

# **ARKANSAS DEPARTMENT OF TRANSPORTATION**



## **Title VI Goals and Accomplishments Update**

Summary of Title VI activities during the period October 1, 2021 - September 30, 2022

## I. ACCOMPLISHMENTS

### A. Title VI Multi-Disciplinary Team

The ARDOT Title VI Multi-Disciplinary Team's responsibilities include reviewing, evaluating, and implementing ARDOT's Title VI program utilizing a pro-active approach. Team members utilize the "Multi-Disciplinary Approach to Non-Discrimination" to ensure Title VI issues are addressed on a day-to-day basis.

The team consists of the following members:

Jeff Holmes, Chief, Highway Police  
Kevin White, Division Head, Right of Way  
Charles Martin, Assistant Division Head, Roadway Design  
Rochelle Blue, Assistant State Construction Engineer, Construction  
Ruby Johnson, Section Head, Public Involvement, Environmental  
David Hall, Division Head, Surveys  
Bryan Freeling, Division Head, State Aid  
Joanna P. McFadden, EEO/DBE Officer and Title VI Coordinator  
Patricia Slater, Public FTA Grants Officer, Transportation Planning and Policy  
Dave Parker, Public Information Officer  
Bethany Stovall, Research Support Supervisor, System Information and Research  
David Siskowski, Assistant Division Head, Transportation Planning and Policy  
Jessie Jones, Division Head, Program Management

### B. Interdisciplinary Staff

The Title VI Coordinator serves as a member of the Interdisciplinary (ID) Staff and operates under the responsibilities described in the Public Involvement/Public Hearing Procedures. The Title VI Coordinator or a designee attends ID Staff meetings.

The Title VI Coordinator or a designee attends selected public hearings and public involvement meetings. The Title VI Coordinator also reviews environmental documents and discusses project development with individuals from the various program areas to become more familiar with activities with potential Title VI concerns.

A "Your Guide to Title VI Civil Rights Act of 1964" brochure (also translated in Spanish) is available for individuals who attend public hearings or public involvement meetings. *Attachment A.*

### C. Program Review

Appropriate Divisions submit annual reports to the Title VI Coordinator to ensure compliance with the provisions of the Title VI program. *Refer to Attachment B for the documentation submitted during the reporting period of October 1, 2021 through September 30, 2022.*

#### D. Limited English Proficiency (LEP) Program

Public Notice flyers and comment forms have been translated to Spanish and are utilized for jobs located in areas where there is a significant percentage of Hispanics. Hispanic radio stations and newspapers are utilized to announce the meetings.

#### E. Americans with Disabilities Act (ADA) and Access for Individuals with Disabilities under Section 504.

In FY22 ARDOT added ADA updates to its inventory collection. Barrier identification and project completions will be added to the following website. [ADA - Arkansas Department of Transportation \(ardot.gov\)](https://www.ardot.gov/ada)

#### F. Subrecipient Review and Training

Cities of Bull Shoals, Dardanelle, Jacksonville, Little Rock, Paragould, Russellville, and Springdale; Pulaski County; and Friendship Community Care – Russellville and Youth Home – Little Rock documentations were found to be in compliance.

In FY21, ARDOT entered in an FHWA agreement to monitor subrecipient City of Little Rock (COLR). The FY22 on-site compliance review was conducted on June 13, 2022.

The EEO Office conducted in-person training to the Association of Metropolitan Planning Organizations.

A Title VI PowerPoint tutorial, Title VI Technical Guide, and Title VI Templates are available on the ARDOT website to assist subrecipients in compliance requirements.

#### G. Miscellaneous

The ARDOT Disadvantaged Business Enterprise Directory is available online to the program areas where there are contracting opportunities. Those program areas include: Environmental, System Information and Research, Transportation Planning and Policy, Right of Way, Roadway Design, Public Transportation, Surveys, and Program Management. The Directory is also available to MPOs and Rural Transit System Operators.

EEO personnel attended AASHTO Civil Rights Business Meetings.

