

# TITLE VI: NON-DISCRIMINATION PLAN

Kalamazoo Area Transportation Study  
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## NON-DISCRIMINATION POLICY STATEMENT

The Kalamazoo Area Transportation Study (KATS) assures that no person shall, on the grounds of race, color, and national origin, as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (P.L. 100.259). Specifically, 42 USC 2000d states that *“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”* KATS further assures 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. In addition to Title VI, there are other non-discrimination statutes that afford legal protection. These statutes include the following: Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex), Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/Americans With Disabilities Act of 1990 (disability).

More specifically, the Kalamazoo Area Transportation Study assures that efforts will be made to prevent discrimination through the impacts of its programs, policies, and activities on minority and low-income populations. Additionally, the Kalamazoo Area Transportation Study will take reasonable steps to provide meaningful access to services for persons with Limited English Proficiency.

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Accommodations are available upon request to persons with disabilities who require alternately formatted materials to ensure effective communication and access to programs. For questions about accessibility or to request accommodations, please contact Steven Stepek, AICP at [269-343-0766](tel:269-343-0766) or [info@katmspo.org](mailto:info@katmspo.org).

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## Introduction

### What is an MPO?

A Metropolitan Planning Organization (MPO) is the policy board of an organization created and designated to carry out the metropolitan transportation planning process. MPOs are required to represent localities in all urbanized areas (UZAs) with populations over 50,000, as determined by the U.S. Census. MPOs are designated by agreement between the governor and local governments that together represent at least 75 percent of the affected population (including the largest incorporated city, based on population) or in accordance with procedures established by applicable state or local law.

### What is KATS?

The Kalamazoo Area Transportation Study (KATS) is the MPO for the Kalamazoo Urbanized Area. The Metropolitan Planning Area (MPA) for KATS is Kalamazoo County and a portion of Van Buren County including the townships of Almena, Antwerp, Paw Paw, and Waverly. KATS is a federally mandated policy body made up of representatives from local, state, and federal governments, transit agencies, and other stakeholders and is responsible for regional transportation planning and programming for the planning area. Any highway, transit, local road, or non-motorized project or program to be constructed or conducted in the region receiving Federal funding, must have approval by KATS before any funds can be expended. In addition, any highway or transit project deemed to be regionally significant by KATS staff, must receive KATS approval to proceed.

### Title VI Legislation

Title VI of the Civil Rights Act of 1964 is a landmark civil rights and labor law in the United States that outlaws discrimination based on race, color, religion, sex, or national origin. It prohibits unequal application of voter registration requirements, and racial segregation in schools, employment, and public accommodations. Specifically, Title VI assures 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 benefit of, or be otherwise subjected to discrimination under any program or activities receiving federal assistance.” Title VI has been by related statutes, regulations and executive orders. Section 324 of the Federal Aid Highway Act – this enabling legislation of the Federal Highway Administration (FHWA) – 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 undertaken with Federal financial assistance. The Civil Rights Restoration Act of 1987 clarified the intent of Title VI to include all programs and activities of Federal Aid recipients and contractors whether those programs and activities are federally funded or not.

In addition to statutory authorities, Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” signed in February of 1994, requires federal agencies to achieve Environmental Justice as part of its mission by identifying disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Environmental Justice initiatives are accomplished by involving the potentially affected public in the development of transportation projects within their

communities without sacrificing safety or mobility. In 1997, the U.S. Department of Transportation (USDOT) issued its DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations to summarize and expand upon the requirements of Executive Order 12898. Also, Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency (LEP)," provides that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance.

As a subrecipient of Federal financial assistances, the KATS must provide access to individuals with limited ability to speak, write or understand the English language. The KATS must not restrict an individual in any way from the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under its programs or projects. Individuals may not be subjected to criteria or methods of administration causing adverse impact due to their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program because of race, color, or national origin. Therefore, the primary goals of the KATS Title VI Program are:

1. To assign roles, responsibilities, and procedures for ensuring compliance with Title VI of the Civil Rights Act of 1964 and related regulations and directives.
2. To ensure people affected by the KATS programs and projects receive the services, benefits, and opportunities to which they are entitled without regard to race, color, national origin, age, sex, or disability.
3. To prevent discrimination in the KATS programs and activities, whether those programs are federally funded or not.
4. To establish procedures for identifying impacts in any program, service, or activity that may create an illegal adverse impact on any person because of race, color, national origin, age, sex, or disability; or on minority populations, low-income populations, the elderly, and persons with disabilities.
5. To establish procedures to annually review the Title VI compliance.
6. To set forth procedures for filing complaints by persons who believe they have been subjected to illegal discrimination under Title VI in a KATS service, program, or activity.

