

TITLE VI PROGRAM PLAN



Agency Administrator

Shawn Utt

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TITLE VI STATEMENT OF COMMITMENT

The Smyth County Board of Supervisors, hereinafter also referred to as the "LPA", will effectuate the provisions of Title VI of the Civil Rights Act of 1964, 49 Code of Federal Regulation (CFR) Part 21, 23 CFR Part 200 and other applicable directives. These authorities provide that no person in the United States shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which LPA receives federal assistance.

Further, as a recipient of federal-aid funding, Smyth County strives to achieve nondiscrimination in all its programs and activities whether those programs and activities are federally funded. These efforts to prevent discrimination will address, but not be limited to, a program's impact upon access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigation of complaints, allocation of funds, prioritization of projects, and the functions of right-of-way, research, planning, design, construction, and project development. Smyth County will ensure that every manager, supervisor, employee, and sub-recipient of federal-aid funds administered by the LPA is aware of and applies the intent and spirit of Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities in performing assigned duties.

Every employee and representative of Smyth County shall perform all official duties and actions in full accord with Title VI of the Civil Rights Act of 1964, applicable statutes, executive orders, regulations, and policies enunciated there under.

The Assistant County Administrator - Operations has been designated as the LPA's Title VI Coordinator and is responsible for ensuring that all matters relating to nondiscrimination are administered effectively.

Employees of the LPA, contractors or applicants with questions, problems or complaints regarding this statement, and the implementation of the stated provisions, should contact

Aliecia Richardson, at 276-783-3298.


Shawn Utt

Agency Administrator


Date

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INTRODUCTION

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides 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." (42 U.S.C. Section 2000d).

The Civil Rights Restoration Act of 1987 clarified the intent of Title VI to include all programs and activities of Federal-aid recipients, sub-recipients, and contractors whether those programs and activities are federally funded or not. The Federal Transit Administration (FTA) has placed renewed emphasis on Title VI issues, including providing meaningful access to persons with limited English proficiency (LEP). Recipients of public funding are to develop policies, programs, and practices that ensure that federal and state dollars are used in a manner that is nondiscriminatory as required under Title VI.

This document details how Smyth County incorporates nondiscrimination policies and practices in providing services to the public. Title VI policies and procedures are documented in this plan. This plan will be updated periodically to incorporate changes and additional responsibilities as needed.

ORGANIZATION AND TITLE VI PROGRAM RESPONSIBILITIES

A. Relationship of Civil Rights Unit/Staff to Head of Smyth County

Agency Administrator - The Agency Administrator is authorized to ensure compliance with provisions of the Agency's policy of nondiscrimination and with the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21. The agency's grants compliance function and Title VI coordination shall be performed under the authority of the Agency Administrator. Title VI Coordinator - The Title VI Coordinator will perform the duties of the Title VI manager and ensure implementation of the Agency's Title VI Federally Funded Transportation Program. The Title VI Coordinator reports directly to the Agency Administrator.

B. Statement of Responsibility and Authority of Title VI Coordinator

As authorized by the Smyth County Administrator, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring LPA compliance with Title VI requirements as follows:

Program Administration

- Administer the Title VI Program and coordinate implementation of the plan.
- Ensure compliance with the assurances, policy, and program objectives.
- Perform Title VI Program reviews to assess administrative procedures, staffing, and resources.
- Provide recommendations as required to the Smyth County Administrator.

Complaints

- Review written Title VI complaints that may be received by Smyth County following the adopted procedural guidelines.
- If a Title VI complaint is related to a project funded with State or Federal grant funds, the complaint will be forwarded to the funding agency Civil Rights Division.

Data Collection

- Review the statistical data gathering process to ensure sufficiency of data for meeting the requirements of Title VI program administration.

Training Programs

- Conduct or facilitate training programs on Title VI issues and regulations for the agency's employees; and facilitate Title VI training for appropriate staff, contractors, and sub-recipients. A log or summary of training conducted shall be kept.

Title VI Plan Update

- Review and update the Agency's Title VI Implementation Plan as needed or required.
- Present updated plan to the Smyth County Administrator for approval.
- Publish/post the Title VI Implementation Plan.