#### H. Liaison

The Title VI Coordinator maintains contact by correspondence and telephone with the following FHWA officials:

Amy Heflin and David Blakeney, Arkansas Division  
Kevin Resler, National Title VI Program Manager

## II. GOALS

- A. Appropriate Divisions will submit annual reports to the Title VI Coordinator to ensure compliance with the Title VI program.
- B. The Title VI Coordinator will attend Federal-aid kick-off meetings of local governments, consultants, school districts, and metropolitan planning organizations to explain the requirements of the Title VI program; EO 12898 Environmental Justice (EJ) and 13166 Limited English Proficiency (LEP), respectively, and ADA/Section 504 as necessary.
- C. The Title VI Coordinator or a designee will continue to attend selected public hearings, review environmental documents, and discuss project development with individuals from the various program areas to stay apprised of activities involving Title VI issues.
- D. The Title VI Coordinator or a designee will accompany planning certification and enhanced planning review teams (if any) to assist in the review of Title VI activities conducted as part of the metropolitan and statewide planning processes.
- E. ARDOT will participate in Title VI training and in various multi-cultural activities throughout the year.
- F. ADA/Section 504

ARDOT will continue to monitor its programs, services, and activities for ADA compliance, and will update the Transition Plan (draft) as alterations/improvements are made and barriers are removed.

- G. Subrecipient Title VI reviews and desk audits will be conducted, including a review of ADA/Section 504 requirements, EO 12898, and EO 13166.

## III. PROBLEMS and COMPLAINTS

- A. There were no Title VI complaints in FY22.

## IV. The EEO/DBE Officer will function in the following capacities:

### A. Civil Rights Officer

- 1. The EEO/DBE Officer has been designated as the Civil Rights Officer for ARDOT and reports directly to the Director of ARDOT. *Refer to Attachment C for a copy of the Department's Organization Chart.*
- 2. The Civil Rights Officer, by order of the Director, has overall responsibility for planning, developing, managing, implementing, coordinating, and monitoring all program areas of the civil rights functions, including Title VI.

3. The Civil Rights Officer also assists in carrying out the requirements of Title VI by other Divisions responsible for program area activities affected by Title VI.

B. EEO/DBE Officer/Title VI Coordinator

1. The EEO/DBE Officer is also designated as the Title VI Coordinator and is responsible for initiating and monitoring ARDOT's Title VI activities and preparing reports. The following personnel assist as needed:
  - i. Internal EEO Coordinator
  - ii. External EEO Coordinator
  - iii. EEO Specialist - Title VI/ADA
  - iv. EEO Specialist – Investigative
  - v. DBE Program Specialist
  - vi. DBE Supportive Services Specialist
  - vii. OJT Supportive Services Specialist
  - viii. Office Assistant
2. The EEO/DBE Officer has easy access to the Director of ARDOT and is adequately staffed to implement ARDOT's Civil Rights Program.
3. ARDOT's Title VI assurances were updated. *Refer to Attachment D for a copy of the Department Title VI assurances.*

## ATTACHMENT A

**A MESSAGE FROM  
TITLE VI SPECIALIST  
JOANNA P. MCFADDEN**

The primary goal of the Arkansas Department of Transportation's (Department) Title VI Program is to ensure that all appropriate personnel and contractors are aware of the provisions of Title VI of the Civil Rights Act of 1964, and are fully aware of their Title VI responsibilities as well as ADA/504, Executive Order 12898 (Environmental Justice) and Executive Order 13166 LEP (Limited English Proficiency).

The Department EEO Section is available to provide you with technical assistance, resources, guidance, and any other information pertaining to Title VI and ADA/504.

Should you have any questions or concerns regarding the Title VI Program, please do not hesitate to contact me at

Joanna.McFadden@ardot.gov (501) 569-2298, Voice/TTY 711.

