
			EXCLUSION (CE) 9
	6.01	-	Projects Classified as CEs 9
	6.02	-	Documentation and Public Participation Required 9
	6.03	-	Public Hearing Requirement 10
	6.04	-	Public Hearing Notice 10
	6.05	-	Public Hearing Procedures 10
	6.06	-	Certification to FHWA 11
SECTION	7.00	-	CLASS III PROJECT - ENVIRONMENTAL
			ASSESSMENT (EA) 11
	7.01	-	Projects Classified as EAs 11
	7.02	-	Early Coordination Process/Continued Public
			Participation 11
	7.03	-	Preparation and Circulation of EA 12
	7.04	-	Public Hearing Requirement 12
	7.05	-	Public Hearing Notice 12
	7.06	-	Public Hearing Procedures 13
	7.07	-	Notice of Availability 14
	7.08	-	Submittal of EA to FHWA 14
	7.09	-	Finding of No Significant Impact (FONSI) 14
	7.10	-	Finding of Significant Impact 15
SECTION	8.00	-	APPLICATION 15
APPENDIX A		-	ACTIVITIES MEETING CRITERIA FOR
			CATEGORICAL EXCLUSIONSA-1
	A.		FHWA Approval Not NecessaryA-1
	B.		FHWA Approval NecessaryA-2

STATE OF RHODE ISLAND
RHODE ISLAND DEPARTMENT OF TRANSPORTATION
RULES AND REGULATIONS REGARDING PUBLIC PARTICIPATION
FOR FEDERAL AID HIGHWAY PROJECTS

Pursuant to Rhode Island General Law Section 24-8-1.7, the Rhode Island Department of Transportation hereby adopts the within rules and regulations regarding public participation in FHWA projects.

SECTION 1.00 - INTRODUCTION

Federal Highway Administration (FHWA) regulation 23 CFR 771.111(h)(1) requires each state receiving federal highway aid to enact procedures approved by the FHWA to carry out a public involvement, public hearing program to satisfy the requirements of the National Environmental Policy Act (NEPA) and regulations promulgated under NEPA by the Council on Environmental Quality.

These regulations establish minimum standards for public participation during project development for federal aid highway projects governed by NEPA.

SECTION 2.00 - APPLICABILITY

These regulations are applicable to all federal aid highway projects which are being funded in whole or in part by the Federal Highway Administration. These regulations are established to comply with the requirements of 23 CFR 771.111(h)(1) and should be read in harmony with that federal regulation.

SECTION 3.00 - DEFINITIONS

3.01 - Annual Program of Projects -- A list of federal aid highway projects which is submitted by RIDOT annually to the Federal Highway Administration (FHWA) for approval. Every project included on the list must also be included on the Transportation Improvement Program (TIP) approved by the State Planning Council. No federal aid highway project can be authorized by FHWA for funding unless it is included on the approved Annual Program of Projects.

3.02 - Categorical Exclusion (CE) -- A federal aid highway project which does not individually or cumulatively have a significant effect on the environment. Such projects are considered Class II actions by 23 CFR 771.

3.03 - Environmental Assessment (EA) -- The analysis and documentation required of a federal aid highway project to determine whether a project has a significant environmental impact where the degree of impact is initially unclear.

Projects for which an EA is being prepared are considered Class I action by 23 CFR 771.

3.04 - Environmental Impact Statement (EIS) -- The analysis and documentation required for a federal aid highway project where the project has been determined to have a significant environmental impact. Projects for which an EIS is being prepared are considered Class III actions by 23 CFR 771.

3.05 - FHWA - The Federal Highway Administration

3.06 - Jurisdiction by Law - Approval authority over any aspect of project implementation (such as permit authority) granted to an agency by state or federal law or regulation.

3.07 - NEPA - The National Environmental Policy Act

3.08 - PAC - The Project Area Committee established by RIDOT to review project plans and to advise RIDOT on the plans.