Annual Accomplishment Report

- Prepare an annual report of Title VI accomplishments and changes to the program in the preceding Federal fiscal year as applicable.
- Identify goals and objectives for the upcoming year as required; and submit them to VDOT or other agency as required.

Public Dissemination

- Work with Smyth County staff to develop and disseminate Title VI program information to employees and sub-recipients, including contractors, subcontractors, consultants, and sub-consultants and beneficiaries, as well as the public.
- Ensure public service announcements and notices are posted of proposed projects, hearings, meetings, or formation of public advisory boards, in newspapers or other media reaching the affected community.
- Ensure the full utilization of available minority publications or media.
- Ensure written or verbal information in languages other than English is being provided, where appropriate.

Elimination of Discrimination

- Work with Agency's program areas to establish procedures for promptly resolving deficiencies, as needed.
- Recommend procedures to identify and eliminate discrimination that may be discovered in any of the Agency's processes.

Maintain Legislative and Procedural Information.

- Keep informed about Federal laws, rules, and regulations, FHWA or VDOT guidelines that may affect the current Agency Title VI Plan and administration of the Agency's Title VI Program.
- Ensure information is made available to the public as requested or required.

C. Program Administration and Implementation

The Title VI Coordinator will work with staff to ensure their respective departments and programs comply with Title VI regulations and assurances, meet the Title VI method of administration as laid out on this Title VI Plan, meet federal and state reporting requirements, and provide adequate training opportunities for applicable staff.

The Title VI Coordinator will also work with staff and appropriate personnel to ascertain Title VI compliance by contractors, subcontractors, consultants, suppliers and other sub recipients under federally funded projects or programs. The Title VI Coordinator and staff will ensure applicable Title VI provisions and requirements are included in contractual agreements for prime contractors and sub-recipients. Title VI staff will work to obtain statistical data on race, color, national origin, handicap/disability, age, and sex of participants in, and beneficiaries of the Agency's federally funded transportation programs as applicable. The Title VI Coordinator shall use the data to complete annual Title VI reports and for other administrative needs.

Detailed Responsibilities of the Title VI Coordinator:

The Title VI Coordinator is charged with the responsibility for implementing, monitoring, and ensuring compliance with Title VI regulations. Title VI responsibilities are as follows:

1. Process the disposition of Title VI complaints received.
2. Collect statistical data (race, color, or national origin) of participants in and beneficiaries of department programs, (e.g., affected citizens, and impacted communities) as applicable.
3. Conduct annual Title VI reviews of the department to determine the effectiveness of program activities.
4. Conduct Title VI reviews of construction contractors, consultant contractors, suppliers, and other recipients of federal-aid fund contracts administered through the department.
5. Conduct training programs on Title VI and other related statutes for department employees.
6. Prepare a yearly report of Title VI accomplishments and goals, as required.
7. Develop Title VI information for dissemination to the public and, where appropriate, in languages other than English.
8. Identify and eliminate discrimination.
9. Establish procedures for promptly resolving deficiency status and writing the remedial action necessary, all within a period not to exceed 90 days.

TITLE VI SPECIALISTS DESIGNEES

<u>Program Area</u>	<u>Official Job Title</u>
Real Estate (Right of Way)	Project Manager
Design and Engineering -	Engineering Project Manager
Environmental Services	Engineering Project Manager
Operations	Public Works Director
Administration Community	County Administration staff
Development Human	Economic Development
Resources	Director Human Resources
General Services Purchasing	Director Finance Director

A. Organization Chart

See Appendix F for the Agency Organizational Chart

TITLE VI PROGRAM IMPLEMENTATION

A. Program Areas - Review and Monitoring Procedures

Planning:

- **Planning Process**

Every five to ten years the Smyth County Planning Commission, the Smyth County Board of Supervisors and Smyth County staff develop a comprehensive plan facilitated by the Mount Rogers Planning District Commission. Annually department heads provide a five-year capital improvement plan to the County Administrator and Finance staff as a part of the annual budgeting process. County department heads and other staff review and discuss programs and processes on a weekly basis in staff meetings. VDOT Six-year plans are developed each year prior to the budget cycle and adoption. Title VI requirements are communicated during planning processes.