*Joanna P. McFadden*



**ARKANSAS DEPARTMENT  
OF TRANSPORTATION**

**NOTICE OF NONDISCRIMINATION**

The Arkansas Department of Transportation (Department) complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, the Department does not discriminate on the basis of race, sex, color, age, national origin, disability, religion (not applicable as a protected group under the Federal Motor Carrier Safety Administration Title VI Program), LEP, or low-income status in the admission, access to and treatment in the Department's programs and activities, as well as the Department's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Department's nondiscrimination policies may be directed to Joanna P. McFadden, Section Head - EEO/DBE (ADA/504/Title VI Coordinator), P. O. Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address:

Joanna.McFadden@ardot.gov

Free language assistance for Limited English Proficient individuals is available upon request. This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

**Your Guide  
To  
Title VI  
Civil Rights  
Act of 1964**

**ARKANSAS  
DEPARTMENT  
OF  
TRANSPORTATION**

10324 Interstate 30  
Little Rock, AR 72209

Phone: 501-569-2298  
Voice/TTY 711  
Fax: 501-569-2965



### Nondiscrimination in the Federal Highway Program

The focal point of nondiscrimination law is Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance. However, the broader application of the nondiscrimination law is found in other statutes, regulations and Executive Orders. Section 324 of the Federal-Aid Highway Act of 1973 prohibits discrimination based on sex. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 prohibits unfair and inequitable treatment of persons as a result of projects that are undertaken with Federal financial assistance. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability as does the Americans with Disabilities Act of 1990 (ADA). The ADA also prohibits discrimination in the provision of access to public buildings and requires that rest areas be accessible by wheelchair. The Age Discrimination Act of 1975 prohibits age discrimination. The Civil Rights Restoration Act of 1987 clarified the intent of Title VI to include all program and activities of Federal-aid recipients and contractors whether those programs and activities are federally-funded or not. Executive Order 12898 provides Environmental Justice for Minority and Low-income populations. Executive Order 13166 provides language assistance to persons who are limited English proficient.

#### What programs are covered by Title VI?

Federally assisted programs address such broad and diverse areas as:

- Transportation (including transit)
- Construction
- Elementary, secondary, and higher education

- Health care, social services, and public welfare
- Parks and recreation
- Natural resources and the environment
- Employment and job training
- Law enforcement and the administration of justice
- Agriculture and nutrition
- Housing and community development

#### What discrimination is prohibited?

There are many forms of illegal discrimination based on race, color, sex, national origin, age, disability, religion (*not applicable as a protected group under the FMCSA Title VI Program*), LEP, or low-income status that can limit the opportunity of minorities to gain equal access to services and programs. Among other things, in operating a federally assisted program, a recipient cannot, on the basis of race, color, sex, national origin, age, disability, LEP, or low-income status either directly or through contractual means:

- Deny program services, aids, or benefits;
- Provide a different service, aid, or benefit, or provide them in a different manner than they are provided to others; or
- Segregate or separately treat individuals in any matter related to the receipt of any service, aid, or benefit.

### How can I file a discrimination complaint?

You may file a signed, written complaint within 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. Include as much specific, detailed information as possible about the alleged acts of discrimination, and any other relevant information. Include names of individuals whom you allege discriminated against you, if you know them.
- The names of any persons, if known, who the ARDOT can contact for clarity of your allegations.

Please submit your signed complaint to the address on the front, attention of Joanna P. McFadden Section Head—EEO/DBE (ADA/504 and Title VI Coordinator).

**Un Mensaje de la Especialista  
en el Título TITLE VI  
JOANNA P. McFADDEN**

La principal meta del Programa del Título VI del Departamento de Transporte de Arkansas es asegurar que todo el personal apropiado y contratistas estén al tanto de los requisitos del Título VI de la Ley de Derechos Civiles de 1964, y que estén completamente al tanto de sus responsabilidades del Título VI al igual que de ADA/504, Orden Ejecutiva 1289 (Justicia Ambiental) y la Orden Ejecutiva 13166 LEP (Limitación de manejo del Idioma Ingles).

