

**South Carolina  
Department of Transportation**

**2020**

**Title VI Implementation Plan**



**Office of Minority & Small Business Affairs  
Post Office Box 191  
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## **I. INTRODUCTION**

The South Carolina Department of Transportation (SCDOT) is a recipient of federal financial assistance from the U.S. Department of Transportation. As such, it must comply with Title VI of the Civil Rights Act of 1964 and other nondiscrimination statutes, regulations, and authorities. This document serves as SCDOT's Title VI Implementation Plan to ensure that no person in the United States, on the grounds of race, color, or national origin, shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity operated by SCDOT as a recipient of federal funds from the Federal Highway Administration (FHWA).

## **II. OBJECTIVES**

- To ensure federally-assisted benefits and related services are made available and are equitably distributed without regard to race, color, or national origin;
- To ensure the level and quality of services are sufficient to provide equal access for any person without regard to race, color, or national origin;
- To ensure opportunities to participate in the planning and decision-making processes are provided to people without regard to race, color, or national origin;
- To ensure all applicants and recipients of federal financial assistance take corrective and remedial action to prevent discriminatory treatment of any beneficiary based on race, color, or national origin; and
- Applicants, recipients and sub-recipients of federal financial assistance, through SCDOT, must also certify Title VI compliance.

This Plan includes the structure of the Department's Title VI/Nondiscrimination program as well as the policies, procedures and practices that the Department uses to comply with nondiscrimination requirements. It is intended to be a living document, regularly policed and updated to meaningfully reflect the plan as it changes and grows. Anyone wishing to provide input into SCDOT's Title VI Plan is encouraged to contact the Title VI Program Coordinator, Angela Page-Smith by email at [SmithA@scdot.org](mailto:SmithA@scdot.org) or (803) 737-5095, or in writing to the Office of Minority & Small Business Affairs, 955 Park Street, Room 117, Columbia, South Carolina 29202.

### III. **DEFINITIONS**

The following definitions apply for the purpose of this plan:

**Affirmative Action:** a good-faith effort to eliminate past and present discrimination in all federally assisted programs and to ensure future nondiscriminatory practices.

**African American:** a person having origins in any of the Black racial groups of Africa.

**Applicant:** an eligible public entity or organization that submits an application for financial assistance under a program administered on behalf of the State.

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

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

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

**Citizen Participation:** an open process in which the rights of the community to be informed; to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

**Compliance:** a satisfactory condition wherein an applicant, recipient, or sub-recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good-faith effort toward achieving this end has been made.

**Contract:** a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and obligating the buyer to pay for them. Throughout this document, a lease is considered a contract.

**Contractor:** any person, corporation, partnership, organization, or incorporated association that participates, through a contract or subcontract, in any program or activity covered by this plan, including lessees.

**Council of Governments or COGs:** associations of governmental organizations, consisting of the elected (or properly appointed) officials of member city and county governments whose function is to provide planning for and services to the member governments. There are ten (10) councils of government serving the forty-six (46) counties in South Carolina.

**Deficiency Status:** the period during which the recipient state has been notified of deficiencies and has not voluntarily complied with Title VI Program guidelines but has not been declared in noncompliance by the Secretary of Transportation.

**Department:** South Carolina Department of Transportation (SCDOT).

**Designee:** individuals assigned to work with the department's Title VI Coordinator regarding designated program areas.

**Director of Civil Rights Programs:** refers to the responsible SCDOT official in matters relating to Title VI. The Director of Civil Rights Programs reports to the Director of Minority & Small Business Affairs (Division Director), and assists in carrying out the Title VI responsibilities of the Department.

**Disadvantaged Business or Disadvantaged Business Enterprise (DBE):** a small business entity established for profit and at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

**Discrimination:** involves any act (or action) whether intentional or unintentional through which a person in the United States, solely because of race, color, or national origin, has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the South Carolina Department of Transportation.

**Division:** one of the administrative subdivisions of an office of the South Carolina Department of Transportation. The term *district* should be considered equivalent to *division* as an administrative subdivision of an office of the SCDOT.

**Federal Assistance:**

- grants and loans of federal funds;
- the grant or donation of federal property and interests in property;
- the detail of federal personnel;
- the sale and lease of, and the permission to use (other than a casual or transient basis), federal property or any interest in such property without consideration or with nominal consideration, or with consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served such sale or lease to the recipient;
- and any federal agreement, arrangement, or other contract that has, as one of its purposes, the provision of assistance.

**Federal Highway Administration or FHWA:** the administrative subdivision of the United States Department of Transportation with authority for the administration of certain federal financial assistance involving highway construction and related activities.

**HCR:** Federal Highway Administration, Headquarters, Office of Civil Rights.

**Hispanic or Latino Origin:** a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

**Limited English Proficient (LEP) Persons:** individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.

**Metropolitan Planning Organization or MPO:** the forum for cooperative transportation decision-making for a metropolitan planning area composed of principal elected officials of general local government. A metropolitan planning area is the geographic area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and Section 8 of the Federal Transit Act must be carried out. MPO is the organization designated by the governor and local elected officials responsible, together with the State, for transportation planning in an urbanized area.

**Minority or Minority Group People:** includes African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans.

**Native Americans:** a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**Noncompliance:** the condition wherein a recipient has failed to meet prescribed requirements and has shown a lack of good-faith effort in implementing all of the Title VI requirements.

**Pacific Islander:** a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**Plan:** SCDOT's description of its implementation of the Title VI Program developed to comply with Title VI of the Civil Rights Act of 1964.

**Primary Recipient:** SCDOT or any department, division, or agency authorized to request federal assistance on behalf of sub-recipients and to distribute financial assistance to sub-recipients' contracts for the purpose of carrying out a program.