3.09 - RIDOT - The Rhode Island Department of Transportation

SECTION 4.00 - PROJECT CLASSIFICATION

4.01 - Classes Defined -- Public participation during the NEPA process varies depending upon the classification of a project for NEPA purposes. The following classification of projects is established by 23 CFR 771.115:

- | | |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Class I | An action significantly affecting the quality of the human environment and requiring the preparation of an Environmental Impact Statement (EIS). |
| Class II | An action that does not individually or cumulatively have a significant effect on the environment and does not require preparation of an Environmental Impact Statement or Environmental Assessment (EA). These are known as Categorical Exclusions (CEs). See 23 CFR 771.117. |
| Class III | An action in which the significance of its impact on the environment is not clearly established. For these projects, the preparation of an EA is required to determine if an EIS is necessary. See 23 CFR 771.119. |

4.02 - Designation of Classification - Upon selection of a project from the Annual Program of Projects, RIDOT, in consultation with FHWA, will designate a project as either Class I, II or III. (23 CFR 771.111(b)). This classification may be changed at any time during the NEPA process as appropriate by RIDOT with the concurrence of FHWA.

SECTION 5.00 -- CLASS I PROJECT - ENVIRONMENTAL IMPACT STATEMENT

A Class I project is one which requires the preparation of an EIS under NEPA because it is believed to cause a significant environmental impact.

5.01 - Early Coordination and Scoping

a. Notice of Intent to Prepare EIS -- Where an EIS is required to be prepared for a project, FHWA will publish in the Federal Register a Notice of Intent to Prepare an EIS. RIDOT shall then publish a Notice of Intent in a newspaper of general circulation within the general project area and in a local newspaper where appropriate. 23 CFR 771.123(a).

b. Scoping Meeting - After the publication of the Notice of Intent, RIDOT shall hold at least one early coordination and scoping meeting with appropriate local, State and Federal agencies and interested members of the public to identify the social, economic and environmental effects of the proposed project and to identify all reasonable measures to mitigate adverse project impacts. At the meeting (or meetings), RIDOT shall make a presentation on the project and solicit the views of officials and individuals in attendance. 23 CFR 771.123(b).

c. Cooperating Agencies. - RIDOT shall ask all State and Federal agencies with jurisdiction by law, and other agencies with special expertise to be cooperating agencies and to attend a scoping meeting. 23 CFR 771.111(d). Throughout the EIS preparation process, cooperating agencies shall be asked to attend meetings and/or to provide comments regarding various aspects of the EIS.

5.02. Project Advisory Committees

a. Formation - After the scoping meeting(s), RIDOT shall determine whether the formation of a Project Area Committee (PAC) will be helpful in obtaining public participation on a local level. Generally, a PAC will be formed at an early stage before substantial

progress is made toward preparation of the draft EIS. RIDOT may seek the advice of local officials as to appropriate PAC membership and often will include representatives of local government and the public on the PAC.

b. Function of PAC - During the course of the preparation of the EIS, RIDOT shall meet with the PAC at appropriate stages. At PAC meetings, RIDOT will keep the PAC informed of its progress and give the PAC the opportunity to review, advise and comment on all aspects of the project. RIDOT may replace inactive or disruptive PAC members at its discretion.

5.03 - Informational Workshops/Meetings

a. Workshops for the General Public - Informational workshops may be conducted by RIDOT to inform the public and provide an opportunity for an exchange of views. Informational workshops are generally held during early stages of project development. One or more workshops may be held depending upon the size of the project and the duration of the study. An informational workshop is often held immediately prior to, or concurrently with a public hearing.

