Dover/Kent County MPO

Metropolitan Planning Organization

Dover/Kent County Metropolitan Planning Organization

Title VI/Environmental Justice Statement

Adopted November 2, 2016

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Title VI/Environmental Justice
POLICY STATEMENT

The Dover/Kent County Metropolitan Planning Organization (MPO) is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants and, to ensuring that the public at large is afforded access to our programs and services.

To that end no person shall be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under any MPO program or activity on the grounds of race, color, national origin, income, sex, age, disability, or limited English proficiency. MPO assures all its programs and activities will be free from discrimination, whether those programs and activities are federally funded or not.

MPO conducts this Title VI/Environmental Justice Program in a team approach involving all MPO personnel. The director of the MPO is responsible for the MPO's compliance with the Title VI/EJ implementing regulations.

Inquiries concerning MPO's policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI/Environmental Justice, may be directed to the Executive Director, Dover/Kent County Metropolitan Planning Organization, PO Box 383, Dover, DE, 19903, telephone 302-387-6030.

This policy Statement must be circulated throughout the MPO and be included by reference in all contracts, agreements, programs and services administered by the MPO.

Richard K. Vetter

Richard Vetter P.E., AICP
Executive Director

11/2/16
Date

11/2/16
or just after

POPULATION CHARACTERISTICS

RACE

Methodology

The MPO chose to use 2010 census data to describe the population characteristics. The 2010 data is a 100% count of the respondents to the census for the data under consideration. Using the American Community Survey (ACS) introduces error into the statistics cited that may be equal to or greater than the projected figures for small geographies. ACS data is a blend of actual surveys, if any, and a projection of the decennial census based upon the population sample.

Income Data is not a part of the universal census questionnaire and, therefore, was not available from the 2010 Decennial Census. The 2009 to 2013 five-year ACS was used for Block Group projections. The margins of error for the smaller numbers, typically for those in poverty, can be as much or more then the number of persons projected. The error margin for the total number of persons, a larger number, is generally 15% to 25%.

Analysis

Kent County has a mix of races similar to that of the State of Delaware. The white population constitutes nearly 68% of the population of the County, compared to almost 69% of the population of the State of Delaware. Kent County had a greater proportion of black or African-American persons than the State, 24.0% compared to 21.4%. The only other significant concentration of race, consisting of greater than 1% of the population, are Asians comprising 2.0% of the County and almost 3.2% of the State. The other two major categories of race are American Indian/Alaska Native and Native Hawaiian/other Pacific Islander, each with less than 1% of the population of the County and State. Of the people represented in those racial categories, 8.2% self-report as Hispanic or Latino in Delaware while 5.8% resided in Kent County.

When determining the areas of concentration of the racial groups, a portion of the population of each of the block groups that identified as a member of that group were calculated as a percentage. Each was compared to the overall concentration of the County as a whole and ranked as either being below the County average, above the County average, twice the County average, or three times the County average. The two racial groups identified as significant included the population that reported the race with no Hispanic ethnicity.

African-Americans

The areas of concentration of black or African-American residents are generally concentrated around the center of the County following US 13 and including a portion of Milford. The average proportion of African-Americans who didn't report as Hispanic for each block group was 23.4%. Therefore the block groups with greater than twice the regional average had a concentration greater than 46.8%. The one block group with greater than three times the regional average was block group 2 of census tract 407; the northwest side of Dover. The areas of heaviest concentrations twice or even three times the average are in the city of Dover and in a portion of the city of Milford between US 113 and Walnut Street. The highest concentration of African-American residents in the area is between Walker Road and College Road, west of Saulsbury Road. There is a portion of unincorporated Kent County to the east of the town of Camden that includes a significant concentration of African-Americans as well. *Please see Map 1.*

Asian

As previously mentioned, Asian residents comprise the second largest minority group in the County. The regional average for the proportion of the Asian population in a block group was much lower than African-American population however, only 2%. Thus the block groups with twice the regional average had 4% and those with three times the regional average had 6% Asian population. The distribution of the Asian population was broader than the distribution of African-Americans. The data seems to suggest there's a segregation between the populations as several of the block groups that had concentrations of African-Americans do not have concentrations of Asians. The alternative seems to be true to an extent as well; few block groups with a concentration of Asian population included a concentration of African-Americans. *Please see Map 2.*