**Program:** includes any highway, project, or activity that provides services, financial aid, or other benefits to individuals, including education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient.

**Program Area Officials:** the officials who are responsible for carrying out technical program responsibilities.

**Recipient:** South Carolina, or any political subdivision or instrumentality thereof; or any public or private agency, institution, or organization, or other entity; or any individual in South Carolina to whom federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term *recipient* does not include any ultimate beneficiary under any such program. Examples of recipients include MPOs, COGs, towns, cities, counties, school districts, or any sub-recipient.

**Secretary of Transportation:** the chief administrative officer of the South Carolina Department of Transportation.

**South Carolina Department of Transportation (SCDOT):** the department, commission, board, or official of South Carolina charged by its laws with the responsibility for highway construction. The terms *State*, *Department*, and *departmental* should be considered equivalent to South Carolina Department of Transportation or SCDOT when the context so implies.

**Statewide Transportation Improvement Program (STIP):** a prioritized program of transportation projects to be implemented statewide in appropriate stages over several years.

This program is to be consistent with the statewide long-range plan and the metropolitan transportation improvement programs (TIP). This document is prepared by the State.

**Statewide Transportation Plan (STP):** a long-range transportation plan for all areas of the State that considers all modes of transportation. It must cover a period of at least twenty (20) years.

**Transportation Improvement Programs (TIP):** a prioritized program of transportation projects to be implemented in appropriate stages over several years. This program is required as a condition for a locality to receive federal transit and highway grants. The MPO and the State prepare the document (s).

**Title VI Coordinator:** the person responsible for the Department's Title VI activities under the direction of the Director of Civil Rights Programs.

**Title VI Program:** the system of requirements developed to implement Title VI of the Civil Rights Act of 1964.

**White, not of Hispanic origin:** a person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

**IV. ASSURANCES**

SCDOT will comply with Title VI of the Civil Rights Act of 1964 and related statutes. Standard USDOT Title VI Assurances are located in Appendix A.

**V. ORGANIZATION AND STAFFING**

The Department encourages that discrimination in any form be reported to leadership or other appropriate officials. The Division Director of Minority & Small Business Affairs is responsible for ensuring Title VI implementation and reports directly to the Secretary of Transportation (See Division Organizational Chart-Appendix B). The following chart describes the Department's organizational structure for the Title VI/Nondiscrimination Program.

<b>Position</b>	<b>Title VI Responsibilities</b>
Secretary of Transportation	The Department's Secretary is responsible for compliance with provisions of Title VI and has directed nondiscrimination in all Department programs and services. The Secretary provides leadership, guidance, direction, and support for the Department's Title VI Program.
Division Director of Minority & Small Business Affairs	The Division Director of Minority & Small Business Affairs reports directly to the Secretary of Transportation and provides leadership and support for the Title VI Program.
Director of Civil Rights Programs	The Director of Civil Rights Programs reports to the Division Director of Minority & Small Business Affairs and provides day-to-day guidance, leadership and support for the Title VI Program, DBE Certification Program, External Equal Opportunity (EEO) Program and On-the-Job Training (OJT) Program.

Title VI Coordinator	The Title VI Coordinator reports directly to the Director of Civil Rights Programs, <u>but may bypass the Division Director and Director allowing direct access to the Secretary, should the need arise.</u> The Title VI Coordinator's responsibilities include monitoring the Title VI Program, collecting and analyzing statistical data, conducting training, processing discrimination complaints, and conducting compliance reviews. (For more specific duties about Title VI Trainings refer to Pages 20-21, and for specific duties on Conducting Program Area Reviews refer to Pages 22-36)
Title VI Designees	Title VI designees responsibilities include, but are not limited to, collecting and reviewing data, submitting quarterly reports, assisting with training and conducting investigations of discrimination complaints. (Refer to the Implementation Plan Pages 11-20)
Executive Leadership and Management	The Department expects that all members of management will adhere to and advance the principles of nondiscrimination in all programs, services and activities. In addition, they must allow Title VI designees within their ranks easy access to the Title VI Coordinator in matters involving Title VI. Also, they must ensure that Title VI designees have the time and resources they need to fulfill their Title VI responsibilities.

## **VI. IMPLEMENTATION PLAN**

The South Carolina Department of Transportation's (SCDOT) mission is to provide a safe and efficient transportation system for the State of South Carolina. This is accomplished through building and maintaining roads and bridges as well as providing intermodal and freight programs services to the citizens of the state.

Each area of SCDOT's comprehensive transportation program is essential in accomplishing its mission. SCDOT's has a multi-disciplinary approach to implementing Title VI requirements.

The following describes various program areas (Planning, Environmental Services, Rights-of-Way, Materials and Research, and Construction) in which Title VI activities are reviewed:

## **A. Planning**

Office of Planning is in the Division of Intermodal Planning. Its activities support the economic vitality of the state by planning for transportation needs that enhance the integration and connectivity of the transportation system across and between modes for people and freight.

Information on SCDOT's Office of Planning may be found at: <http://www.scdot.org/inside/planning.aspx>. The office is comprised of several units: Statewide Planning, Asset Management, System Performance, and Public Involvement. Units are tasked with:

- Managing the statewide transportation planning process in coordination with Metropolitan Planning Organizations (MPO) and Councils of Governments (COG).
- Developing and implementing an asset and performance management process.
- Notifying and involving the general public, resource agencies, local governments, and other stakeholders in planning and project programming activities.