Workshops are held at locations convenient to citizens affected by the project. The location and time of workshops are publicized through the most appropriate news outlets, and the announcements are sent to local officials and members of the PAC committee. Normally, workshops continue from early afternoon to early evening so as to provide maximum opportunity for citizens to attend. RIDOT personnel and its experts are present to explain the project, and to answer questions from the public. Comments offered by citizens during the workshops are given due consideration in the decision-making process. Where a public workshop is held concurrently with a public hearing, a stenographer is present to allow citizens to make statements for stenographic recordation "on the record".

b. Meetings with Specific Groups - Throughout project development, RIDOT also will often have informational meetings with parties having a particular interest in a project. These meetings are similar to informational workshops, but are structured to provide specific information and receive comments from specific groups such as Town or City Councils or other governmental agencies with a special interest in a project.

5.04 - Completion and Circulation of Draft EIS

a. Preparation of Draft EIS - During the preparation of the Draft EIS, RIDOT shall consider input received from the public, cooperating agencies, local governments and the PAC (if one has been formed).

b. Content of Draft EIS - The Draft EIS shall:

1. Evaluate all reasonable alternatives;
2. Discuss reasons why other alternatives were eliminated from detailed study;
3. Summarize studies, reviews, consultations, and coordination required by law. 23 CFR 771.123(c) .

c. Submission of Draft EIS - RIDOT shall submit the Draft EIS to FHWA for review and approval. FHWA will approve the Draft EIS for circulation by signing and dating the cover sheet. 23 CFR 771.123(e).

d. Circulation of Draft EIS - RIDOT shall print the Draft EIS in sufficient quantities to meet the demand reasonably expected from agencies, organizations and individuals. Copies shall be furnished free of charge except where RIDOT and FHWA agree that a charge, not to exceed the cost of reproduction, shall be charged or where parties requesting copies should be directed to locations where Draft EISs can be reviewed. 23 CFR 771.123(f). A copy shall be sent for public review to the local library in communities affected by the proposed project. RIDOT shall provide a copy of the Draft EIS to:

1. Public officials, interest groups, and members of the public known to have an interest in the proposed action or the Draft EIS;
2. Coordinating agencies and any other Federal, State and local government agencies expected to have jurisdiction or responsibility over, or interest or expertise in, the action;
3. Appropriate State and local agencies, including the Department of Administration/Division of Planning as the intergovernmental review contact established under Executive Order 12372; and

4. State and Federal land management entities which may be significantly affected by the proposed action or any of the alternatives. 23 CFR 771.123(g).

5.05 - Notice of Availability of Draft EIS - Concurrently, or following the transmittal of copies of the EIS pursuant to Section 5.04(d), RIDOT shall file the Draft EIS with the Environmental Protection Agency (EPA) for publication of a Notice of Availability in the Federal Register which shall establish a 45 day period for return of comments to RIDOT and FHWA. 23 CFR 771.123(i).

5.06 - Public Hearing Requirement - RIDOT shall schedule a public hearing and provide public notice of the hearing as described in Section 5.07. The hearing date shall be no earlier than 15 days after the Draft EIS has been made available for public review. 23 CFR 771.123(h).

5.07 - Public Hearing Notice

a. Newspaper Publication - RIDOT shall publish a notice of a scheduled public hearing twice in a newspaper of general circulation within the general project area and in a local newspaper where appropriate. The first such notice shall be published 15 to 30 days before the hearing date and the last such notice shall be at least 5 days before the hearing date. 23 CFR 771.123(h).

b. Mailing of Notice - The notice of a scheduled public hearing shall be mailed to appropriate news media, local public officials, and Federal and State agencies.

c. Content of Notice - Each notice of public hearing shall:

1. State the date;
2. State the time and place of the hearing;
3. Contain a brief description of the project;
and
4. Specify the availability to the public of the Draft EIS and other pertinent information for review and copying. 23 CFR 771.111(h)(iv).