Hispanic

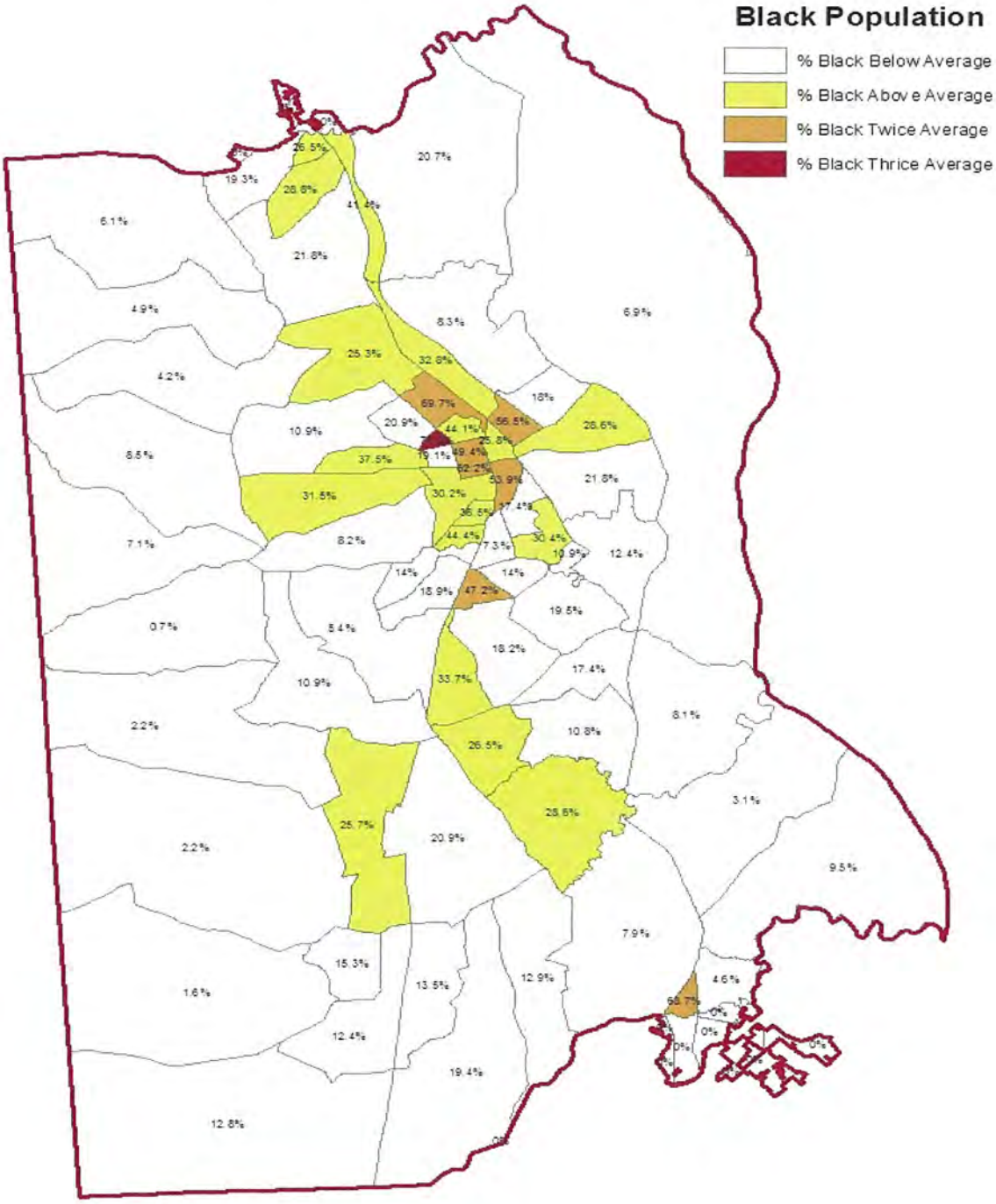
The previous two race categories were calculated based on the respondents reporting of their race exclusive of their ethnicity. The regional average for the block groups with residents reporting as Hispanic was 6.1%. As with the other categories the definition of significant concentrations was greater than two times the average or three times the regional average or 12.2% and 18.3% respectively. The block groups that included the greater concentrations of Hispanic population exhibited some amount of segregation as well. The block groups of highest concentration of Hispanics were generally concentrated to the east of State Route 1. The exclusion to the generalization are block groups around Lincoln St. in Dover, around Duck Creek in Smyrna, and the Northeast side of Milford. There was some concentration of Hispanic population in the block groups east of US 13 in Dover, Camden, and East and West of Felton and East of Harrington. *Please see Map 3.*