### *Nondiscrimination Efforts*

In order to ensure non-discrimination in Planning, SCDOT uses a Public Participation Plan aimed at providing early and continuous outreach to communities to ensure project selection does not subject minority, low-income, disabled, or elderly individuals to disproportionate adverse effects. More information on the Department's Public Participation Plan can be found at: [http://www.scdot.org/inside/pdf/planning/Public\\_Participation\\_Plan.pdf](http://www.scdot.org/inside/pdf/planning/Public_Participation_Plan.pdf).

MPO and COG are also required to provide nondiscrimination assurance. SCDOT, in coordination with FHWA and Federal Transit Administration (FTA), participates in triennially reviews of Transportation Management Areas (TMAs), of which a primary focus is to ensure nondiscrimination in the planning process. SCDOT's Office of Planning also reviews non-TMAs and COGs in a similar manner on a reoccurring basis to ensure that the planning process complies with federal and state requirements.

## **B. Environmental Services**

The mission of the Environmental Services Office (ESO) is to efficiently and effectively maneuver all SCDOT Construction and Maintenance projects through the National Environmental Policy Act (NEPA) process, permit acquisition, and compliance. The ESO assists SCDOT Program Managers and consultants throughout project development to guide them through various state and federal regulatory processes. The office is comprised of three (3) units: NEPA, Permitting, and Compliance.

NEPA requires agencies to consider environmental impacts for federal projects and to integrate the NEPA environmental review process with other environmental law compliance. The Department's NEPA unit evaluates environmental impacts, compiles, and documents information pertaining to the physical environment, communities, and natural, cultural, and socioeconomic resources during the preconstruction phase.

The NEPA and Permitting units work together to identify impacts to the environment. Environmental impacts can be direct, indirect, or cumulative. The units assess effects on the physical environment (hazardous materials, noise, air quality, etc.) and the state's resources: natural (streams and wetlands, migratory birds, critical areas and coastal zones, etc.), cultural (community centers, churches, local fairgrounds, etc.), and socioeconomic (public use and recreation areas, community impacts, and environmental justice, etc.). Once commitments are established to address these impacts, Compliance works to ensure the commitments are met during the construction phase of the project.

Early identification of environmental impacts allows for avoidance, minimization, or timely mitigation of those impacts. Additional information on the ESO can be found at: <http://iwww.dot.state.sc.us/Enviro/default.aspx>.

### *Nondiscrimination Efforts*

ESO's responsibilities include adherence to Title VI of the Civil Rights Act of

1964 and Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. This Order requires SCDOT to identify and address disproportionately high and adverse human health or environmental effects their projects may have on minority and/or low-income populations. Transportation projects affect a full range of environmental elements, such as aquatic resources, plant and animal habitats, land use, public parks, historic sites, and social communities.

Additionally, Title VI designees for Planning and ESO collect information regarding LEP requests, complaints, planning studies, consultant contracting opportunities, MPO/COG reviews, and public information meetings and hearings. This information is submitted quarterly to the SCDOT Title VI Coordinator.

**C. Rights-of-Way**

The Rights-of-Way (ROW) Office is under the direction of the Director of Rights-of-Way whom reports to the Chief Engineer for Project Delivery. Its mission is to acquire and clear the ROW for construction in accordance with federal and state laws. It must ensure the fair, equitable and ethical treatment of all landowners and tenants in the acquisition and clearance of ROW, coordination of utilities and railroads in addition to the management of real property assets to support projects of SCDOT. ROW's Title VI Designee is located at SCDOT Headquarters.

ROW is comprised of seven (7) functional areas: Acquisitions, Appraisals, Relocation, Utilities, Railroads, Administrative Support, and Property Management.

**Acquisitions**

The Acquisition Function is responsible for the negotiation and procurement of ROW and other lands needed in the operation of the Department.

**Appraisals**

The Appraisal Function is to determine an opinion of market value and set just compensation.

**Relocation**

The Relocation Function is to ensure displacees are relocated in accordance with State and Federal regulations.

**Utilities**

The Utilities Function is to provide guidance in the day-to-day operations of accommodating utilities within the ROW for roads and bridges on the State Highway System and relocating utilities for construction projects.

**Railroads**

The Railroad Function is responsible for submittals and coordination with railroad companies during the pre-construction phase of SCDOT road and bridge projects that affects property, crossings, tracks, or ROW of railroad companies operating in the State of South Carolina and payment of associated invoices.

**Administrative Support**

The Administrative Function is responsible for the research, maintenance and accuracy of all records pertaining to ROW acquisition. It processes all ROW claims for payment and ensures that all necessary instruments are recorded in a timely manner.

**Property Management**

The Property Management Function is to maintain an inventory of all surplus properties, wetlands mitigation properties, and maintenance facilities; dispose of surplus property; convey rights of way roads removed from the State Highway System; lease properties and/or rights of way; sell improvements acquired when construction deadlines allow; and prepare documents and determine values for proposed breaks in control of access.

### *Nondiscrimination Efforts*

All projects have a plan that is monitored for compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as well as for Title VI compliance. Occasionally, ROW uses interpreters and translators to ensure individuals with LEP needs can meaningfully access SCDOT's services. Requests and utilization of interpreters and translators is coordinated with the Department's Title VI Coordinator. ROW also utilizes fee appraisers and provides information on appraiser contracts quarterly. This information includes the number of contracts awarded, contract amount, and the race and gender of the appraiser. Finally, ROW provides information on displaced individuals to include residential owners and tenants, if any complaints were filed during the reporting period and consultant contract awards.