- **Public involvement in planning activities:**

- Draft copies of the Comprehensive Plans and any other planning documents are

placed on the website for public review and comments, and a public hearing is held to enable the public to provide feedback.

- Public hearings are advertised and held prior to approving the annual operational and capital improvement budget, VDOT grant applications, and other relevant objectives as required by funding programs.
- The public, including minority citizens, are invited to attend public hearings through advertisements in the local community paper, on-line through the County website, and other social media sources.

- Locations and times for meetings are published through the local community newspaper, on-line County website, and other social media sources.

Design/Project Development

- **Design/Environmental Review Process and Title VI**

The Agency Administrator and the Project Manager will be responsible for ensuring the design conforms with Federal and State regulations and program requirements as outlined in manuals, operational procedures, guidelines, directives, and policies. At a minimum, the Project Manager or designee will conduct regular meetings with the oversight agency to review processes and progress.

The Project Manager or designee will develop statistical data on demographics of communities affected by the construction project. Once the environmental assessment is completed, advertisements will be placed in local papers, on bulletin boards, the County's website, and other social media sources announcing public hearings.

The Title VI Coordinator will participate in the meetings and review for Title VI compliance.

Right of Way

- **Right of Way Process and Title VI**

When design indicates construction will temporarily or permanently impact property not owned by the County, the Project Manager consults with the County Attorney and funding agencies to define an acquisition strategy. Valuation and communications will follow Chapter 16 of VDOT's LAP

manual, and follow standard DOT Title VI Assurances as outlined in DOT Order US DOT 1050.2A.

Construction/Maintenance

Construction/Maintenance Section activities and Title VI

- Department heads are responsible for the selection, negotiation, and administration of construction contracts under \$100,000, that are not utilizing federal funding. The department head will present the bid package to the Director of Finance to issue a Purchase Order.
- The Project Manager will provide oversight for contracts over \$100,000 and will be responsible for ensuring construction conforms with Federal and State regulations and program requirements. For transportation projects over \$100,000, the procurement must follow Chapter 13 of the VDOT Locally Administered Projects (LAP) manual. In addition to contacting known Disadvantaged Business Enterprises (DBE) firms, construction projects with expected total spend exceeding \$100,000 are to be advertised in regional newspapers and on Virginia eVA as required.
- When the projected contract value involves State or Federal Funding or is expected to exceed \$100,000, the Title VI Coordinator will review and approve the bid package prior to advertising to ensure selection procedures are uniform in their application to minority and nonminority contractors. A selection panel including the Project Manager and the Title VI Coordinator will score and award the contract prior to execution. Project Managers and Title VI Coordinator are responsible for ensuring Request for Bids, Contracts, Sub-Contracts and Material Supply Agreements include Title VI assurances.
- The Smyth County Title VI Coordinator and Project Manager will evaluate and monitor to ensure construction rules and regulations are being applied in an equitable fashion.

Consultant Contracts Administration

- Each department head is responsible for the selection, negotiation, and administration of its consultant contracts. Department heads are responsible for following applicable local, state, and federal regulations in contract selection. For transportation projects with projected project spending over \$100,000 the procurement must follow Chapter I I of the VDOT Locally Administered Projects (LAP) manual. In addition to contacting known DBE firms, consultant contracts for projects with expected total spend exceeding \$100,000 are advertised in regional papers and on Virginia eVA as required.
- When the projected contract value involves State or Federal Funding or is expected to exceed \$100,000, the Title VI Coordinator will review and approve the RFP prior to posting, a selection panel with a minimum of three members is created to score and award the contract, and the Title VI Coordinator should review the contract prior to execution. Title VI staff are responsible for ensuring Request for Proposals and Contracts include non-discrimination language including the consultants' statement of compliance with nondiscrimination authorities, procedures, and requirements following Chapter 17 of VDOT's LAP manual.
- Smyth County Title VI Coordinator and Project Manager evaluate and monitor consultant contracts for compliance with nondiscrimination authorities.
- Every 3 to 5 years, Smyth County will go through a competitive process to select established term contracts for ad hoc work not associated with Federal and State Contracts.