La Sección de ARDOT EEO está disponible para ofrecerle ayuda técnica, recursos, orientación, y cualquier otra información pertinente al Título VI y ADA/504.

Si tiene preguntas o preocupaciones acerca del Programa del Título VI, por favor no dude en comunicarse conmigo a

Joanna.McFadden@ardot.gov (501) 569-2298, Voz/TTY 711.

*Joanna P. McFadden*



**DEPARTAMENTO DE TRANSPORTE DE ARKANSAS**

**AVISO DE NO DISCRIMINACION:**

El Departamento de Transporte de Arkansas (Departamento) cumple con todos los requisitos de derechos civiles de las leyes federales y autoridades relacionadas que prohíben la discriminación en los programas y actividades que reciben ayuda federal financiera. Por lo tanto, el Departamento no discrimina bajo las bases de raza, sexo, color, edad, origen nacional, religión (no aplica como grupos protegidos bajo el FMCSA Title VI Program), discapacidad, Limitación del Idioma Ingles (LEP), o de bajos ingresos en la admisión, el acceso a y el tratamiento en los programas y actividades del Departamento al igual que las prácticas de contratación y empleo del Departamento. Quejas de supuesta discriminación y preguntas sobre las pólizas de no discriminación del Departamento pueden ser dirigidas a Joanna P. McFadden Section Head - EEO/DBE (ADA/504/Coordinador del Título VI), P. O. Box 2261, Little Rock, AR 72203, (501)569- 2298, (Voz/TTY 711), o al siguiente correo electrónico:

Joanna.McFadden@ardot.gov

Ayuda gratis para para personas con limitación del idioma Ingles. Este aviso está disponible del ADA/504/Coordinador del Título VI en letra grande, grabación de audio y en Braille.

**Su Guía al  
Título VI  
Ley de  
Derechos  
Civiles de  
1964**

**DEPARTAMENTO DE  
TRANSPORTE DE  
ARKANSAS**

10324 Interstate 30  
Little Rock, AR 72209

Teléfono: 501-569-2298  
Voz/TTY 711





### No discriminación en el Programa Federal de Carreteras

El punto focal de la ley de antidiscriminación es el Título VI de la Ley de derechos Civiles de 1964, la cual prohíbe la discriminación sobre las bases de raza, color, u origen nacional en cualquier programa o actividad que recibe asistencia financiera Federal. Sin embargo, la aplicación más amplia de la ley se encuentra en otras leyes, reglamentos y Órdenes Ejecutivas. La Sección 324 de La Ayuda Federal de Carreteras de 1973 prohíbe la discriminación basada en el sexo. La Ley de Política Uniforme de Asistencia para la Reubicación y Adquisición de Propiedades Inmuebles de 1970 prohíbe el trato injusto y desigual de las personas como resultado de proyectos que se comiencen con asistencia económica Federal. La sección 504 de la Ley de Rehabilitación de 1973 prohíbe la discriminación basada en discapacidad al igual que la Ley Sobre Estadounidenses de 1990 con discapacidades (ADA). El ADA también prohíbe la discriminación en la estipulación de acceso a edificios públicos que requieren que las áreas de descanso sean accesibles para sillas de ruedas. La Ley de Discriminación de Edad de 1975 prohíbe la discriminación por razones de edad. La Ley de Restauración de derechos Civiles de 1987 aclaró el sentido del Título VI al incluir en todos los programas y actividades a los beneficiarios y contratistas de ayuda-Federal ya sea que esos programas y actividades sean financiadas federalmente o no. La orden Ejecutiva 12898 ofrece Justicia Ambiental para poblaciones con Minorías y de Bajos-recursos.