#### **D. Materials and Research**

The mission of the Office of Materials and Research is to aid in providing a safe, efficient roadway system for the citizens of South Carolina by ensuring the best quality materials available are used in the system and by conducting research applicable to the goals of SCDOT. It offers numerous engineering services to various departments within SCDOT as well as to contractors and consultants statewide. The office is comprised of engineering units and an American Association of State Highway and Transportation Officials (AASHTO) accredited laboratory in Columbia, South Carolina and three (3) District Materials Laboratories in Charleston, Florence, and Greenville, South Carolina.

The Office of Materials and Research provides testing, inspection, and engineering services for construction materials statewide. The Research Unit handles the day-to-day operations of the research program. The section's tasks include managing the contracted research projects of the State Planning and Research (SPR) Program, managing the Department's New Products Program, administering the In-House Research Program, and coordinating research activities involved with national research programs such as USDOT, FHWA,

AASHTO, Transportation Research Board (TRB), and National Cooperative Highway Research Program (NCHRP).

*The Research Selection Process*

SCDOT hosts a Research Topic Solicitation meeting. The purpose of the one-day meeting is to increase awareness and understanding of the Department's research program among all its customers and to identify needs in the Department that can be addressed by research. The meeting is intended to serve as the primary topic solicitation. The meeting is held every 2 to 2 ½ years. If circumstances warrant, the interval between solicitation meetings can be altered as deemed appropriate.

The meeting usually includes participants from all areas of the Department, in-state universities, industry, trade organizations, and FHWA. Prior to the meeting, personnel from the Research Unit, meet with upper management in the different units in Headquarters to identify participants and the breakout group each will attend.

The meeting begins with a plenary session of all participants during which an overview of the research program is presented and the purpose of the meeting discussed. Each meeting participant then attends one of several breakout sessions as previously determined, each on a different subject area of potential research interest for the Department. The breakout sessions can vary from meeting to meeting but generally include subject areas such as:

- Construction/Materials
- Maintenance/Bridge Maintenance
- Traffic/Safety
- Preconstruction/Environmental
- Intermodal Planning/Business Operations

Research staff solicits topics from all research partners prior to the meeting. The topics are reviewed and separated by subject matter corresponding to the

breakout groups. A moderator from the Office of Materials and Research is assigned to each breakout group. The general format for each breakout group is to discuss the topics in that group during the morning session to ensure that all participants in the group understand what is intended by each proposed topic. Only Department and FHWA personnel participate in the afternoon session in which one or more voting techniques are used to identify and prioritize the most important topics. Before completing the breakout session, a “champion” from the Department is identified for each of the higher priority topics. It is the champion’s responsibility to develop a problem statement for the topic.

The “champion” can obtain assistance in preparing a problem statement from anyone, either inside or outside the Department, as deemed appropriate. However, assistance in preparation of a problem statement by personnel associated with a university, consultant, or other entity interested in performing the research in no way obligates the Department to award the project to that university, consultant, or entity. Upon receipt of problem statements, a member of the research staff will assign an identification number to each problem/topic. Each problem statement is then reviewed by the research staff and if clarification or additional information is needed, the submitter is contacted. A literature search is conducted for each problem statement. Copies of the problem statements and literature search results are then forwarded to the appropriate Director/Division Head for their review and ranking in order of need.

Research staff prepares a ballot listing all problem statements received with a rating scheme from zero to five, with zero indicating “no need” and five indicating “great need.” Problem statements are listed on the ballot by breakout group in the order ranked by the appropriate Director/Division Head. The ballot and copies of all problem statements, along with information obtained from the literature search, are sent to Research and Development Executive Committee (RDEC) members. The Committee rates the problem statements with respect to the following:

- represents a current problem within the Department that needs researching;
- has high probability of success with implementable results beneficial to the Department;
- has anticipated results with a projected high rate of return for the Department; and
- is there any completed or ongoing research on the specific problem, as identified by the literature search, with results that could be used directly by the department.

Members are requested to return ballots to the Research Unit within a specified time, usually two to three weeks, depending on the number of problem statements on the ballot. The research staff will average the ratings for each statement and prepare a summary sheet to distribute to the Research and Development Executive Committee (RDEC) members for their review prior to the final prioritization meeting. A meeting of the RDEC is then held to discuss the results of the ballot and develop a final prioritized list of projects. The final list is voted on by the Committee and forwarded to the Deputy Secretary for Engineering for approval. The list of approved projects is submitted to the Commission at the next succeeding meeting for information and is included in the SPR Part B Work Program submitted to FHWA.

#### *Nondiscrimination Efforts*

All contracts entered into with consultants contain appropriate Title VI statements in the contract document. Upon execution of a contract with any consultant, the Title VI Coordinator is furnished a copy of the agreement in order that a Title VI Review of the consultant can be made at least once during the lifetime of each contract. Materials suppliers are approved without regard to race, color, sex, disability, or national origin. Additionally, the Office's Title VI Designee provides quarterly, the number of planning and/or research studies approved and denied, the number of studies awarded, identified by consultant name, race, sex, nature of study, contract amount, a summary of studies

reviewed, including research project number, title, consultant, date of review, requests for interpreter or translator services, and information regarding discrimination complaints.

**E. Construction**

The mission of the Office of Construction is to support the mission of SCDOT by providing Construction Contract Administration for all highway contracts managed by the Department's field construction forces. The office administers SCDOT's highway construction contracts, accepts work, authorizes payments and change orders, and provides customer service to the traveling public and property owners throughout construction. Information regarding tentative lettings can be found at <http://www.scdot.org/business/constructionletting-schedule.aspx>.

*Nondiscrimination Efforts*

The Construction Office's Title VI Designee:

- Monitors contracting for small and disadvantaged businesses opportunities.
- Ensures project information is distributed to the public.
- Ensures adherence to SCDOT's DBE/EEO/OJT Programs.
- Checks contracts and subcontracts for appropriate nondiscrimination language.