5.08 - Public Hearing Procedures

a. Presentation - At the public hearing, RIDOT shall either make a formal oral presentation or make available written

material to all members of the public describing:

1. The project purpose and need;
2. The proposed project alternatives;
3. Potential environmental, social and economic impacts; and
4. Right-of-Way procedures and programs including relocation assistance to be provided; and other necessary information. 23 CFR 771.111(h)(2)(v).

b. Availability of Reports - RIDOT shall also announce or advise the public during its presentation or in the written material that at any time after the hearing, the Draft EIS and all information developed in reference to the proposed project will be available upon request for public inspection and copying. 23 CFR 771.123(h).

c. Opportunity for Public Comment - At the hearing, the public shall be given the opportunity to provide comments written or oral, "on the record" on the project.

RIDOT shall arrange for a public stenographer to be present at the hearing to officially record oral comments by the public. Written statements submitted to the RIDOT at the hearing or within thirty (30) days of the hearing shall be treated as part of the official hearing record. The hearing transcript shall contain copies of each written statement and refer to the exhibits used or filed in connection with the public hearing.

d. Relationship to Public Workshops - Generally, RIDOT will hold a workshop immediately prior to, or concurrently with, the public hearing to permit RIDOT representatives to respond informally to questions from the public and to provide a meaningful exchange of information and opinions.

5.09 - Certification to FHWA

After RIDOT has conducted a public hearing on a Draft EIS and the 30 day public comment period has expired, it shall submit to FHWA:

- a. A transcript of the public hearing;
- b. A certification that a hearing was held; and
- c. Copies of all written statements from the public, both submitted at the public hearing or during the 30 day

comment period on the Draft EIS. 23 CFR 771.111(h)(2)(vi).

5.10 - Consideration of Public Comments - RIDOT shall consider the public comments received and those included in the hearing transcript and prepare a Final EIS.

5.11 - Preparation of Final EIS - The Final EIS shall:

- a. Identify a specific preferred alternative;
- b. Discuss substantive comments received on the DEIS;
- c. Evaluate all reasonable alternatives considered;
- d. Summarize citizen involvement;
- e. Include a description of the procedures to be followed to assure that all environmental mitigation measures are to be implemented; and
- f. Document compliance with applicable environmental laws and Executive Orders, or provide reasonable assurance that their requirements can be met. 23 CFR 771.125(a)(1).

5.12 - Submittal of Final EIS to FHWA - The Final EIS shall be submitted to FHWA for approval. FHWA will indicate approval that all NEPA requirements have been met by signing and dating the cover page. 23 CFR 771.125(c).

5.13 - Distribution of Final EIS

- a. Publication - RIDOT shall print the Final EIS in sufficient quantities to meet the demand reasonably expected from agencies, organizations and individuals. Copies normally shall be furnished free of charge except where RIDOT and FHWA agree that a charge, not to exceed the cost of reproduction, shall be charged, or where parties requesting copies should be directed to locations where Draft EISs can be reviewed. 23 CFR 771.125(f).
- b. Notice of Availability and Distribution- The FHWA, upon its review and approval of the Final EIS, will have a Notice of Availability published in the Federal Register. At the time the Final EIS is distributed and filed with EPA, RIDOT shall:
 1. Make the Final EIS available to appropriate State and local agencies;

2. Publish a Notice of Availability in a newspaper of general circulation within the general project area; and
 3. Furnish the document to any person(s), organizations, or agencies that made substantive comments on the Draft EIS or requested a copy.
- c. Availability to the Public - The Final EIS shall be made available for public review at RIDOT offices and at FHWA's Rhode Island office. A copy also shall be provided to appropriate public institutions such as local government offices and a copy placed on file at the local library in communities affected by the project. 23 CFR 771.125(g).

5.14 - Record of Decision - The FHWA will complete and sign a "Record of Decision" (ROD) no sooner than 30 days after publication of the Notice of Availability in the Federal Register. 23 CFR 771.127(a).

5.15 - Supplemental EIS - Pursuant to 23 C.F.R. 771.130, preparation of a supplement to a Draft EIS shall follow the same process as an original Draft EIS, except that scoping is not required. Similarly, preparation of a supplement to a Final EIS shall follow the same process of an original Draft EIS.