### ¿Cuáles son los programas protegidos por el Título VI?

Los Programas Federales abordan áreas amplias y diversas tales como:

- Transporte (Incluyendo transporte público)
- Construcción
- Educación Primaria, Secundaria y Superior

- Atención médica, servicios sociales, y el bienestar público.
- Parques y áreas de recreación
- Recursos Naturales y el medio ambiente.
- Empleo y capacitación laboral
- Orden público y administración de Justicia
- Agricultura y nutrición
- Desarrollo de vivienda y comunitario

### ¿Cuál discriminación está prohibida?

Existen muchas maneras de discriminación ilegal basada en la raza, color, sexo, origen nacional, edad, discapacidad, religión (*no aplica como grupo protegido bajo el FMCSA del Programa Título VI*), LEP, o de bajos ingresos los cuales pueden limitar la oportunidad de las minorías a obtener igual acceso a los servicios y programas. Entre otras cosas, al operar programas federales, un beneficiario no puede, bajo las bases de raza, color, sexo, origen nacional, edad, discapacidad, LEP, o de bajos recursos ya sea directamente o por medio contractual:

- Negar servicios, ayuda o beneficios del programa;
- Proporcionar un servicio diferente, ayuda, o beneficio, o proporcionarles de una manera diferente de lo que ellos proporcionan a otros; o
- Segregarle o tratar separadamente a individuos de cualquier asunto relacionado con el beneficiario de cualquier servicio, ayuda o beneficio.

### ¿Cómo puedo presentar una queja de discriminación?

Usted puede presentar la queja escrita y firmada dentro de 180 días de la fecha de la supuesta discriminación. La queja debe incluir:

- Su nombre, domicilio, y número de teléfono.
- El nombre y domicilio de la agencia, institución, o departamento que usted cree que discrimino en su contra.
- Como, porque y cuando cree usted que se le discrimino. Incluya tanta información específica y detallada como sea posible sobre las supuestas acciones de discriminación, y/u otra información relevante. Incluya nombres de personas que usted alega que discriminaron en contra de usted, si los sabe.
- Los nombres de personas, si los sabe, a los cuales ARDOT los puede contactar para aclarar sus alegatos.
- Por favor envíe su queja firmada a la dirección que aparece en la parte de enfrente del folleto a la atención de Joanna P. McFadden Section Head- EEO/DBE (ADA/504 y Coordinadora del Título VI).

# **ATTACHMENT B**

## **Environmental Division**

There were thirty-one (31) meetings (in-person and WebEx) held during October 1, 2021, through September 30, 2022, that were open to the public. All meeting location sites were accessible for persons with disabilities.

## **Transportation Planning and Policy Division**

- **Public Transportation Programs (PTP) Section**

PTP did not receive any Title VI complaints. There were 15,326 contractible opportunities awarded during this period. Most awards were by subrecipients for small purchases of supplies, fuel, and repairs. Six (6) certified DBE contractors and six (6) minority or female-owned businesses were utilized.

Nine (9) of the Department's subrecipient agencies from the 5310 Program (seniors and persons with disabilities) updated their Title VI plans this year.

One (1) employee attended DBE and Title VI Zoom meetings and webinars.

- **Multimodal and Project Planning (MPP) Section**

There were no Title VI complaints received by MPP for the period of October 1, 2021, through September 30, 2022.

## **Construction Division**

There were no contracts awarded to consultants by the Construction Division for the period of October 1, 2021, through September 30, 2022.

## **Program Management Division**

There were no contracts awarded to consultants by the Program Management Division for the period of October 1, 2021, through September 30, 2022.

## **Surveys Division**

There were no Title VI complaints received for the period of October 1, 2021, through September 30, 2022.

## **Right of Way Division**

Right of Way utilizes its On-Call Consultants for most of its appraisal and acquisition services. Sixty-seven (67) total contracts were awarded. Three (3) went to minority owned business and ten (10) were awarded to a female owned business. Thirty-two (32) property management contracts were awarded. Three (3) were awarded to minority owned businesses and eight (8) went to a female owned business. Thirty-five (35) title services were awarded. Two (2) were awarded to a female owned business. The selection of usable title companies is low because of the limited companies in rural areas. There were one hundred thirteen (113) relocations, and nine hundred thirty-three (933) acquisitions. There were no Title VI complaints received by minority groups, elderly, disabled or low-income individuals. Environmental Division staff Edgar Ariza was utilized as an interpreter to explain Division documentation and procedure.