Additionally, the Title VI Designee reports quarterly on any Title VI complaints, LEP contacts, contract administration (prequalified prime contractor applications and approval, contracts let/awarded and dollar amount, DBE goals and dollar amount, requests/approval for replacement of DBE's and justification, and "good faith effort" requests and approval).

**VII. Title VI Training**

As a direct recipient of federal assistance, SCDOT is required to comply with Title VI laws, related statutes and regulations. It is recommended that any agency receiving federal and/or state financial assistance from SCDOT, receive training on transportation related Title VI laws and regulations. SCDOT will provide training in areas such as:

- Overview & Compliance
- Limited English Proficiency (LEP)

The SCDOT Title VI Coordinator is responsible for coordinating and providing internal and external training to SCDOT designees and its sub-recipients. Training assistance will include seeking resource personnel from FHWA. A summary of all Title VI training conducted will be reported in the annual accomplishment report to FHWA.

#### **Internal Training**

The Title VI Coordinator will conduct trainings for Title VI Designees on a periodic basis. The training will focus on updates to the federal regulations and concerns identified during annual reviews of program areas.

#### **External Training**

The Title VI Coordinator will identify and address training needs during sub-recipient reviews. The training will provide comprehensive information on provisions, and updates to federal regulations as appropriate. Sub-recipients who desire additional training may request it directly from the Title VI Coordinator.

### **VIII. Disseminating Title VI Information**

In accordance with 49 CFR, §21.9(b), SCDOT provides information to the public regarding their SCDOT's Title VI obligations and apprise members of the public of the protections against discrimination afforded them by Title VI. The primary means of disseminating information to the public is through SCDOT's website: <https://www.scdot.org/business/bus-development-titleVI.aspx>.

Website information includes the following:

- SCDOT's Title VI Plan
- Title VI Brochure (English and Spanish)
- Title VI Complaint Procedures (English)
- Title VI Complaint Form (English and Spanish)
- Limited English Proficiency (LEP) Plan

**IX. Limited English Proficiency (LEP) Plan**

SCDOT takes steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient. SCDOT will assist persons with Limited English Proficiency to participate in the transportation planning process. Efforts will be made to provide translators, interpreters, and document translation. SCDOT's Limited English Proficiency Plan can be found on its website:

[https://www.scdot.org/business/pdf/businessDevelop/titleVI\\_LEP.pdf](https://www.scdot.org/business/pdf/businessDevelop/titleVI_LEP.pdf) (See LEP Plan - Appendix E).

**X. Procedures**

**A. Conducting Program Areas Reviews**

Program Areas Reviews are conducted annually in accordance with the Department's Program Areas Review Procedures. SCDOT is responsible for ensuring that all of its programs and activities are conducted, managed and administered in a nondiscriminatory manner. These reviews are conducted to determine compliance with applicable civil rights statutes, regulations, standards and policies.

As a part of the review process, the Title VI Coordinator will provide the Designees with the Title VI review form. The Designees will complete and return the review form, along with any additional requested documentation, to the Title VI Coordinator. Information must be submitted to the Title VI Coordinator within the stipulated timeframe.

Upon receipt and review of the information, the Title VI Coordinator will determine if it is sufficient or insufficient. If the information is deemed sufficient then the review will be closed and the Designee will be notified in writing. If the information provided is deemed insufficient, the Title VI Coordinator will request additional information. If the additional information provided does not address the insufficiencies then

a site visit will be conducted. Prior to the scheduled site visit, the Title VI Coordinator will provide a report to the Designee detailing deficiencies and recommendations for corrective actions. This report will be provided no later than five (5) business days prior to the scheduled site visit. During the site visit, the Title VI Coordinator will address the insufficiencies and provide technical assistance. The Designee, in consultation with the appropriate Program Manager, will review the report and provide a written response stipulating how the deficiencies will be corrected. This information must be provided to the Title VI Coordinator within thirty (30) calendar days after the site visit. Upon review of the submitted response, the Title VI Coordinator will make a recommendation to the Secretary of Transportation and/or the Director of Civil Rights Programs for final determination.

**B. Collection of Statistical Data**

Data collection and analysis are key elements of a successful Title VI enforcement strategy, and are the primary means by which SCDOT can monitor whether program funds are reaching the communities that need the assistance.

The following information will be collected and analyzed:

- 1) Which services are or will be provided by the program and whether any persons are or will be denied services on the basis of prohibited discrimination;
- 2) Population eligible to be served by race, color and national origin;
- 3) Covered employment, including the use or planned use of bilingual public-contact employees where necessary to permit effective participation by LEP persons;
- 4) The location of existing or proposed facilities connected with the program, and adequate information for determining whether the location will result in discrimination on a prohibited basis;
- 5) The present or proposed membership, by race, color and national origin, in any planning or advisory body which is an integral part of the program; and

- 6) Where relocation is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color or national origin.

Data Resources

- U.S. Census Bureau
- South Carolina Commission for Minority Affairs (SCCMA)
- South Carolina Human Affairs Commission
- South Carolina Department of Education,
- South Department of Corrections
- South Carolina Department of Social Services
- Metropolitan Planning Organizations (MPO)
- Councils of Governments (COG)

**C. Procedures For Title VI Complaints Filed With SCDOT**

This section details the process for handling written and verbal Title VI Complaints received by the Department. In reviewing a written complaint, the Title VI Coordinator and/or Designee must ensure that it is:

- 1) Based upon race, color, or national origin and
- 2) Filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the Complainant.