Poverty

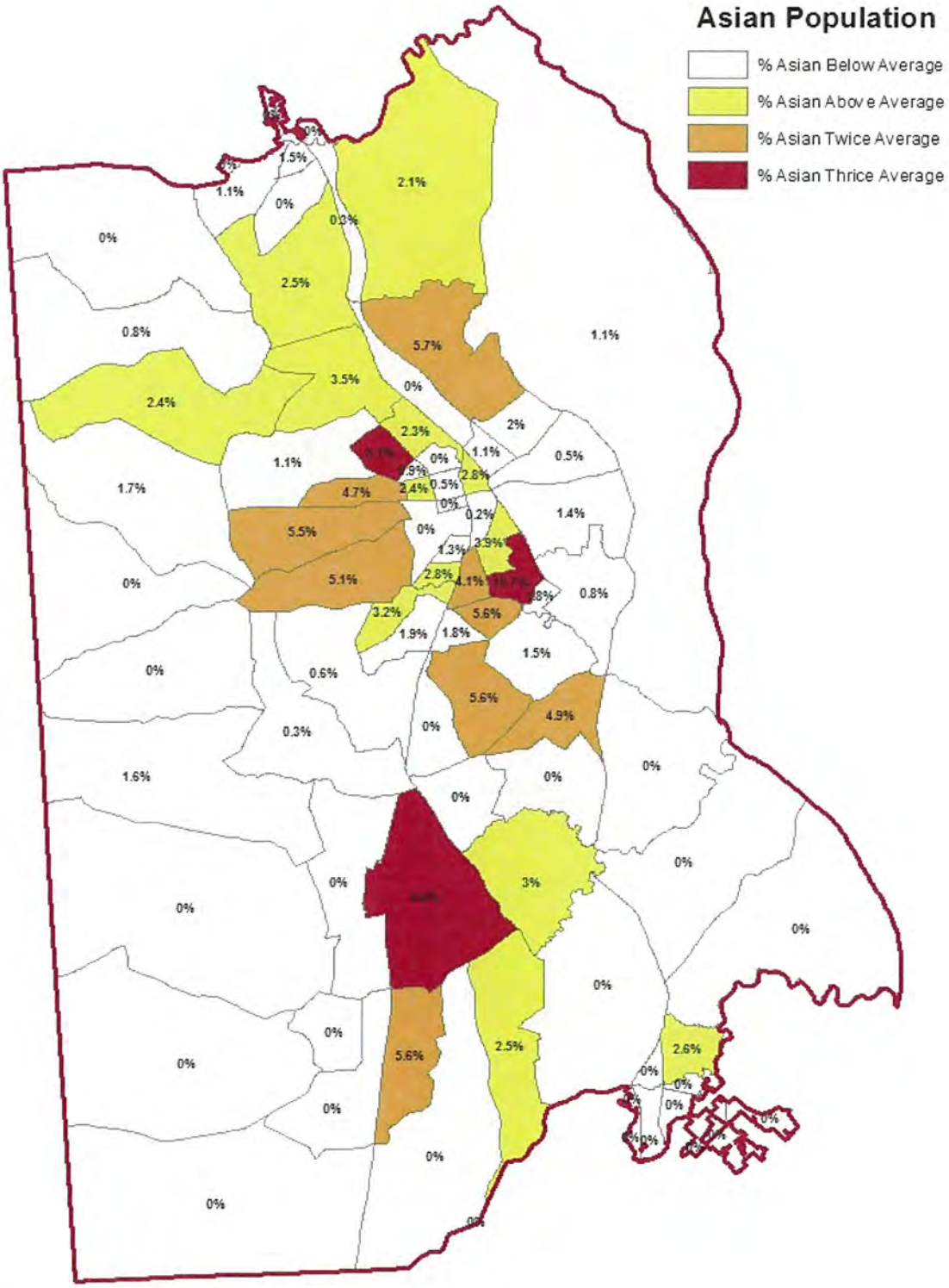
The other class of population that is protected from unequal hardships are those living in poverty. The geographic distribution of poverty is spread throughout the County. There is a greater concentration of those in poverty located primarily in the cities of Dover and Milford, with the exception of a primarily unincorporated area east of Route 13 in the middle of the County. Even in areas of concentration, the lowest income persons may be concentrated in small parts of the block group. *Please see Map 4.*