5.16 - Re-Evaluation of EIS - Where RIDOT undertakes a re-evaluation of a Draft or Final EIS as required by 23 C.F.R. 771.129, RIDOT, in consultation with FHWA, shall determine whether changes in the project or new information developed during the re-evaluation warrant additional public involvement. 23 CFR 771.111(h)(3).

SECTION 6.00 - CLASS II PROJECT - CATEGORICAL EXCLUSION

6.01 - Projects Classified as CEs - A Categorical Exclusion (CE) is an action which does not involve significant environmental impacts and does not require preparation of an EIS or EA. 23 C.F.R. Section 771.117(c) specifies actions which normally are considered CE's and 23 C.F.R. Section 771.117(d) specifies actions which may be considered CE's (See Appendix A for a list of such projects).

6.02 - Documentation and Public Participation Required - When RIDOT

initially classifies an action as a Class II action, RIDOT shall provide any necessary documentation supporting its position to FHWA to gain concurrence. Public participation for a project classified as a Class II action, is generally limited to public informational workshops and meetings at appropriate stages in project development although earlier and more formal public participation, including formation of a PAC, may occur where the specific project is identified through a planning feasibility study.

6.03 - Public Hearing Requirement - A public hearing is required for Class II projects when the project:

- a. Requires significant amounts of right-of-way;
- b. Substantially changes the layout or function of connecting roadways or of the facility being improved;
- c. Has a substantial adverse impact on abutting property;
- d. Otherwise has a significant social, economic, environmental or other effect; or
- e. FHWA or RIDOT determines that a public hearing is in the public interest. 23 CFR 771.111(h) (iii).

6.04 - Public Hearing Notice

a. Newspaper Publication - Where a public hearing is required, RIDOT shall publish a notice of a scheduled public hearing twice in two newspapers of general project area and in a local newspaper where appropriate. The first such notice shall be published 15 to 30 days before the hearing date and the last such notice shall be at least 5 days before the hearing date. 23 CFR 771.123(h).

b. Mailing of Notice - The notice of a scheduled public hearing shall also be mailed to appropriate news media, local governments and Federal and State agencies.

c. Content of Notice - Each notice shall specify the date, time and place of the hearing, and contain a brief description of the project. The notice shall announce the availability of any project documents for public review.

6.05 - Public Hearing Procedures

a. Presentation - At the public hearing, RIDOT shall either make a formal presentation or make available written material to all material to all members of the public describing:

1. The project purpose and need;
2. The proposed project alternatives;
3. Potential environmental, social and economic impacts; and
4. Right-of-Way procedures and programs including relocation assistance to be provided; and other necessary information. 23 CFR 771.111(h)(2)(v).

b. Opportunity for Public Comment - At the hearing, the public shall be given the opportunity to provide comments, written or oral, on the project. RIDOT shall arrange for a public stenographer to be present at the hearing to officially record oral comments by the public. Written statements submitted to the RIDOT at the hearing or within thirty (30) days of the hearing shall be treated as part of the official hearing record. The hearing transcript shall contain copies of each written statement and shall refer to the exhibits used or filed in connection with the public hearing.

c. Relationship to Public Workshop - Generally, RIDOT will hold a workshop immediately prior to, or concurrently with, a public hearing to permit RIDOT to respond informally to questions from the public and to provide a forum where the public and RIDOT can engage in a meaningful exchange of information and opinions.

6.06 - Certification to FHWA - Where RIDOT has conducted a public hearing and the 30 day public comment period has expired, shall submit to FHWA:

- a. A transcript of the public hearing;
- b. A certification that a hearing was held; and
- c. Copies of all written statements from the public, both submitted at the public hearing or during the 30 day comment period. 23 CFR 771.111(h)(2)(vi).