#### Discrimination under Title VI

There are two types of discrimination prohibited under Title VI and its related statutes. One type of discrimination that may or may not be intentional is "disparate treatment." Disparate treatment is defined as treating similarly situated persons differently because of their race, color, national origin, sex, age, or disability.

The second type of discrimination is "disparate impact." Disparate impact occurs when a "neutral procedure or practice" results in fewer services or benefits, or inferior services or benefits, to members of a protected group. With disparate impact, the focus is on the consequences of a decision, policy or practice rather than the intent.

The KATS's efforts to prevent such discrimination must address, but not be limited to, a program's impacts, access, benefits, participation, treatment, services, contracting opportunities, training, investigation of complaints, allocation of funds, prioritization of projects, and the overarching functions of planning, project development and delivery, right-of-way, construction, and research.

The KATS has developed this Title VI Plan to assure that services, programs, and activities of the region are offered, conducted, and administered fairly, without regard to race, color, national origin, sex, age, or disability of the participants or beneficiaries of federally programs, services, or activities (see Title VI Assurances).

## Kalamazoo Area Transportation Study Title VI Non-Discrimination Policy Statement

The KATS reaffirms its policy to allow all individuals the opportunity to participate in federal financially assisted services and adopts the following provision:

“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 subjected to discrimination under any program or activity receiving Federal financial assistance.” In applying this policy, the KATS and its sub-recipients of federal funds shall not:

1. Deny any individual any services, opportunity, or other benefit for which such individual is otherwise qualified;
2. Provide any individual with any service or other benefit which is inferior (in quantity or quality) to, or which is provided in a different manner from, that which is provided to others;
3. Subject any individual to segregated or disparate treatment in any manner related to such individual’s receipt of services or benefits;
4. Restrict an individual in any way from the enjoyment of services, facilities or any other advantage, privilege or other benefit provided to others;
5. Adopt or use methods of administration which would limit participation by any group of recipients or subject any individual to discrimination;
6. Address any individual in a manner that denotes inferiority because of race, color, or national origin;
7. Permit discriminatory activity in a facility built in whole or in part with federal funds;
8. Deny any segment of the population the opportunity to participate in the operations of a planning or advisory body that is an integral part of a federally funded program;
9. Fail to provide information in a language other than English to potential or actual beneficiaries who are of limited English speaking ability, when requested and as appropriate;
10. Subject an individual to discriminatory employment practices under any federally funded program whose objective is to provide employment;
11. Locate a facility in any way which would limit or impede access to a federally-funded service or benefit.

The KATS will actively pursue the prevention of any Title VI deficiencies or violations and will take the necessary steps to ensure compliance. If irregularities occur in the administration of the program’s operation, procedures will be promptly implemented to resolve Title VI issues.

The KATS designates Steven Stepek, AICP, Executive Director of the Kalamazoo Area Transportation Study, as the Title VI Coordinator. The Executive Director will be responsible for ensuring that the KATS complies with the Title VI regulations, pursues prevention of Title VI deficiencies or violations, as well

as logging and sending complaints to MDOT's Statewide Title VI Coordinator. Inquiries concerning the KATS and Title VI may be directed to:

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## Kalamazoo Area Transportation Study Title VI Assurances

The KATS (hereinafter referred to as the "Recipient") hereby agrees that, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI and the Civil Rights Acts of 1964, 78 Stat. 252, 42 USC 200d-42 USC 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally – Assisted Programs for the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the U.S. shall, on the grounds of gender, 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 received Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and hereby gives assurances that it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7 (a) (1) and (b) of the Regulations.