Maps

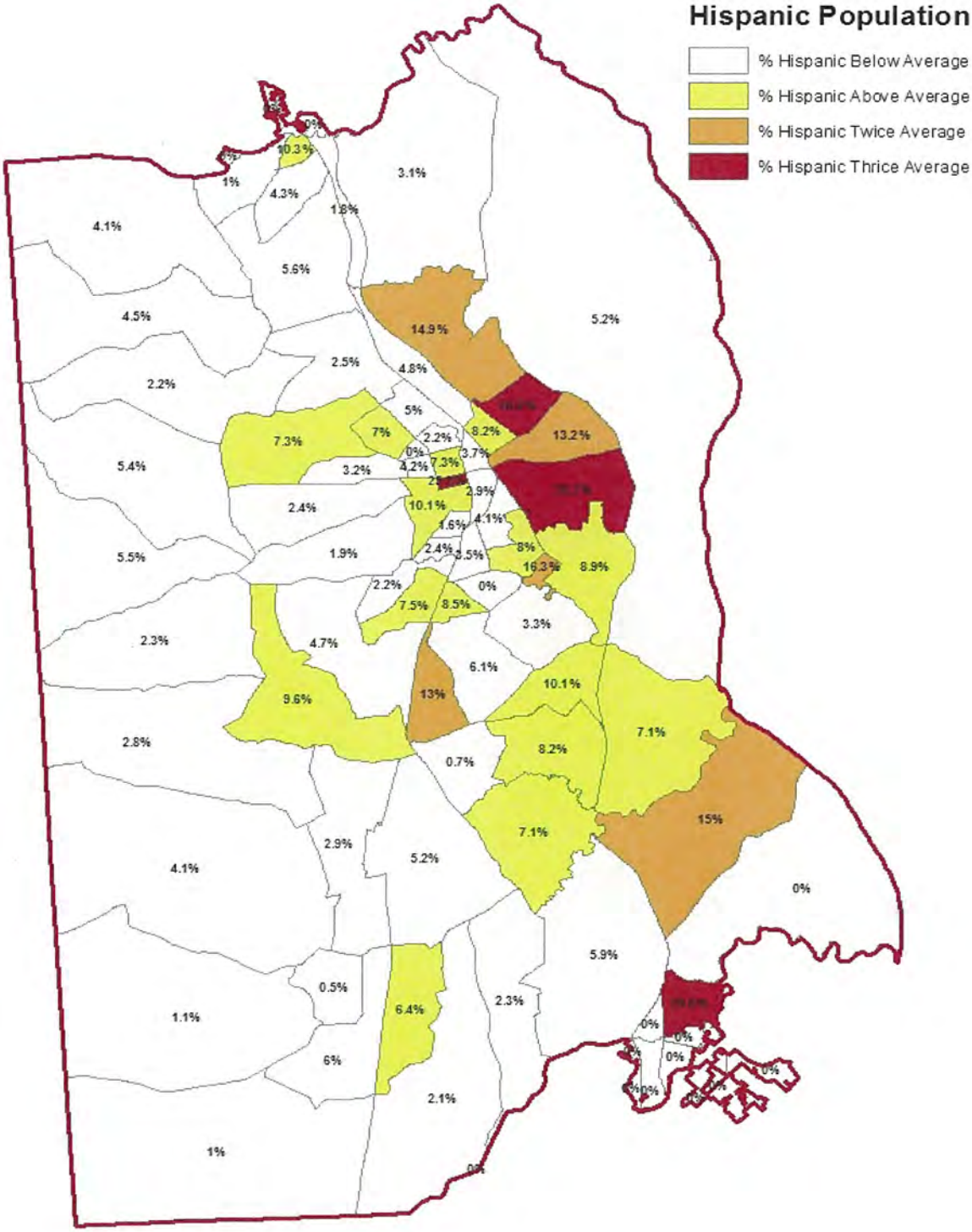
The four maps cited above, African American, Asian, Hispanic, and Poverty, follow on pages 8 through 11.