Upon receipt of a verbal complaint, the Title VI Coordinator and/or Designee must:

- 1) Advise Complainant that their concerns must be reduced to writing;
- 2) Filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the Complainant; and
- 3) Provide the Complainant with the appropriate documents for filing.

When SCDOT receives a written complaint, which alleges discrimination as addressed by Title VI of the Civil Rights Act of 1964, a copy will be immediately forwarded to the Secretary of Transportation. The original document will be forwarded to the SCDOT Office of Minority & Small Business Affairs, which is responsible for logging the document and maintaining the

statistical data required concerning the matter.

*Investigation of Complaints*

Upon receipt, the Secretary of Transportation will respond, in writing, acknowledging receipt of complaint within five (5) calendar days from the date of Department's receipt. Federal Highway Administration Headquarters Office of Civil Rights (HCR) is responsible for determining if complaints filed against SCDOT or its sub-recipients should be accepted, dismissed or referred to another agency. Therefore, all complaints received by SCDOT will be forwarded to the Federal Highway Administration (FHWA) South Carolina Division Office, within five (5) calendar days of receipt, for submittal to HCR for processing. HCR will notify the Complainant, FHWA Division Office, SCDOT, and Sub-recipient (where applicable), if the complaint has been accepted, dismissed, or referred to another agency. If determined that SCDOT should investigate the complaint, the procedures listed below will be followed:

*Investigative Review Team*

Within ten (10) calendar days of receipt of delegated complaint from FHWA, the Secretary of Transportation, hereinafter referred to as the Secretary will, in writing, designate an Investigative Review Team (Team), appoint a lead investigator and, if necessary, an assistant investigator. The memorandum will serve as a letter of authority to conduct investigations.

The team will include the Title VI Coordinator and SCDOT staff members familiar with the program area in which the discrimination is alleged, and, if determined necessary by the Secretary, a representative from SCDOT's Office of Chief Counsel. Pursuant to 23 CFR §200.9(b) (3), complaints shall be investigated by State civil rights personnel trained in compliance investigations.

The team will evaluate the complaint and develop an investigative plan. Investigations shall be confined to the issues and facts relevant to the specific allegations in the complaint unless the evidence clearly indicates the need to expand the issue as deemed appropriate by the Secretary. SCDOT must complete

investigations within sixty (60) calendar days of receipt (the date it receives the delegated complaint from FHWA).

Interview with Complainant(s):

- 1) Within thirty-one (31) calendar days of receipt of the complaint, the investigator(s) will schedule an interview with the Complainant(s) in order to:
  - a) Identify the nature of the complaint;
  - b) Identify the recipient of federal financial assistance involved;
  - c) Identify and briefly describe the project involved;
  - d) Obtain supporting documents, as needed;
  - e) Identify relief being sought;
  - f) Document names and positions of all persons involved and/or to be interviewed; and
  - g) Obtain phone numbers and addresses of parties involved.

The investigator(s) will schedule and conduct interviews of other concerned parties in accordance with its findings and recommendations, prepare a detailed summary report of all interviews, findings, analyses, etc., and disseminate to the members of the investigative review team. Investigator(s) will also seek the additional expertise of other SCDOT offices and FHWA personnel, when needed, to determine the feasibility of proposed measures to resolve the complaint.

Preliminary Report to Investigative Review Team

Within forty (40) calendar days of receipt of the complaint, the investigator(s) will analyze the evidence, coordinate with program personnel, as necessary, complete and submit a report of findings of facts with recommendations to the investigative review team.

Informal Resolution

It is in the best interest of all parties involved that issues raised in a complaint of discrimination be resolved informally. At each stage of the process, the investigator will make appropriate efforts to pursue a resolution of the

complaint. Initial interviews with the Complainant and the Respondent will request information regarding specifically requested relief and settlement opportunities.

*Final Report to Appropriate Deputy Secretary*

Within forty-five (45) calendar days, the investigator will submit a final report of findings of facts with recommendations to the appropriate Deputy Secretary. When deemed appropriate, may delegate the duty to another SCDOT Deputy Secretary. The report will:

- 1) Identify the nature of the complaint;
- 2) Identify concerned parties by name and position;
- 3) Identify Complainant's concerns and issues;
- 4) Determine if the complaint has a basis in fact;
- 5) Identify Complainant race, color, or national origin;
- 6) Identify supporting documents received and reviewed;
- 7) State specific finding of fact;
- 8) List possible options for remedy of relief of complaint; and
- 9) Make recommendations.

Evaluations are confined to facts and issues relevant to the allegations contained in the complaint and recommendations for resolving the issues. Investigator(s) should resolve complaints by informal means, in coordination with the program office and Complainant, whenever possible. Options presented for resolution and the methods agreed upon should be documented as part of the investigative report. If at any point during the investigation it appears that resolution can be reached with the Complainant, the appropriate Deputy Secretary should be consulted regarding the recommendations for resolution.

*Appropriate Deputy Secretary Proposed Resolution to Secretary of Transportation*

Upon receipt of the investigative report, the appropriate Deputy Secretary will review. If he/she concurs with the investigative report and the proposed

recommendations, he/she will prepare a proposed resolution of the complaint and forward to the Secretary.

When the appropriate Deputy Secretary does not concur with the investigative report and proposed recommendations, he/she may make alternate recommendation(s). The proposed resolution will be sent to the Secretary within ten (10) calendar days of receipt of the investigative report.

#### Secretary of Transportation's Final Determination

Upon receipt and review of the appropriate Deputy Secretary proposed resolution, the Secretary will take one of the following actions:

- 1) Adopt the Deputy Secretary's recommendation;
- 2) Adopt the recommendation contained in the investigative report (if different from the Deputy Secretary's proposed resolution);
- 3) Modify either recommendation;
- 4) Return to the Deputy Secretary for further investigation.