More specifically, and without limiting the above general assurance, the Recipient hereby gives the following specific assurance with respect to the Federal Aid Highway Program:

1. That the Recipient agrees that each "program" and each "facility," as defined in subsections 21.3 (e) and 21.23 (b) 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 Federal Aid Highway Programs and, in adapted from in all proposals for negotiated agreements:
  - a. "The (Recipient), in accordance with Title VI of the Civil Right Act of 1964, 78 Stat. 252, 42 U.S.C 2000d-4 and Title 49, code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant submit bids in response to this invitation will not be discriminated against on the grounds of race, color, sex, or national origin 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 and Regulations
4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the U.S. effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. 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 shall extend to rights to space on, over or under such property.

That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties; (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired or improved under the Federal Aid Highway Program.

7. That this assurance obligates the Recipient for the period during with 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.
8. 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 it 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 Act, the Regulations and this assurance.
9. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient under the Federal Aid Highway Program and is binding on it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

Kalamazoo Area Transportation Study

X 

Steven Stepek, AICP  
Executive Director



## Authorities of Title VI include:

- Civil Rights Restoration Act of 1987
- Federal Aid Highway Act of 1973, 23 USC 324
- Age Discrimination Act of 1975, 42 USC 6101
- Americans With Disabilities Act of 1990 PL 101-336
- Section 504 of the Rehabilitation Act of 1973
- USDOT Order 1050.2: Standard Title VI Assurances
- EO12250: Department of Justice Leadership and Coordination of Non-Discrimination Laws
- EO12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- 28 CFR 50.3: Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964
- EO13166: Improving Access to Services for Persons with Limited English Proficiency.

## Authorities

Title VI of the Civil Rights Act of 1964, 42 USC 2000d to 2000d-4; USC 4601 to 4655; 23 USC 109 (h);

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin (including Limited English Proficiency), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21). Related statutes have broadened the grounds to include age, sex, low income, and disability.

The Civil Rights Restoration Act of 1987 also broadened the scope of Title VI coverage by expanding the definition of terms “programs and activities” to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S.557] March 22, 1988).

USDOT Order 1050.2: Standard Title VI Assurances.

EO12250: Department of Justice Leadership and Coordination of Non-Discrimination Laws.

EO12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

28 CFR 50.3: Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.

EO13166: Improving Access to Services for Persons with Limited English Proficiency.

### Related Authorities

Federal Aid Highway Act of 1973, 23 USC 324: No Person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjects to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title.

Age Discrimination Act of 1975, 42 USC 6101: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under, any program or activity receiving Federal financial assistance.

Americans With Disabilities Act of 1990 PL 101-336: No qualified individual with a disability shall, by reason of his/her disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination by a department, agency, special purpose district or other instrumentality of a state or local government.

Section 504 of the Rehabilitation Act of 1973: No qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.

## Regulatory Requirements

The KATS, as a recipient and distributor of federal funds, must take affirmative steps to ensure that discrimination, as addressed by Title VI, does not occur, and must perform the following actions in order to comply with federal requirements under 23 CFR Part 200 and 49 CFR Part 21:

1. 23 CFR 200.9 (b)(2): Adequately staff the civil rights unit to effectively implement state civil rights requirements
2. 23 CFR 200.9 (b) (3): Develop procedures for prompt processing and disposition of title VI and Title VI complaints.
3. 23 CFR 200.9 (b)(4): Develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of, state highway programs, i.e., relocates, impacted citizens and affected communities.
4. 23 CFR 200.9 (b) (5): Develop a program to conduct Title VI reviews of program areas, i.e., Transportation Planning.
5. 23 CFR 200.9 (b) (6): Conduct Title VI reviews of special emphasis areas to determine the effectiveness.
6. 23 CFR 200.9 (b) (9): Conduct training programs on Title VI and related statutes.
7. 23 CFR 200.9 (b) (11): Submit updated Title VI implementing plan to MDOT.
8. 23 CFR 200.9 (b) (12): Develop Title VI information for dissemination to the general public, where appropriate, in languages other than English.
9. 23 CFR 200.9 (b) (13): Establish procedures for pre-grant and post-grant approval reviews of state programs and applicants for compliance with Title VI requirements.
10. 23 CFR 200.9 (b) (14): Establish procedures to identify and eliminate discrimination where found.
11. Executive Order 12898: Ensure that Environmental Justice principles are integrated into procedures and programs.
12. Executive Order 13166: Ensure that appropriate LEP processes and procedures are implemented.