## **Systems Information and Research Division**

There weren't any research projects awarded to historical black or minority serving institutions. The University of Arkansas at Fayetteville was awarded research projects. There were forty-three (43) minorities working on twenty-two (22) projects.

## **Design Division**

There were one hundred seventy-two (172) consultant contracts/task orders issued utilizing federal funds during the reporting period.

Five (5) federally funded contracts/task orders have DBE participation for the prime consultant. Eleven (11) federally funded consultant contracts/task orders/supplemental agreements have DBE participation for the subconsultant. Twenty (20) Local Public Agency/Local Transit Agency agreements/supplemental agreements utilizing federal funds have been awarded during the reporting period. Seventy-five (75) master agreement contracts have been awarded during the reporting period. Many of these master agreements will utilize federal funding in the task orders. One (1) master agreement contract has DBE participation for the prime consultant. Five (5) master agreement contracts have DBE participation for the subconsultant.

During the Request for Letters of Interest step of the consultant selection process, notification emails are sent to those DBE, minority, and female firms with relevant experience to inform them of ARDOT's advertisement.

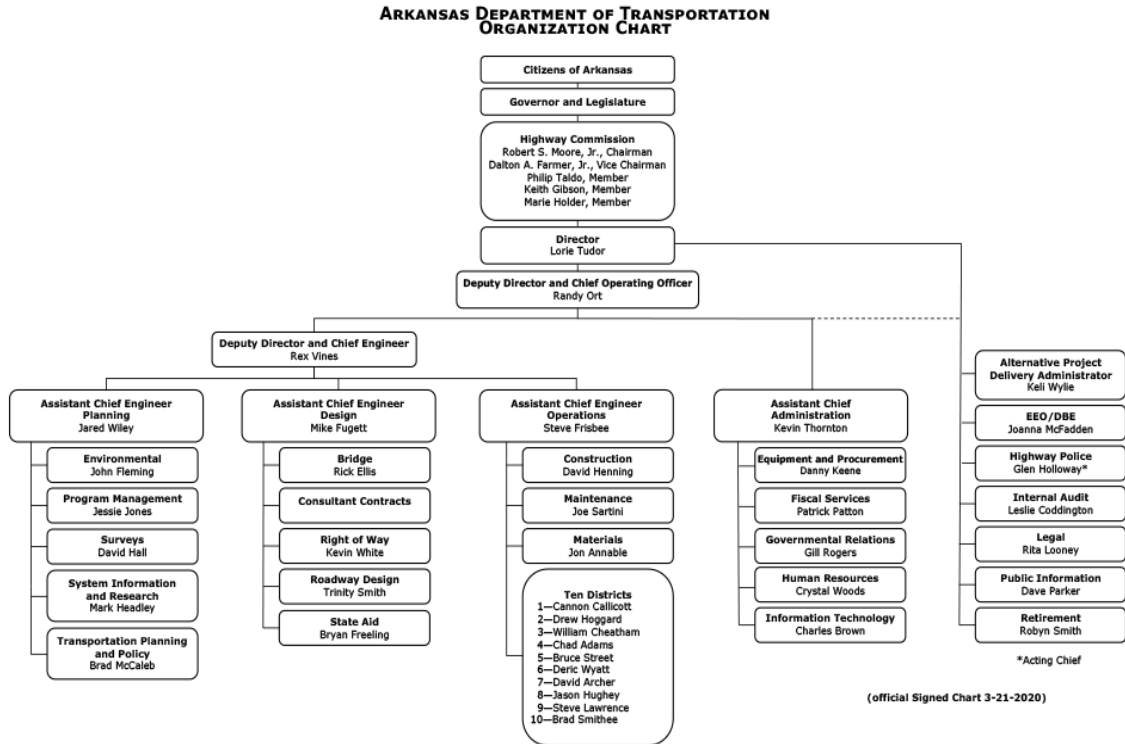
During the Request for Proposal step of the consultant procurement process, a statement is included in the scope of work to encourage DBE participation. In addition, a consultant team who shows a good faith effort to include DBE participation will score higher under one of the evaluation criteria.