B. Sub-recipients - Reviews and Monitoring Procedures

Smyth County will conduct Title VI compliance reviews and monitoring of its sub-recipients of Federal-aid highway or other Federal funds, to ensure adherence to Title VI requirements. Smyth County's staff will periodically review operational guidelines provided to consultants, contractors, and sub-recipients, including Title VI language, provisions, and related requirements, as applicable.

To monitor and assess their compliance, consultants and sub-consultants are required to submit a Title VI Evaluation form. A copy of this form is attached in Appendix I. The Title VI Evaluation form provides documentation that a consultant has procedures in place to prevent discrimination in programs and services based on Title VI. Smyth County will request a form within ten days (10) of notification of selection for new contractors or those that do not have a current assessment on file. The assessment form is submitted to the Program Manager that is negotiating the contract. After submittal the Title VI Coordinator reviews and approves the form. After review a pre-award letter is issued within fifteen (15) days of receiving documentation or an on-site review may be scheduled to confirm information provided in the form. Additional information may be requested at that time.

If the report is approved, a letter is sent to the contractor/consultant with an expiration date of one year from the date of approval. An updated report is required annually for contractors to continue to perform under the contract. When irregularities occur in the administration of Federal-aid highway programs at sub-recipient levels, corrective action will be taken to resolve identified Title VI issues.

Smyth County will seek the cooperation of the consultant, contractor or other sub-recipient in correcting deficiencies found during periodic reviews. Smyth County will provide technical assistance and guidance, upon request, to support voluntary compliance by the sub-recipient. Failure to comply with the nondiscrimination provisions may result in cessation of negotiations, withholding payments, cancellation, termination, or suspension of the contract in whole or in part. A follow-up review will be conducted to ascertain if the sub-recipient has complied with the Title VI Program requirements in correcting deficiencies previously identified.

C. Data Collection

Smyth County collects data utilizing the most recent US Census information and population estimates through Weldon Cooper. This information includes on-going population estimates, demographics by age and gender, race and national origin, characteristics such as veteran status or foreign born, housing statistics, education level, as well as income and poverty level.

The Title VI Coordinator will determine how, when, and how often specific public participation activities should take place, and which specific measures are most appropriate.

The Title VI Coordinator will make these determinations based on a demographic analysis of the population(s) affected, the type of plan, program, and/or service under consideration, and the resources available. Efforts to involve minority and Limited English Proficient (LEP) populations in public participation activities may include both comprehensive measures, such as placing public notices at various locations as well as targeted measures to address linguistic or other barriers that may prevent minority and LEP persons from effectively participating in the decision-making process.

D. Title VI Training

To ensure compliance through education and training, the County's Title VI Coordinator will:

- Distribute information to staff, personnel, Board and committee members, regarding training programs related to Title VI and related nondiscrimination authorities.
- Offer training to staff in Title VI and implementation.
- Track Title VI nondiscrimination training of staff and board and committee members.
- Develop Title VI educational information for dissemination to the public.
- Require all Title VI staff involved in transportation projects to complete LAP Certification.

E. Dissemination of Title VI Information

Community Outreach and Public Education:

Smyth County is committed to ensuring that projects, programs, and services delivered are sensitive to the various demographic backgrounds within the county. Smyth County will develop a Public Participation Plan (PPP) to promote public involvement in the planning and decision-making process of projects, programs, and services.

As a recipient of Federal funding, Smyth County is required to adhere to Title VI of the Civil Rights Act of 1964 and to integrate the PPP into its Title VI Program. The PPP provides guidelines for involving the public to ensure that all groups are represented, and their needs considered. The County is committed to ensuring it serves the residents and businesses of the County fairly, consistently, and in the most cost-efficient and appropriate manner within available resources.

The County endeavors to communicate with and provide opportunities for minority, low-income, and disabled persons, and Limited English Persons (LEP) to participate. To ensure Title VI compliance in communications and public participation, the County will:

- Include the following statement in public notices and on the website:
"Smyth County fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Discrimination Complaint Form, contact (276) 783-3298 or download at <https://www.smythcounty.org>. Language assistance is provided for Limited English Persons by contacting (276) 783-3298."
- Include the following statements on public notices: *"In compliance with the provisions of the Americans with Disabilities Act, persons requiring special assistance to attend and participate in this public hearing should contact Clegg Williams, ADA Coordinator at (276) 706-8315, at least twenty-four (24) hours prior to the public hearing. "*