Title VI recipients must comply with these regulatory requirements:

## Related Laws and Statutes

- Civil Rights Restoration Act of 1987: Restores the original intent of Title VI to require that all programs are covered whether they are federally funded or not.
- Section 504 of the Rehabilitation Act of 1973: Prohibits discrimination on the basis of a disability.

- Americans With Disabilities Act of 1990: Prohibits discrimination on the basis of a disability.
- Section 324 of the Federal Aid Highway Act: Prohibits discrimination on the basis of sex.
- Uniform Relocation Assistance and Real Property Acquisition Act of 1970
- 42 USC 6101: Prohibits age discrimination in any program receiving Federal financial assistance.
- 49 CFR Part 21 and 23 CFR Part 200: Describes U.S. DOT and FHWA prohibitions against discrimination.

## Definitions

**Adverse Effects** - The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: (See Appendix E for additional discussion of “significant”)

- Bodily impairment, infirmity, illness or death
- Air, noise and water pollution and soil contamination
- Destruction or disruption of man-made or natural resources
- Destruction or diminution of aesthetic values
- Destruction or disruption of community cohesion or community’s economic vitality
- Destruction or disruption of the availability of public and private facilities and services
- Adverse employment effects
- Displacement of person’s businesses, farms or non-profit organizations
- Increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community
- Denial of, reduction in, or significant delay in the receipt of benefits of the KATS programs, policies or activities

**Federal Assistance** – Includes grants and loans of federal funds; the grant or donation of federal property and interest in property; the detail of federal personnel, federal property or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and any federal agreement, arrangement or other contract which has, as one of its purposes, the provision of assistance.

**Limited English Proficiency** – Individuals with a primary or home language other than English who must, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in, or benefit from, any aid, service or benefit provided by the KATS.

**Low Income** – A person whose median household income is at or below the Department of Health and Human Services poverty guidelines (see <http://aspe.hhs.gov/poverty/>).

**Low Income Population** – Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed KATS program, policy or activity.

**Minority** – A person who is:

- a. Black – A person having origins in any of the black racial groups of Africa;
- b. Hispanic – A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- c. Asian American – A person having origins in any of the original people of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands; or

- d. American Indian and Alaskan Native – A person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition.

**Minority Population** – Any readily identifiable groups of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed KATS program, policy or activity.

**Non-Compliance** – A recipient, or subrecipient, that has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all the requirements of Title VI and related statutes.

**Persons** – Where designation of persons by race, color or national origin is required, the following designations ordinarily may be used: “White not of Hispanic origin,” “Black not of Hispanic origin,” “Hispanic,” “Asian or Pacific Islander,” and “American Indian or Alaskan Native.” Additional sub-categories based on national origin of primary language spoken may be used, where appropriate, on either a national or a regional basis.

**Program** – Includes any road or park project, including planning or any activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health welfare, rehabilitation or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient.

**Recipient** – Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, position, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof, but does not include any ultimate beneficiary under any such program.

**Sub-Recipient** – Any agency such as a council of governments, regional planning agency, or educational institution, for example, that received Federal Highway Administration (FHWA) funds through the State DOT and not directly from the FHWA. Other agencies, local governments, contractors, and consultants that receive these funds are all considered sub-recipients.

**Significant Adverse Effects on Minority and Low-Income Population** – An adverse effect that:

- a. Is predominantly borne by a minority population and/or a low-income population, or
- b. Will be suffered by the minority population and/or a low-income population and is shown to be appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

## Structure for Organizational Oversight and Compliance

The Director of the Kalamazoo Area Transportation Study is the KATS Title VI Coordinator. The Director has appointed the Finance and Administrative Manager to oversee the coordination of the day-to-day administration of the Title VI Program and will report to the Director on all related matters.