Upon reaching a final determination, the Secretary shall submit to FHWA Division Administrator, a copy of the Report of Investigation (ROI), complete investigative file and a recommendation for a Final Agency Decision (FAD). HCR will review the ROI and compose a Letter of Finding based on the ROI.

#### Request for Extension

If the investigation cannot be completed within the sixty (60) calendar day timeframe, SCDOT may request in writing a thirty (30) calendar day extension from FHWA Division Office. The request for extension must be received thirty (30) calendar days prior to the due date of the report.

#### Appeal Procedure

In the event FHWA concludes that the respondent is in compliance with laws/regulations and the Complainant disagrees, the complainant may, if dissatisfied, file an action in the appropriate U.S. District Court.

Every effort will be made to obtain early resolution of complaints at the lowest possible level. The option of informal mediation meeting(s) between the affected parties and the investigator may be utilized for resolution, at any stage of the process. Investigator(s) will make every effort to pursue a resolution of the complaint. (In special cases warranting intervention, FHWA may assume jurisdiction and either complete or obtain services to review or investigate a matter. Materials already obtained by the Department investigators may be relied upon, supplemented, or the matter may be reinvestigated.)

**D. Conducting Title VI Reviews of Sub-recipients**

SCDOT is required to review sub-recipients such as cities, counties, college/universities, contractors and consultants. Reviews will assess and evaluate a sub-recipient's adherence to civil rights and equal opportunity policies, procedures and practices.

*Types of Compliance Reviews*

At its discretion, SCDOT may conduct either a sub-recipient agency review or a program review. SCDOT will be guided by Federal statutes, Executive Orders and regulations. Reviews will consist of a "desk audit" or an "on-site review". A desk audit is a review of the documentation submitted to SCDOT by the sub-recipient. Desk audits may be extended to include an on-site review if numerous deficiencies are identified. On-Site Reviews will consist of, but not be limited to, recommendations for corrective actions, technical assistance, and compliance on future federal-aid projects.

*Elements of compliance Review*

Regardless of the type of compliance review, SCDOT will cover, at minimum, the following areas:

- 1) Civil Rights Resources
- 2) Training for Civil Rights Professionals and Others
- 3) Public Notification and Outreach
- 4) Data Collection Systems

- 5) Complaints Processing in Conducted Programs
- 6) Service to LEP Persons
- 7) Local Planning and Advisory Committees and Boards
- 8) Program Delivery
- 9) Contracting Opportunities

#### Civil Rights Resources

Agencies should dedicate sufficient resources to administer their civil rights responsibilities. During compliance reviews, these resources will be identified by staff hours/full time equivalencies and budget allocations.

#### Training for Civil Rights Professionals and Others

Agencies must take the necessary steps to ensure civil rights professionals and officials who are responsible for integrating civil rights requirements into programs and activities receive the technical training necessary to properly carry out their responsibilities. During compliance reviews, it will be ascertained:

- 1) Who has received training by title, level of authority, race, color, and national origin;
- 2) The subject matter covered and the number of hours of training received;
- 3) The existence or absence of training needs inventories, employee development plans or other documents that identify the need for the requisite civil rights training;
- 4) The process used to provide civil rights technical training to new employees or employees new to technical responsibilities in the civil rights area; and
- 5) The role of national, regional and other civil rights offices within the agency in identifying and validating the need for specific civil rights training.

#### Public Notification and Outreach

Agencies must have in place an effective public notification system that adequately informs applicants and participants of the availability of programs, benefits and services. It should also include SCDOT's policy of nondiscrimination, and procedures for filing a discrimination complaint.

Effective public notification and outreach systems should include:

- 1) Nondiscrimination statements printed on all publications and outreach materials providing information to the public;
- 2) Photographic and outreach materials that display diversity of participants and staff; and
- 3) Evidence of outreach and linkages to grassroots organizations, advocacy groups and referral sources representing members of protected classes.

#### Data Collection Systems

Agencies must develop, implement and maintain data collection systems that yield accurate, relevant and reliable statistical information. The systems will be used to identify:

- 1) Composition of service areas by race, color, and national origin;
- 2) Total number of applicants and program participants in programs, activities and specific services or benefits, as appropriate, by race, color, and national origin;
- 3) Nominations and memberships, by race, color, and national origin, on local and national planning and advisory boards and committees;
- 4) Data on service areas where LEP persons reside, including:
  - a) Primary language of each LEP group;
  - b) Estimated number of persons in each LEP group; and
  - c) Total number of agency staff who are bilingual in the identified LEP languages and the number and position of such staff by each LEP language identified.

SCDOT will submit annual data of the Title VI Program by November 1<sup>st</sup> of each year to the Federal Highway Administration.

#### Service to LEP Persons

SCDOT at all levels, has an affirmative responsibility pursuant to Executive Order 13166 to provide LEP persons with meaningful opportunities to participate in programs and activities conducted by SCDOT. During compliance reviews, it will be ascertained what actions have been taken (or are planned) to communicate with and assist individuals with LEP and other special needs.

During compliance reviews, SCDOT will verify if:

- 1) Agencies and/or their sub-components have in place, strategies, processes, and/or procedures that ensure:
  - a. Thorough assessment of the language needs of the population to be served;
  - b. Effectuation of a comprehensive written communications policy and plan on LEP assistance;
  - c. Staff training to increase understanding and capability to carry out the policy effectively; and
  - d. Vigilant monitoring to ensure LEP persons can meaningfully access programs and activities.
- 2) In assessing the above information, reviewers will validate whether or not LEP persons are:
  - a. Receiving adequate information on programs and activities;
  - b. Able to effectively communicate the relevant circumstances of their situations to agency officials;
  - c. Able to understand the services and benefits available; and
  - d. Able to receive the services and benefits for which they are eligible.