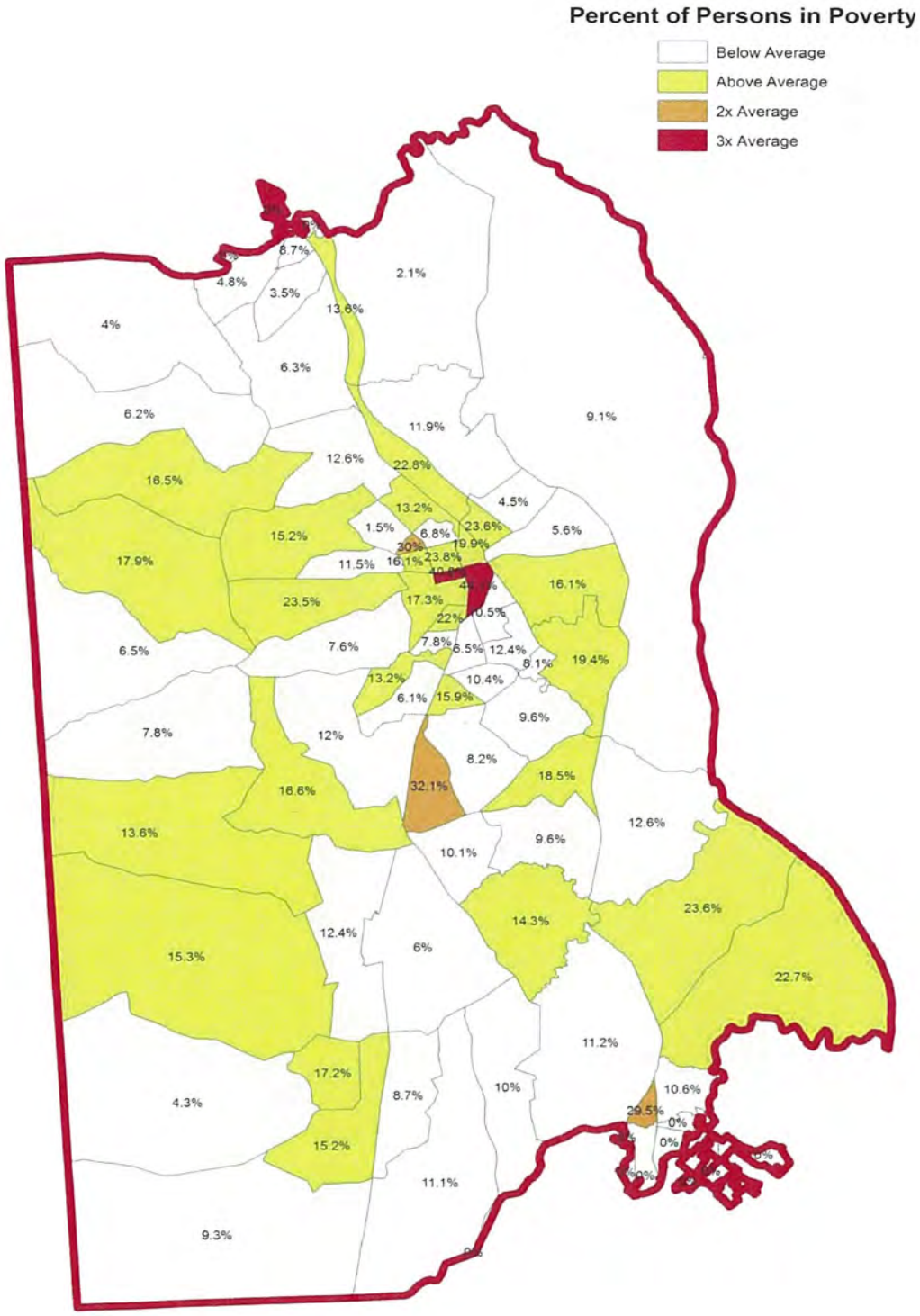
Map 1: African-Americans in Kent County by Census Block Group



Map 2: Asian persons in Kent County by Census Block Group



Map 3: Hispanic Population in Kent County by Census Block Group



Map 4: Persons in Poverty in Kent County by Census Block Group

IMPLEMENTATION

The MPO will use the information in this policy document to assess potential impacts of the proposed projects in the Transportation Improvement Program (TIP). Each proposed project will be plotted on the Environmental Justice Base Map to determine proximity to the areas cited above as well as the proximity to environmentally sensitive areas in the County. If a project is determined to be adjacent to either the cited populations or environmentally sensitive areas, the MPO will notify the Delaware Department of Transportation and begin outreach to the affected areas. Outreach may take the form of advertised workshops, email notices, or direct mailings to affected residents. The MPO will report the combined efforts and resultant comments from the affected areas to the Delaware Department of Transportation (DelDOT) and the FHWA, as required.

ADMINISTRATION - GENERAL

The Dover/Kent County Metropolitan Planning Organization Executive Director shall have the lead responsibility for coordinating the administration of the Title VI/Environmental Justice Program and related statutes, programs, plans, and assurances. Special emphasis program areas for the MPO are transportation planning studies, comprehensive planning assistance, and program management. The MPO has developed a public participation process which will be used in conjunction with the Title VI/Environmental Justice program and is included by reference.

Complaints

If any individual believes that she/he or any of the program beneficiaries have been the object of unequal treatment or discrimination as to the receipt of benefits and/or services, or on the grounds of race, color, national origin (including limited English proficiency), sex, age, or handicap, she/he may exercise right to file a complaint with the MPO. Complaints may be filed with the MPO Executive Director. Every effort will be made to resolve complaints informally at the lowest level.

Complaints may also be filed directly with the Federal Highway Administration, Federal Transit Administration, or the Delaware Department of Transportation, Civil Rights Section.

Data collection

Statistical data on race, color, national origin, the English language ability and sex of participants in, and beneficiaries of the MPO programs, e.g. relocatees, impacted citizens, and affected communities, will be gathered and maintained by the MPO. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI/EJ program.

MPO Reviews

Special emphasis program reviews will be conducted based on the annual summary of Title VI activities, accomplishments and problems. The reviews will be conducted by the MPO to assure effectiveness in their compliance of Title VI/EJ provisions. The MPO Executive Director will coordinate efforts to ensure the equal participation in all of their programs and activities at all levels.

Title VI/EJ Reviews On Sub-recipients

Title VI/EJ compliance reviews will be conducted annually by the MPO Executive Director. Priority for conducting reviews will begin with those recipients of federal (US Department of Transportation) funds with the greatest potential of impact to those groups covered by the act. The review will entail examination of the recipients' adherence to all Title VI/EJ requirements. The status of each review will be reported in the annual update and report to relevant US Department of Transportation (US DOT) modes (e.g. FHWA, Federal Transit Administration).