## Programmatic Roles and Responsibilities

### **KATS Title VI Coordinator**





The KATS Title VI Coordinator is responsible for ensuring all internal program areas are in compliance

with Title VI and related statutes. It is the responsibility of the Title VI Coordinator to send Title VI complaints to MDOT’s Statewide Title VI Coordinator and maintain a log of all Title VI complaints. The KATS Title VI Coordinator, or his/her appointed staff, is responsible for overall management of the day-to-day administration of the Title VI Plan, including implementation and management of the Title VI program.

**KATS Transportation Planning**

The Kalamazoo Area Transportation Study conducts transportation planning for all of Kalamazoo County and four townships in Van Buren County, including Almena, Antwerp, Paw Paw, and Waverly. A comprehensive transportation planning process is used for incorporating input from the public into various Metropolitan Planning Organization (MPO) activities. The process further entails the monitoring and collection of varied data pertaining to transportation related issues. The KATS coordinates transportation planning on the Federal Aid Road Network utilizing input from the public. The KATS also provides technical support to jurisdictions and agencies when needed.

**Title VI Responsibilities**

Develop	Comply	Promote	Address
 <p>Assist the KATS Title VI Coordinator in the development of the Title VI Plan</p>	 <p>Ensure all aspects for the transportation planning process comply with Title VI and related statutes</p>	 <p>Ensure the opportunity for participation of a cross section of various social, economic, and ethnic interest groups throughout the public involvement process</p>	 <p>Ensure that all complaints are promptly addressed according to established KATS public participation plan</p>

**Administration – General**

**Complaints:** If any individual believes that he/she or any other program beneficiaries have been the object of unequal treatment or discrimination as to the receipt of benefits and/or service, or on the grounds of race, color, or national origin (including Limited English Proficiency), he/she may exercise his/her right to file a complaint with the KATS. Complaints may be filed with the Title VI Coordinator. Every effort will be made to resolve complaints informally at the lowest level.

**Data Collection:** Statistical data on race, color, national origin, English language proficiency, and sex of participants in and beneficiaries of the KATS programs, e.g. impacted citizens and affected communities, will be gathered and maintained by the KATS. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI program.

**Program 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 Title VI Coordinator to assure effectiveness in their compliance of Title VI provisions. The Title VI Coordinator will coordinate efforts to ensure the equal participation in all their programs and activities at all levels. The KATS does not have any special emphasis programs at this time.

**Title VI Reviews on Sub-Recipients:** Title VI compliance reviews will be conducted annually by the Title VI Coordinator. Priority for conducting reviews will be given to those recipients of federal (U.S. Department of Transportation) funds with the greatest potential of impact on those groups covered by the Act. The reviews will entail examination of the recipients' adherence to all Title VI requirements. The status of each review will be reported in the annual update and reported to the relevant U.S. Department of Transportation (USDOT) modes upon request.

**Annual Reporting Form:** The KATS Title VI Coordinator or designee will be responsible for coordination, compilation, and submission of the annual reporting form data to the Michigan Department of Transportation (MDOT), Civil Rights Program Unit, via the Sub-Recipient Annual Certification Form (MDOT form #0179) by October 5<sup>th</sup>.

**Public Dissemination:** The KATS will disseminate Title VI Program information to employees and to the general public. Title VI Program information will be submitted to sub-recipients, contractors and beneficiaries. Public dissemination will include inclusions of Title VI language in contracts and publishing the KATS Title VI Plan within 90 days of approval on the main page of the website, at [www.katsmpo.org](http://www.katsmpo.org).

**Remedial Action:** The KATS, through the Title VI Coordinator, will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective action(s). The corrective action(s) will be determined by the FHWA Headquarters Office of Civil Rights (HCR).

## Filing a Title VI Complaint

### Introduction

The Title VI complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding KATS programs, activities, and services as required by statute.

### Purpose

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

### Roles and Responsibilities

The Title VI Coordinator has the responsibility for assuring that the discrimination complaint process and procedures adhere to FHWA's guidance.

## Filing a Complaint

The complainant shall make himself/herself reasonably available to the designated investigator, to ensure completion of the investigation within the timeframes set forth.

**Applicability:** The complaint procedures apply to the beneficiaries of KATS programs, activities, and services, including but not limited to: the public, contractors, sub-contractors, consultants, and other sub-recipients of federal and state funds.