*Local Planning and Advisory Committees and Boards*

Agencies should diversify internal and external advisory boards and committees. During compliance reviews, the internal and external planning and advisory committees should be reviewed. Some of the factors that should be considered are:

- 1) Efforts to solicit diverse nominations for committees and advisory boards;
- 2) The selection and appointment process used to staff committees and advisory boards;
- 3) Any qualifying mandatory or discretionary membership criteria that are imposed internally and externally and their impact on diversity;
- 4) Efforts to remove or revise discretionary criteria where their impact has been negative or adverse; and

- 5) Any other factors that affect planning and advisory committee membership.

*Program Delivery and Contracting Opportunities*

Agencies are required to ensure nondiscrimination in its conducted programs and activities, including those affecting minorities, women, and Native American tribes, thereby improving service delivery to historically under-served populations. In addition, agencies are required to ensure equal opportunity for minority, women-owned, small and disadvantaged business in all USDOT contracting activities. Compliance reviews should, in the context of effective planning and program delivery, review:

- 1) Program delivery and contracting priorities, goals and benchmarks, qualitative and quantitative change(s) anticipated and qualitative and quantitative change(s) accomplished;
- 2) Barrier removal; and
- 3) Contracting, consulting or other relations either directly or indirectly, i.e., through another institution of higher learning or research organization.

*Sub-recipient Compliance Review Process*

- 1) A notification packet will be sent to the sub-recipient notifying them of the review thirty (30) calendar days prior to the review.
- 2) The notification packet will include the following:
  - a. Notification letter which will include the date the information must be submitted to SCDOT.
  - b. Compliance Review Form which must be completed and submitted along with the required documentation. This information must be received within fifteen (15) calendar days.
- 3) Upon review of preliminary information, SCDOT will determine if an on-site review is required. On-site reviews will be conducted if there are Title VI implications as a result of the preliminary review.
- 4) If an on-site review is required, SCDOT will contact the sub-recipient to schedule the review. A letter confirming the date and time of the review will be sent to the sub-recipient.
- 5) Within thirty (30) calendar days of the completion of the review, SCDOT will issue a Corrective Action Plan (CAP), which will identify any

deficiencies and the required corrective action, as appropriate.

- 6) The sub-recipient must correct any deficiencies within a period not to exceed ninety (90) calendar days.
- 7) Within thirty (30) calendar days of receipt of the sub-recipient response, a letter will be issued regarding if the applicable requirements have been met.
- 8) If the requirements have not been met, SCDOT will provide technical assistance and/or seek assistance from FHWA in this regard.

**E. Reviewing Program Directives in Coordination with State Program Officials and Where Applicable, Include Title VI and Related Requirements**

Regularly review directives, policies, and procedures of Programs and ensure they contain all Title VI and related requirements. An example of compliance with this requirement is SCDOT's review of contracts and contract language to ensure that the appropriate nondiscrimination clause is included. Additional directives and procedures that may be reviewed include, but are not limited to:

- 1) Consultant selection procedures and personnel who monitor consultants for Title VI compliance;
- 2) Procedures for identifying and selecting fee appraisers/fee attorneys to ensure nondiscrimination;
- 3) Prequalification and bonding requirements and contractor selection;
- 4) Procedures to ensure uniform application to minority and non-minority contractors: and
- 5) Procedures and practices for communicating contracting opportunities to minority contractors.

If it is determined that directives do not meet the requirements of Title VI and other related statutes, the Title VI Coordinator will advise the appropriate Program Manager and Director of Civil Rights Programs, and provide recommendations for ensuring compliance.

## **F. Pre-grant and Post Grant Reviews**

### *Pre-Grant Review*

The Department will conduct a “desk audit” prior to releasing funds to recipients to ensure compliance with Title VI. The “desk audit will include review of the following:

- 1) Written assurance of compliance with Title VI and related statutes.
- 2) Written procedures for handling Title VI Complaints.
- 3) A description of any civil rights compliance review conducted within the last two (2) years.

### *Post Grant Reviews*

The Department may conduct post grant reviews if deficiencies are found based on the “desk audit”. In this instance, an “on-site review will be conducted. During the on-site review, technical assistance will be provided to assist with correcting identified deficiencies. Recipients will be given up to ninety (90) calendar days to correct the deficiencies. A follow-up review will be conducted within 180 calendar days of the initial review to ensure the recipient has complied with Title VI Requirements. If the recipient refuses to comply, the Department through FHWA may initiate sanctions per applicable civil rights statutes and signed agreements.

## **G. Identifying and Eliminating Discrimination**

The Department has assigned Title VI designees to special emphasis program areas (Planning, Environment Services, Rights-of-Way, Construction, and Materials and Research). Title VI designees will conduct regular reviews of processes and procedures to ensure that their implementation does not have the effect of discrimination based on race, color, or national origin. In addition to the information required for quarterly reporting, designees will report immediately any potential or confirmed discrimination to the Title VI Coordinator.

#### **H. Resolving Deficiencies**

SCDOT will actively pursue the prevention of Title VI deficiencies and violations, and will take steps necessary to ensure compliance with all applicable civil rights requirements. SCDOT will also provide the technical assistance and guidance needed to bring about voluntary compliance. When irregularities occur in the administration of the federal-aid highway program's operation, or a sub-recipient fails or refuses to voluntarily comply with requirements within the time frame allotted, SCDOT will deem the sub-recipient non-compliant. The concerns will be forwarded to FHWA for appropriate action.