Annual Reports

An annual report will be required by August 1 of each year. The MPO Executive Director will be responsible for coordination and compilation of these reports to be submitted to the Delaware Department of Transportation and Federal Highway Administration as requested. These reports will review Title VI/EJ accomplishments achieved during the year and goals for the next year.

Title VI/EJ Plan Updates

A biannual update of the Title VI implementing plan will be completed at the time that the public participation plan is reviewed, if any.

FTA Title VI Compliance Reviews

A report will be submitted to the Delaware Transit Corporation (DTC) at least every three years to meet the agencies requirements for their FTA submission to comply with FTA circular 4702.1, Title VI program guidelines for Federal Transit Administration recipients.

Public Dissemination

MPO will disseminate Title VI/EJ program information to organization employees, the Council, committees and to the general public. Title VI/EJ program information will be submitted to sub recipients, contractors and beneficiaries. Public dissemination will include Title VI/EJ language in contracts and a copy of this policy on the MPO website.

Remedial Action

MPO will actively pursue the prevention of Title VI/EJ deficiencies and violations and will take the necessary steps to ensure compliance of all program administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective actions. The period to determine corrective action and put them in writing to affect compliance may not exceed 90 days from the date deficiencies are found.

SPECIAL EMPHASIS PROGRAM AREAS

Planning

The MPO will continue to provide input into the Delaware Department of Transportation Statewide Transportation Improvement Program (STIP) and six-year Capital Transportation Program (CTP). The MPO is responsible for developing a Long-Range Transportation Plan with the horizon of 20 years. The MPO is also responsible for developing a Transportation Improvement Program based on prioritized problem/projects from the Metropolitan Transportation Plan (MTP) that represent the activities important to the MPO and are included in the DelDOT STIP and CTP. Planning also encompasses clean-air issues, safety, transportation analysis, transportation reporting, inventory, research, mapping, major project studies in training and technical assistance for communities.

The MPO Executive Director will:

- Ensure that all aspects of the planning operation comply with the Title VI/EJ;
- Serve as a resource person helping to ensure participation of a cross-section of people representative of the affected population, ensuring that various and diverse social, economic, and ethnic interest groups are represented in the planning process;
- Provide the bi-annual report on Title VI/EJ accomplishments for the previous year and goals for the next year;
- Ensure equal opportunity for participation on advisory committees;
- Ensure Title VI/EJ language is included or incorporated by reference in every sub recipient contract.

Transit

Coordinates passenger-related functions including bus, vanpool, carpool, and pedestrian and bicycle programs. The MPO develops transportation alternatives that are environmentally sound, cost-effective and politically acceptable.

The MPO Executive Director will:

- Ensure that all aspects of passenger related functions/programs/contracts/grant programs comply with Title VI/EJ;
- Provide the bi-annual report on Title VI/EJ accomplishments to the Delaware Transit Corporation for the previous two years and goals for the next two years (in accordance with "FTA circular 4702.1 data collection and reporting requirements");
- Ensure Title VI/EJ language is included, or incorporated by reference, in every sub recipient contract;
- Perform reviews as needed of sub recipients to ensure Title VI/EJ adherence.

LIMITED ENGLISH PROFICIENCY

Compliance with Title VI includes limited English proficiency (LEP) persons. Language barriers prohibit people who are LEP from obtaining services and information relating to transportation services and programs. Because people who are LEP are not able to read instructions or correspondence written in English and may not understand verbal information, they often are not aware of regulatory requirements and legal implications of services they seek.

It is essential that the MPO personnel, transportation providers, professionals, and other sub recipients of federal funds become informed about their diverse clientele from the linguistic, cultural and social perspective. These individuals should become culturally competent so they can encourage vulnerable LEP minority populations to access and receive appropriate transportation services with more knowledge and confidence.

US DOT guidelines require that recipients of federal financial assistance provide "meaningful access to program and activities" by giving LEP persons adequate and understandable information and allowing them to participate in programs and activities where appropriate. The recipient has to take "reasonable steps" to remove barriers for LEP individuals.

Reasonable steps will depend on:

- The number and proportion of LEP persons potentially served by the recipients programs or activities in the variety of languages spoken in the recipients surface area;
- The frequency with which LEP individuals are affected by the program or activity;
- The importance of the effect of the recipients program on LEP individuals; the resources available to the recipient and what the recipient has budgeted for provision of special language services;
- The level of services provided to fully English proficient people; whether LEP persons are being excluded from services; or are provided a lower level of services;
- Whether the recipient has adequate justification for restrictions, if any, on special language services or on speaking languages other than English.