**Eligibility:** Any person who believes that he/she has been excluded from participation, denied benefits or services of any program or activity administered by KATS or its sub-recipients, consultants and contractors on the basis of race, color, or national origin (including Limited English Proficiency), may bring forth a complaint of discrimination under Title VI.

**Time Limitation on Filing Complaints:** Title VI complaints may be filed with the Title VI Coordinator's office. In all situations, the employees of KATS must contact the Title VI Coordinator immediately upon receipt of Title VI related complaints. Within ten (10) days KATS will acknowledge receipt of the complaint.

Complaints must be filed within 180 days of the alleged discrimination.

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 cases where the complainant is unable or incapable of providing 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.

Items that should not be considered a formal complaint: (unless the items contain a signed cover letter specifically alleging a violation of Title VI) include, but are not limited to:

1. An anonymous complaint that is too vague to obtain required information.
2. Inquiries seeking advice or information.
3. Courtesy copies of court pleadings.
4. Newspaper articles.
5. Courtesy copies of internal grievances.

## Investigation

All complaints investigations are delegated by FHWA. Allegations of discrimination are taken very seriously and will be investigated in a timely manner. The Title VI Coordinator will gather relevant information in a fair and impartial manner and will submit the complaint to MDOT's Statewide Title VI Coordinator who will forward the complaint to FHWA.

### Timeframes for Investigations

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance.

For State DOTs that have been delegated an investigation from FHWA, 23 CFR § 200.9(b)(3) provides that State DOTs must complete investigations within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA).

### **FHWA Investigation Potential Outcomes**

First, at any time during the investigation, either FHWA or the respondent may initiate informal negotiations to resolve the issues. The FHWA always strives to resolve Title VI complaints informally, if possible.

In the absence of such negotiations, FHWA Headquarters Office of Civil Rights (HCR) (or an investigator State DOT) will draft a Report of Investigation, which should contain all relevant data and findings, with legal conclusions and potentially include recommendations for action. FHWA is responsible for the final disposition of all complaints, including initiation and conduct of informal negotiations and the issuance of Letters of Finding (LOFs).

There are five potential outcomes for concluding an investigation:

1. The FHWA makes a finding of no violation, and the case will be closed with no further action. The FHWA will issue an LOF stating in sufficient detail the reasons for the determination of no violation.
2. If, by a preponderance of the evidence, FHWA determines the respondent has failed to comply with its Title VI requirements or threatens to fail to comply by action or inaction, then FHWA will inform the respondent and the matter will be resolved by informal means whenever possible.
  - If FHWA informally resolves the matter with the respondent by agreement, then FHWA will hold the complaint in abeyance until the respondent completes its corrective actions. If the corrective actions are completed to the FHWA's satisfaction, then the complaint will be dismissed with no further action.
  - If FHWA cannot informally resolve the matter or the respondent does not complete agreed upon corrective actions, then FHWA may issue a LOF stating that the Recipient is in noncompliance with its Title VI obligations.
3. If FHWA issues a LOF of noncompliance to the respondent, the LOF will request that the respondent provide to FHWA, within 90 days, an action plan that implements the recommendations in the LOF.
4. If FHWA approves the action plan, then the respondent will be given a reasonable amount of time to implement the plan. At the end of the implementation period, FHWA will assess whether the respondent has sufficiently corrected the deficiencies.
5. If FHWA does not approve the action plan, or the respondent is nonresponsive/uncooperative, then FHWA may seek administrative sanctions, including, but not limited to, suspension or termination of



Federal funds or any other means authorized by law such as referral to USDOJ for enforcement.

- If USDOT seeks to suspend or terminate funds, it must provide the respondent with an opportunity for a hearing on the record. If the Secretary of Transportation determines that the respondent has not complied with Title VI and voluntary compliance cannot be secured, USDOT must notify Congress before that finding goes into effect. 49 CFR §21.13(c).

All LOFs issued by FHWA are administratively final.