SECTION 7.00 - CLASS III PROJECT - ENVIRONMENTAL ASSESSMENT

7.01 - Projects Classified as EAs - A project is classified as a Class III action where FHWA and RIDOT are unsure of the significance of the impact on the environment. All projects which are not Class I or Class II are Class III actions and require the preparation of an Environmental Assessment (EA) document.

7.02 - Early Coordination Process/Continued Public Participation - At the earliest appropriate time, RIDOT shall consult with interested Federal, State and Local

agencies and appropriate members of the public to advise them to the project's scope and to:

- a. Determine the potential of the project for social, economic, environmental impacts;
- b. Identify alternative measures to mitigate adverse impacts; and
- c. Identify other environmental review and consultation requirements. 23 CFR 771.119(b).

Throughout the early coordination process, RIDOT shall provide public participation opportunities commensurate with the complexity of the project. Public participation opportunities include as appropriate: letters to appropriate governmental agencies, public Notice of Intent to prepare an EA, scoping meetings, informational workshops and meetings and the formation of a PAC.

7.03 - Preparation and Circulation of EA - RIDOT shall prepare an EA which includes a project description and a discussion of:

- a. The need for the project;
- b. The project alternatives;
- c. Environmental impacts of the project and alternatives;
- d. Mitigation; and
- e. Public involvement and Agency coordination. 23 CFR 771.119(b).

The completed EA is circulated to public agencies for comment as appropriate and submitted to FHWA for approval.

7.04 - Public Hearing Requirement - A public hearing is required for a Class III project which:

- a. Requires significant amounts of right-of-way;
- b. Substantially changes the layout or function of connecting roadways or of the facility being improved;
- c. Has a substantial adverse impact on abutting property;
- d. Otherwise has a significant social, economic, environmental or other effect; or
- e. FHWA or RIDOT determines that a public hearing is in the public interest. 23 CFR 771.111(h)(iii)

7.05 - Public Hearing Notice

- a. Newspaper Publication -Where a public hearing is required, RIDOT shall publish a notice of a scheduled public hearing twice in a newspaper of general circulation within the general project area and in a local newspaper where appropriate. The first such notice shall be pub-

lished 15 to 30 days before the hearing date and the last such notice shall be at least 5 days before the hearing date. 23 CFR 771.123(h).

b. Mailing of Notice - The notice of a scheduled public hearing shall also be mailed to appropriate news media, local governments and Federal and State agencies. Notices shall also be sent to the Department of Administration/Division of Planning as the intergovernmental review contact established under Executive Order 12372.

c. Content of Notice - Each notice shall specify the date, time and place of the hearing, and contain a brief description of the project. The notice shall announce the availability of the EA and where it may be obtained or reviewed. It shall also state that comments shall be submitted to RIDOT or FHWA within 30 days of the date the EA is available. 23 CFR 771.111(h)(iv), 23 CFR 771.119(e).

7.06 - Public Hearing Procedures

a. Presentation - At the public hearing, RIDOT shall either make a formal oral presentation or make available written material to all members of the public describing:

1. The project purpose and need;
2. The proposed project alternatives;
3. Potential environmental, social and economic impacts; and
4. Right-of-Way procedures and programs including relocation assistance to be provided; and other necessary information. 23 CFR 771.111(h)(2)(v).

b. Availability of Reference Material - RIDOT shall also announce or advise the public in written material that the EA and all information developed in reference to the proposed project will be available upon request for public inspection and copying.

c. Opportunity for Public Comment - At the hearing, the public shall be given the opportunity to provide comments, written or oral, on the project. RIDOT shall arrange for a public stenographer to be present at the hearing to officially record oral comments by the public. Written statements submitted to the RIDOT at the hearing or within thirty (30) days of the availability of the EA shall be treated as part of the official hearing record. 23 CFR 771.119(e). The hearing transcript shall contain copies of each written statement and refer to the exhibits used or filed in connection with the public hearing.

d. Relationship to Public Workshop - Generally, RIDOT will hold a workshop immediately prior to, or concurrently with, a public hearing to permit RIDOT to respond informally to questions from the public and to provide a meaningful exchange of information and opinions.