DOVER/KENT COUNTY MPO COMPLAINT PROCEDURES

Introduction

The Title VI/Environmental Justice and related statutes complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding the MPO's programs, activities and services as required by statute.

Purpose

The purpose of the discrimination complaint procedures is to describe the process used by the MPO for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

Roles and Responsibilities

The MPO Executive Director has overall responsibility for the discrimination complaint process and procedures. The director has assigned the Public Outreach Manager within the MPO as the staff member responsible for taking complaints and initializing an investigation.

The designated investigator assigned by the MPO Executive Director will conduct an impartial and objective investigation, and collect factual information in preparing a fact-finding report based upon the information obtained from the investigation.

In cases where the complainant is unable or incapable of filing a written Statement, the complainant will be assisted in converting the verbal complaint into a written complaint. All complaints, however, must be signed by the complainant and/or by the complainant's representative.

The complainant shall make him-or herself reasonably available to the designated investigator, to ensure completion of the investigation within the timeframe set forth.

Filing Complaints

Applicability: The complaint procedure applies to the beneficiaries of the MPO programs, activities and services including, but not limited to, the public, contractors, subcontractors, consultants and other sub recipients of federal and State funds.

Eligibility: Any person who believes that she/he has been excluded from participation in, denied benefits or services of any program or to be administered by the MPO or sub recipients, consultants and contractors on the basis of race, color, national origin (including Limited English Proficiency), sex, age, or disability may bring forth complaint of discrimination under Title VI/EJ and related statutes.

In all situations, the MPO employee must contact the MPO Executive Director immediately upon receipt of Title VI/EJ complaint.

Complaints must be filed no later than 180 days after:

- the date of the alleged act of discrimination; or
- the date the person became aware of the alleged discrimination; or
- where there has been a continuing course of discriminatory conduct, the date on which the conduct was discontinued.

Complaints must be in writing and must be signed by the complainant and/or the complainant's representative. The complaint must set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event a person makes a verbal complaint of discrimination to a MPO employee, or other person authorized to receive complaints on behalf of the MPO (if applicable), they shall interview the person. If necessary the authorized person will assist the person in writing the complaint for the person or the person's representative to sign.

Designated MPO special emphasis areas and operating elements will require the sub recipients they serve to forward to the director a complaint of discrimination made to them about their own actions or actions of sub recipients or contractors.

Internal Complaint Processing

Once a complaint is received, the Dover/Kent County MPO will review it to determine if our office has jurisdiction. The complainant will receive an acknowledgment letter informing them whether the complaint will be investigated by our office.

The Dover/Kent County MPO has 60 days to investigate the complaint. If more information is needed to resolve the case, the Dover/Kent County MPO may contact the complainant. The complainant has 10 business days from the date of the letter to send requested information to the Dover/Kent County MPO investigator assigned to the case. If the investigator is not contacted by the complainant or does not receive the additional information within 10 business days, Dover/Kent County MPO can administratively close the case. A case can also be administratively closed if the complainant no longer wishes to pursue the case.

After the investigator reviews the complaint, they will issue one of two letters to the complainant: a closure letter or letter of finding (LOF). A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed. An LOF summarizes the allegations and interviews regarding the alleged complaint, and explains whether any disciplinary action, additional training of staff members, or other action will occur. If the complainant wishes to appeal the decision, they have 60 days after the date of the closure letter or the LOF to file an appeal with the Executive Director of the Dover/Kent County MPO.

A person may also file a complaint directly with the Federal Transit Administration or Federal Highway Administration at:

FTA Office of Civil Rights
1200 New Jersey Ave., SE
Washington DC 20590
1-888-446-4511

FHWA Office of Civil Rights
(Southeast Federal Center Building)
1200 New Jersey Ave. S.E.
Washington, DC 20590-9898
1-202-366-0693
CivilRights.FHWA@dot.gov

Dover/Kent County MPO Title VI Complaint Form

Section 1					
Name:					
Address:					
Telephone (Best):			Telephone (Alt.):		
Accessible Format Options: ✓	Large Print		Staff Assistance		
	TDD		Other		

Section 2		
Are you filing this complaint on your own behalf?	Yes	No

If you answered yes to this question,. Go to Section 3

If not, please supply the name and relationship of the person for whom you are filing the complaint:	
Please explain why you have filed for the other person.	

Please confirm that you have obtained permission on their behalf	Yes	No

Section 3

I believe the discrimination I experienced was based on (check all that apply)

[ ] Race	[} Color	[ ] National Origin	[ ] Age
[ ] Disability	[ ] Sex	[ ] Disability	[ ] LEP

Date of the alleged discrimination:_____

Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the persons who discriminated against you if known as well as names and contact information of any witnesses. If more space is needed, please use the back of this form or another sheet.