**Retaliation:**

The laws enforced by this MPO prohibit retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by these laws. If you experience retaliation or intimidation separate from the discrimination alleged in this complaint please contact:

Steve Stepek  
Kalamazoo Area Transportation Study  
5220 Lovers Lane, Suite 110  
Portage, MI 49002  
Phone: 269-343-0766  
Email: info@katsmpo.org

Reporting Requirements to an External Agency

A copy of the complaint, together with a copy of the investigation report and final decision letter will be forwarded to the MDOT, Civil Rights Program Unit within 60 days of the date the LOF was received.

Records

All records and investigative working files are maintained in a confidential area. Records are kept for three years.

## Appendix A – To be inserted in all Federal-Aid Contracts

The following shall be included as part of all KATS federally funded contracts to ensure that Title VI provisions and assurances are followed:

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**

- a. The contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter referred to as DOT), Title 49, Code of Federal Regulations, part 21 (hereinafter referred to as the Regulations), as they may be amended from time to time, herein incorporated by reference and made a part of this contract.

### **2. Nondiscrimination**

- a. The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in the Regulations.

### **3. Solicitations for Subcontracts, including Procurement of Materials and Equipment**

- a. In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of material for leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

### **4. Information and Reports**

- a. The contractor shall provide all information and reports required by the Regulation or directives issued pursuant thereto, and shall permit access to books, records, accounts, other sources of information and its facilities as many be determined by the KATS, MDOT, or appropriate Federal Agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the MDOT or the appropriate Federal Agency as needed, and shall set forth what efforts it has made to obtain the information.

### **5. Sanctions for Noncompliance**

- a. In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the KATS shall impose such contract sanctions as the MDOT may determine be appropriate, including, but not limited to:
  - i. Withholding of payments to the contractor under contract until the contractor complies and/or
  - ii. Cancellation, termination, or suspension of the contract, in whole or in part.

### **6. Incorporations of Provisions**

- a. The contractor shall include the provisions of paragraphs one (1) through five (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by Regulations or directives issued pursuant thereto. The contractor shall take

such action with respect to any subcontractor or procurement as the KATS, MDOT or appropriate Federal Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

## Appendix B – Transfer of Property

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

### Granting Clause

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the Michigan Department of Transportation will accept title to the lands and maintain the project constructed thereon, in accordance with the State of Michigan, the Regulations for the Administration of the State Transportation Program and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation, also in accordance with and in compliance with all requirements imposed by or pursuant of Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) 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 State of Michigan all the right, title and interest of the 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 Michigan Department of Transportation, 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 shall be binding on the Michigan Department of Transportation, its successors and assigns.

The Michigan Department of Transportation, in consideration or the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex, disability, 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 Michigan Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this inscription.\*

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

## Appendix C: Permits, Leases and Licenses

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the Michigan Department of Transportation, pursuant to the provisions of Assurance 7 (a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for him/herself, his/her personal representatives, successors in interest, and assigns, as 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 grounds of race, color, sex, disability or national origin, shall be excluded from participation in, be 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 grounds of race, color, sex, disability or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination, (3) that the grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964), and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]\*

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

[Include in deeds]\*

That in the event of breach of any of the above nondiscrimination covenants, the Michigan Department of Transportation shall have the right to reenter said land and facilities thereon, and the above described land and facilities shall thereupon revert to and vest in and become the absolute property of the Michigan Department of Transportation and assigns.

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

## Appendix D: Title VI Complaint Form

### KALAMAZOO AREA TRANSPORTATION STUDY Title VI Complaint Form

Title VI of the Civil Rights Act of 1964 states 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 benefit of, or otherwise be subjected to discrimination in any program, service, or activity receiving federal assistance.”

This form may be used to file a complaint with the KATS based on violations of Title VI of the Civil Rights Act of 1964. You are not required to use this form; a letter that provides the same information may be submitted to file your complaint. **Complaints should be filed within 180 days of the alleged discrimination.**

*If you need assistance completing this form, please contact Steven Stepek by phone at 269-343-0766 or via email at [info@katsmpo.org](mailto:info@katsmpo.org).*

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Individual(s) discriminated against, if different than above.

