

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 letter or the LOF to do so.

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

APPENDIX A

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 III		
If not, please suply 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)		
<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> National Origin

Date of the alleged discrimination: _____

Explain is clearly as possible what happened and why you believe you were discriminated against. Describe all persons 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**

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APPENDIX B

United States Department of Transportation (USDOT)
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 acts 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 Recipient 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 Marilyn J. Smith
(signature of authorized official)

Dated 1/13/21

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 potential subcontractor 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.*).