Public Participation Plan Goals and Objectives

The goal of the Smyth County's PPP is to offer a variety of opportunities for the public to engage in planning and decision-making activities. To meet this goal, the objectives of the PPP are as follows:

- To determine what non-English languages and/or other barriers may exist to public participation within the County service area.
- To provide a general notification of meetings for public input, in a manner that is understandable to all populations in the service area.
- To hold meetings at times and in locations that are accessible and reasonably welcoming to all area residents, including, but not limited to minority, Limited English Proficiency (LEP), and low-income members of the public.
- To utilize a variety of communication methods to capture public input from populations that are not likely to attend or engage in public meetings.

Public Comment Process Offered by the Board of Supervisors

The public has a right to express their opinion during the regular Board meetings held the second Thursday of every month at 5:00 p.m. in the Smyth County Board Room at 121 Bagley Circle, Marion, VA. The public also has the right to express their opinion at the meetings of the County's committees and commissions. Information about Smyth County Board meetings as well as the Board's committees and commissions are available on the County website under Public Notices at <https://www.smythcounty.org>.

Sign-in sheets will be available to attendees to register their presence and desire to speak. Public hearings will begin with a reading of the public notice, purpose and proposed action which necessitated the public hearing. After an explanation of the proposed action is completed, the public will be invited to offer their comment. If and when requested, interpreters will be present, as appropriate, to help communicate information and attain feedback. Individual speakers will be limited to three (3) minutes and those representing a group or constituents will be limited to five (5) minutes on oral

presentations to afford all members of the public a reasonable opportunity to speak. After all registered people have commented, a final opportunity will be offered for any additional public comment. This offering will precede the close of the public hearing.

At the close of the public hearing, it will be announced where the item will next be heard, either before a committee or the Board. Where appropriate, the County Administrator, or designee, will provide a report summarizing and responding to key comments made by the public at a subsequent committee or Board meeting.

All relevant comments received verbally or in writing at a public hearing, or as otherwise conveyed to the County prior to the established deadline, will be entered into the public record of the comment process.

Public Participation Plan Outreach Efforts

The County will use multiple techniques to actively solicit policy input in the planning process for a project as appropriate. The County will engage the community through the County's website, social media, and brochures placed at various locations including office buildings, libraries, community centers, and within the affected communities. Appropriate techniques among the following may be used to inform, educate, and gain input from the public about the County's projects, services, or activities:

- Surveys or questionnaires - mail-in, online, telephone, personal interview
- Articles or press releases in the appropriate publications.
- Consultation with advisory committees
- Distribution of informal reports, flyers, or brochures
- Collaboration with community-based organizations
- Informal presentations at community forums
- Publication of information about meetings, public hearings, and special events on the County's website
- Direct mailings to those expressing interest in or commenting about certain topics.
- General mailings to appropriate agencies, offices, and organizations for distribution to citizens

To promote reasonable opportunities for participation by low-income, minority, and LEP individuals to provide input on transportation plans and programs, the County will identify low-income, minority, and LEP populations within the service area and engage in targeted outreach to such populations where appropriate.

Smyth County is committed to document and analyze the impacts of transportation projects on minority and low-income populations as a normal part of analysis efforts. A key aspect of the analysis is to ensure the involvement of affected communities in the project development process. Smyth County uses guidelines to provide Environmental, Planning, Right of Way, Location and Design, Civil Rights and any other applicable with a consistent framework for developing an effective public involvement strategy. They contain only principles and general procedures, which means that the specific approach must be tailored to the unique circumstances of each project and those communities affected by it. If the procedures do not seem appropriate for a particular project, then staff will develop a more suitable approach.

F. Limited English Proficiency

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English are Limited English Proficient (LEP). For a LEP person, language can present a barrier to accessing benefits and services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. LEP persons may be entitled to language assistance at no cost to them with respect to a service, benefit, or encounter.

The County provides access to programs and activities by giving LEP persons adequate and understandable information to participate in programs and activities and by taking reasonable steps to remove barriers for LEP persons.