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Please explain your relationship with the individual indicated above: \_\_\_\_\_

Name of agency and department or program that discriminated:

\_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Date(s) of alleged discrimination

Date discrimination began \_\_\_\_\_ Last or most recent date \_\_\_\_\_

Alleged Discrimination:

If your complaint is in regard to discrimination in the delivery of services or discrimination that involved the treatment of you by others by the agency or department indicated above, please indicate below the basis on which you believe these discriminatory actions were taken.

\_\_\_\_ Race                                      \_\_\_\_ Retaliation  
\_\_\_\_ Color                                      \_\_\_\_ National Origin

Explain: Please explain as clearly as possible what happened. Provide the name(s) of witness(es) and others involved in the alleged discrimination. Attach additional sheets, if necessary, and provide a copy of written material pertaining to your case.

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please return completed form to:  
Steven Stepek, AICP, Executive Director  
Kalamazoo Area Transportation Study  
5220 Lovers Lane, Suite 110  
Portage, MI 49002  
Email: [info@katsmpo.org](mailto:info@katsmpo.org)

Note: *The KATS prohibits retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by policies of KATS. Please inform the person listed above if you feel you were intimidated or experienced retaliation in relation to filing this complaint.*

## Appendix E – Determine/Distinguish Significant or Non-Significant Effects

“Significant” requires considerations of both context and intensity:

- a) Context: this means that the significance of an action must be analyzed in several contexts such as society as a whole (human, nation), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site specific action, significance would usually depend upon the effects in the local area rather than in the world as a whole. Both short and long-term effects are relevant.
- b) Intensity: this refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects for a major action. The following should be considered in evaluating intensity:
  - a. Impacts that may be both beneficial and adverse. A significant effect may exist even if, on balance, the effect would be beneficial.

“Non-Significant Effect” means no substantial change to an environmental component and this has no material bearing on the decision making process.

Scientific, technical, institutional, the public’s value, and the local economic condition influence the meaning of significant effect.

If an alternative would provide a beneficial effect, then the alternative would cause no significant adverse effect. If an alternative would provide an adverse effect, the effect might be significant or the effect might be non-significant.

Determination of “significant” and “non-significant” effects will be made by the Executive Director.



## Appendix F – Program Compliance and Program Review Goals for Current Plan year

The KATS Title VI Plan will be communicated to each employee and all KATS employees will be trained or made aware of the Title VI and LEP policies and complaint procedures.

The KATS Title VI Plan will be published on the main page of the KATS website [www.katsmpo.org](http://www.katsmpo.org), within 90 days of approval.

Appendix A will be included in all KATS contracts as outlined in the Title VI Plan. The language in number 2 of the KATS' Title VI Assurances will be included in all solicitations for bids for work or material subject to the Regulations and in all proposals for negotiated agreements.

The procedure(s) for responding to individuals with Limited English Proficiency will be implemented. A review of KATS facilities will be conducted in reference to compliance with the American Disabilities Act.

The following data will be collected and reviewed by the KATS Title VI Coordinator and included, where appropriate, in the annual report submitted to MDOT.

**Boards:** The number of vacancies; how vacancies are advertised and filled; the number of applications; the representation of minorities will be evaluated.

**Public Meetings:** The number of open meetings; how meeting dates and times are communicated to the general public and to individuals directly affected by the meeting.

**Construction Projects:** The number of construction projects and minority contractors bidding and the number selected; verification that Title VI language was included in bids and contracts for each project.

**LEP Needs:** The number of requests for language assistance that were requested or required; the outcome of those requests.

**Complaints:** The number of Title VI complaints received; nature of the complaints; resolution of the complaints.

**Timeliness of Services:** The number of requests for services; amount of time from request to when service was delivered; number of requests denied.

**Right of Way/Eminent Domain:** The number of such actions and diversity of individual(s) affected.

**Program Participants:** Racial data of program participants where possible.

## Appendix G – Additional Resources

Title VI information can be found at:

<https://www.justice.gov/crt/fcs/TitleVI>

LEP guidance through the DOJ can be found online at:

<https://www.lep.gov/>

The DOT has also posted LEP guidance on their website at:

<https://www.transportation.gov/civil-rights/civil-rights-awareness-enforcement/dots-lep-guidance>

## Appendix H – Public Comment

- Title VI Certification Review Comments
- Separate fillable PDF for complaint form
  - MDOT should be contact agency