7.07 - Notice of Availability

a. Newspaper Publication - When RIDOT does not hold a public hearing, it shall place a notice in a newspaper of general circulation within the general project area and in a local newspaper when appropriate advising the public of the availability of the EA.

b. Content of Notice - The notice shall:

1. Briefly describe the project;
2. Announce the availability of the EA;
3. State where it may be obtained and reviewed;
and
4. Invite public comments to be submitted to RIDOT or FHWA within 30 days of publication of EA Availability. 23 CFR 771.119(d) and (f).

c. Mailing of Notice - The Notice of Availability shall be mailed to appropriate news media, local governments and Federal and State agencies. Notices shall also be sent to the Department of Administration/Division of Planning as the intergovernmental review contact established under Executive Order 12372. 23 CFR 771.119(d).

7.08 - Submittal of EA to FHWA - If no significant impacts have been identified, RIDOT shall forward to FHWA:

- a. The EA, revised as appropriate;
- b. Certification that a hearing was held and the public hearing transcript, where applicable;
- c. Copies of comments received and responses; and
- d. Recommendation of a Finding of No Significant Impact.
23 CFR 771.111(h)(2)(vi), 23 CFR 771.119(g).

The EA shall document compliance with all applicable environmental laws and Executive Orders, or provide reasonable assurances that their requirements can be met. 23 CFR 771.119(g).

7.09 - Finding of No Significant Impact (FONSI) - FHWA will review the EA and other material provided by RIDOT and issue either a FONSI or a decision that an EIS is necessary. If a FONSI is made, RIDOT shall send a Notice of Availability of a FONSI

to the appropriate Federal, State and local government agencies and shall make the FONSI available to the public upon request. Notice shall also be sent to the Department of Administration/Division of Planning as the inter-governmental review contact established under Executive Order 12372. 23 CFR 771.121(h).

7.10 - Finding of Significant Impact - If FHWA determines that the project would result in a significant environmental impact, then RIDOT may either:

- a. Proceed with preparing an EIS using the procedures described in Section 5.00 for a Class I action; or
- b. Modify the project to reduce the impacts and resubmit to FHWA revised documentation requesting it to issue a FONSI. 23 CFR 771.120(i).

SECTION 8.00 - APPLICATION

These rules shall take effect following filing with the Secretary of State.

CERTIFICATION

I certify that the above is a true copy.

William D. Ankner, Ph.D.
DIRECTOR

DATE:

APPENDIX A

Activities Meeting Criteria for Categorical Exclusion

A. FHWA Approval Not Necessary

The following actions meet the criteria for CEs and normally do not require any further NEPA approvals by FHWA.

1. Activities which do not involve or lead directly to construction (see CFR 771.117(c)(1) for examples of such projects).
2. Approval of utility installations along or across a transportation facility.
3. Construction of bicycle and pedestrian lanes, paths, and facilities.
4. Activities included in the State's "highway safety plan" under 23 U.S.C. 402.
5. Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.
6. The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
7. Landscaping.
8. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
9. Emergency repairs under 23 U.S.C. 125.
10. Acquisition of scenic easements.
11. Determination of payback under 23 CFR Part 480 for property previously acquired with Federal-Aid participation.
12. Improvements to existing rest areas and truck weigh stations.
13. Ridesharing activities.
14. Bus and rail car rehabilitation.
15. Alternations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
16. Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
17. The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.
18. Track and railbed maintenance and improvements when carried out within the existing right-of-way.
19. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
20. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
21. Promulgation of rules, regulations, and directives.