Section 4

Have you previously filed a title VI complaint with this agency? Yes No

Section 5
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court? [ ] Yes [ ] No If yes, check all that apply: [ ] Federal Agency:_____ [ ] State Agency:_____ [ ] Local Agency:_____ [ ] Federal Court:_____ [ ] State Court:_____

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

Name:
Title (if known):
Agency:
Address:
Telephone:
Section 6 (office use only)
Name of agency complaint is against:
Contact person:
Title:
Telephone number:

You may attach any written material or other information that you think is relevant to your complaint.

Signature and date required below:

Signature Date

Please deliver the completed form in person or by mail to:

Dover/Kent County Metropolitan Planning Organization
1783 Friends Way, 3rd Floor
Camden, DE 19934

APPENDIX B

United States Department of Transportation (USDDOT)
Standard DOT Title VI Nondiscrimination Assurances for FHWA Recipients

TITLE VI ASSURANCES FOR THE DOVER/KENT COUNTY METROPOLITAN PLANNING ORGANIZATION

Reviewed and Adopted By the MPO Council On 11/2/2016

The Dover/Kent County Metropolitan Planning Organization (hereinafter referred to as the "Recipient") **hereby agrees that** as a condition to receiving any federal financial assistance from the Department of Transportation (DOT) through the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), it will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964, 78 stat. 252, 42 u.s.c. 2000d-42 u.s.c. 2000d-4 (hereinafter referred to as the Act), and
- All requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, entitled Nondiscrimination in Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964;
- Title 23 Code of Federal Regulations, part 200, Title VI program and related statutes – implementation and review procedures (hereinafter referred to as the regulations) and other pertinent nondiscrimination authorities and directives;

The preceding statutory and regulatory citations hereinafter referred to as the "Acts" and "Regulations" respectively.

General assurances

To that end, in accordance with the Acts, Regulations, and other pertinent nondiscrimination authorities and 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, sex (23 USC 324), age (42 USC 6101), disability/handicap (29 USC 790) and low income (Executive Order 12898) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance from the department of transportation, 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 hereby gives the following specific assurances with respect to its applicable activity, project or program:

1. The Recipient agrees that each "program" and each "facility" as defined in 49 CFR subsections 21.23(e) and (b) and 23 CFR 200.5(k) and (g) of the regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the regulations.

2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the regulations and made in connection with all applicable activities, projects or programs and, in adapted form in all proposals for negotiated agreements:

   "The MPO, in accordance with 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 in 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, national origin, sex, age, disability/handicap and low income in consideration for an award."

3. That the Recipient shall insert the clauses of Appendix A of this Assurance in every contract subject to the act s and the regulations.

4. 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 Recpient retains ownership or possession of the property.

5. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other Recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations and this Assurance.

6. 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 MPO also agrees to comply (and require sub Recipients, subgrantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the MPO 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 for the MPO. You must keep records, reports, and submit the material for review upon request to the MPO, or its designee in a timely, complete, and accurate way. Additionally you must comply with all of the reporting, data collection, and evaluation requirements, as prescribed by law or detailed in

program guidance.

The MPO gives this **ASSURANCE** in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, and/or discounts or other Federal financial aid and Federal financial assistance extended after the date hereof to the Recipients by the US Department of Transportation under the applicable activity, project or program. This **ASSURANCE** is binding on it, other Recipients, sub-Recipients, sub-grantees, contractors, subcontractors and their subcontractors, transferees, successors in interest and any other participants in the applicable activity, project or program. The person or persons whose signatures appear below are authorized to sign this **ASSURANCE** on behalf of the Recipient.

_____
(name of Recipient)

By_____
(signature of authorized official)

Dated_____

APPENDIX C

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) shall comply with the Acts and the Regulation relative to Non-discrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), 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, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by the Acts and 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 subcontractors, including procurements of materials and equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potiential subcontactor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.

4) **Information and reports**: The contractor shall provide all information and reports required by the Acts, the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the Recipient or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

5) **Sanctions for noncompliance:** in the event of the contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
   - 5.1) Withholding of payments to the contractor under the contract until the contractor complies, and/or
   - 5.2) Cancellation, termination or suspension of the contract, in whole or in part.

6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the MPO, the Delaware

Department of Transportation, or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Recipient to enter into such litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX D

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 USC. §2000d *et seq.*, 78 Stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 I CFR Part 21.
- The uniform relocation assistance and real property acquisition policies act of 1970, (42 USC §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 USC §324 *et seq.*) (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 USC §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 USC §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 prohibits 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 USC §§12131-12189) as implemented by Department Of Transportation regulations At 49 CFR Parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 USC 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 prohibits discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and inverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for People 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 populations 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 USC §1681 *et seq.*).