Letters of Interest are advertised in Arkansas Democrat-Gazette and on ARDOT's website [Advertisements - Arkansas Department of Transportation \(ardot.gov\)](http://ardot.gov). None of the consultant service-related documents have been translated into Spanish. No interpreters have been utilized to explain consultant service-related documentation or procedures.

**Metro Planning Office**

There were no Title VI complaints received for the period of October 1, 2021, through September 30, 2022. There were six (6) public meetings held during this period. All advertisements/legal notices were translated to Spanish.

# ATTACHMENT C



# ATTACHMENT D

## ARKANSAS DEPARTMENT OF TRANSPORTATION

### TITLE VI / ADA NONDISCRIMINATION PROGRAM POLICY STATEMENT

The Arkansas Department of Transportation (ARDOT) policy ensures nondiscrimination compliance, on the grounds of race, color, national origin, age, sex, religion (*not applicable as a protected group under the FMCSA Title VI Program*), disability, limited English proficiency (LEP), or low-income status as provided by Title VI of the Civil Rights act of 1964 and related Nondiscrimination authorities.

The following nondiscrimination statutes and authorities include but are not limited to:


- Title VI of the Civil Rights Act of 1964 (42 U.S.C § 2000d et seq.);
- Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 et seq.);
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.);
- Americans With Disabilities Act of 1990;
- The Civil Rights Restoration Act of 1987;
- 49 CFR Part 21;
- 23 CFR Part 200;
- 49 CFR Part 303
- USDOT Order 1050.2A;
- Executive Order # 12898 (Environmental Justice);
- Executive Order # 13166 (Limited-English-Proficiency).

No person will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any ARDOT program or activity. Every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not. The ARDOT's sub-recipients, grant recipients, and contractors must also comply with this policy.

The ARDOT's Civil Rights Officer and program areas must work closely to implement their mutual Title VI nondiscrimination program responsibilities. Therefore, each program area will take full responsibility for preventing discrimination and ensuring nondiscrimination compliance in all of the ARDOT's programs and activities.

The Director signs assurances and delegates full authority to the Title VI/ADA Program Coordinator to oversee and implement Title VI and ADA regulations.

Dated 7/14/22

By   
Lorie H. Tudor, P.E.  
Director of Arkansas Department of  
Transportation

## ARKANSAS DEPARTMENT OF TRANSPORTATION

### Standard Title VI/Non-Discrimination Assurances

The Arkansas Department of Transportation (herein referred to as the "ARDOT"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the *Federal Highway Administration*, is subject to and will comply with the following:

#### Statutory/Regulatory Authorities

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

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

#### General Assurances

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

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

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

#### Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted *Federal Aid Highway Program*:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

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

"The ARDOT, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.



9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the ARDOT also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Federal Aid Highway Program access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Aid Highway Program. You must keep records, reports, and submit the material for review upon request to the Federal Aid Highway Program, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

ARDOT gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal Aid Highway Program. This ASSURANCE is binding on Arkansas, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Arkansas Department of Transportation  
(Name of Recipient)

By Lorie H. Tudor  
Lorie H. Tudor, P.E.  
Director of Arkansas Department  
Of Transportation

DATED 7/14/22

## APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or

the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## **APPENDIX B**

### **CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Department will accept title to the lands and maintain the project constructed thereon in accordance with Title 23, United States Code, the Regulations for the Administration of Federal-Aid Highway Program, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the ARDOT 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 ARDOT and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Department, its successors and assigns.

The ARDOT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the ARDOT will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [,] and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

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

## APPENDIX C

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

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

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

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

## APPENDIX D

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

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

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the ARDOT will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the ARDOT will there upon revert to and vest in and become the absolute property of the ARDOT and its assigns.\*

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

## APPENDIX E

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

### Pertinent Non-Discrimination Authorities:

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