B. FHWA Approval Necessary

The actions listed below meet the criteria for a CE only with FHWA approval. RIDOT must submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

1. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g.. parking, weaving, turning, climbing).
2. Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.
3. Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings.
4. Transportation corridor fringe parking facilities.
5. Construction of new truck weigh stations or rest areas.
6. Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposes use does not have significant adverse impacts.
7. Approvals for changes in access control.
8. Construction of new bus storage and maintenance facilities in areas sed predominantly for industrial or transportation purposes where such constuction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
9. Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
10. Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
11. Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.
12. Acquisition of land for hardship or protective purposes.

E

Appendix E: Title VI/Nondiscrimination Brochure

Title VI Complaint

If you believe you've been discriminated against, you may file a signed, written complaint up to 180 days from the date of the alleged discrimination.

The complaint should include:

- Your name, address, and telephone number.
- The name and address of the agency, institution, or department you believe discriminated against you.
- How, why, and when you believe you were discriminated against. Includes as much specific, detailed information as possible about the alleged acts of discrimination, and any other relevant information.
- The names of any persons, if known, whom RIDOT could contact for clarity of your allegations.

Please submit your complaint to:

R.I. Department of Transportation
Civil Rights Office
2 Capitol Hill, Room 109
Providence, RI 02903
ATTN: Title VI Coordinator
Tel: (401) 222-3260
Fax: (401) 222-6168



[W]e need Title VI of the Civil Rights Act...to prevent...discrimination where Federal funds are involved....Title VI is sound; it is morally right; it is legally right, it is constitutionally right....Let me say it again: The title has a simple purpose — to eliminate discrimination in Federally financed programs.

—Senator John O. Pastore



Photograph of Senator Pastore provided courtesy of the RI Secretary of State, State Archives Division. All other photographs by Chuck Aube for RIDOT.

R I D O T T I T L E V I

OUTREACH WITHOUT BORDERS

Title VI



Civil Rights Office

R I D O T T I T L E V I

TITLE VI/ NONDISCRIMINATION PROGRAM

WHAT IS TITLE VI?

Title VI of the Civil Rights of 1964 is the federal law that prohibits discrimination on the basis race, color, or national origin in any federally-assisted program or activity.

No person in the United States shall, on the ground of race color, or national origin, be excluded from participation in, be denied benefits of, or subjected to discrimination under any program of activity receiving Federal financial assistance.

42 U.S.C. § 2000d

NONDISCRIMINATION AUTHORITIES

In addition to Title VI of the Civil Rights Act of 1964, several statutes, laws, regulations and Executive Orders govern RIDOT's Title VI Program including:

- Civil Rights Restoration Act of 1987
- Federal-Aid Highway Act of 1973
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- Age Discrimination Act of 1975
- Uniform Relocation Act of 1970
- Executive Order 12898, *Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations*
- Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*

RIDOT'S COMMITMENT

RIDOT is a recipient of federal funds and takes its nondiscrimination obligations seriously. It is the policy of RIDOT to comply fully with Title VI and related nondiscrimination authorities. To that end, RIDOT pledges that it will not, on the basis of race, color, sex, national origin, age, disability, or income status, either directly or by contract:

- deny any service ,aid, or other benefits;
- provide a service, aid, or benefit that is different than what is provided to others; or
- segregate individuals or treat individuals separately in any matter related to any service, aid, or other benefits.

RIDOT is also committed to providing meaningful access to persons of limited English-speaking ability.



IMPLEMENTING TITLE VI

RIDOT's Civil Rights Office provides guidance and support to RIDOT's program divisions to ensure effective implementation of Title VI/ Nondiscrimination principles in RIDOT's day-to-day operations. RIDOT's Civil Rights Office also provides leadership, assistance and oversight to RIDOT's sub-recipients of federal funds to ensure their compliance with Title VI as well.



Any person with questions or seeking additional information about RIDOT's Title VI Program should contact RIDOT's Title VI Coordinator at (401) 222-3260.