Statement of Commitment

Meaningful access to LEP persons means ensuring that LEP persons can communicate effectively, and act appropriately based on that communication. The County will take reasonable steps to ensure LEP persons have meaningful access to programs, activities, services, and information that are normally provided in English. Failure to ensure that LEP persons can effectively participate in federally assisted programs and activities may violate the prohibition against national origin discrimination under Title VI of the Civil Rights Act of 1964.

Implementation

Implementation guidelines describe what should be done when an LEP person is encountered or an LEP request is made as well as what activities should be done routinely to keep information and training up to date. When staff encounter LEP persons or request for language assistance, the guidelines described below will be used to determine what assistance can be provided.

The language assistance services available to Smyth County are:

- Contracted Interpreters
- Bilingual staff members
- Contract with CyraCom: A Pay-As-You-Go account with CyraCom - On Demand Over-the-Phone Interpretation www.cyracom.com or Smart Phone Video App. CyraCom maintains telephone assisted interpretation capability for over 100 languages and written translation services for a fee.
- The Title VI Coordinator has access to the CyraCom applications and will maintain a log of use for appropriate billing.

The need for LEP services depends on the type of contact:

- In-person Contact: Use the Language Identification Flashcard, posted in the County Administration hallway entrance and on the County's website, to attempt to identify the language spoken. Enlist the assistance of contracted services or bilingual staff to obtain the LEP person's name and contact information.

- Telephone Contact: Enlist the assistance of contracted services and bilingual staff as needed.
- Written Contact or Documents: Engage using contracted translation services.
- Request for Interpreter at a meeting: Use contracted Interpreter service or bilingual staff.

Cost alone will not determine whether a request is granted. Language assistance services deemed appropriate will be made available at the expense of the County.

- Requests for under \$100 will be granted. A phone call that might last up to 30 minutes or a document that is 1 typed page in English is likely to fit this criteria.
- Requests for over \$100 will be reviewed by the Title VI Coordinator and the Agency Administrator based on the four-factor analysis and grant if deemed vital. Four-factor analysis:
 - a. Demography - number and proportion of LEP persons served and languages spoken in service area.
 - b. Frequency - rate of contact with service or program.
 - c. Importance - nature and importance of program/service to people's lives.
 - d. Resources - available resources, including language assistance services.

Routine LEP Implementation Activities:

The Title VI Coordinator will:

- Post written notices on the website and/or in a public area regarding the right to free language assistance for persons conducting business with the County in the most likely to be encountered languages (as determined using the four-factor analysis based on population estimates).
- Ensure that public notices and publications include statements that the County provides reasonable accommodations for persons who require special assistance to participate in public involvement opportunities.
- Maintain the language assistance resource list, updating with current resources.
- Ensure staff understand:
 - a. The right to free language assistance for LEP persons.
 - b. How to use language assistance resources.

- c. To include statements in public notices and publications that the County provides reasonable accommodations.

Monitoring and Updating

The County will monitor its LEP policies and practices, review them regularly with the four-factor analysis, and update as needed.

To monitor LEP policies and practices, the Title VI Coordinator will:

- Review the County's activities on a regular basis for providing meaningful access to LEP persons.
- Document requests for language services and encounters with LEP persons and provide reports when requested.
- Regularly review demographic data based on the four-factor analysis. If a language other than English is the primary language of >5% of the population, the LEP guidelines may need to be modified to meet the new needs.
- Collect and maintain demographic statistics on persons who participate in their programs and services.
- Solicit feedback from locality social service departments and community-based organizations serving LEP persons to evaluate how its practices meet their needs:

Smyth County Department of Social Services Mount

Rogers Community Services Board

- Mount Rogers Health Department
- Town of Marion Police Department/County 9-1-1/Smyth County Sheriffs Department
- Smyth County Public Schools

- The feedback solicited from these departments and organizations may include:
 - Nature and importance of programs, services, and activities to LEP persons
 - The effectiveness of current language assistance measures in meeting the needs of LEP persons

- The effectiveness of staff LEP trainings and agency-wide language assistance protocol
- Changes in the frequency of contact with LEP language groups
- Changes in the availability of resources, including technological advances or financial resources.

DISCRIMINATION COMPLAINT PROCEDURES

Any person who believes he, or a specific class of persons, were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of Smyth County, a recipient of Federal financial assistance through the Virginia Department of Transportation, may file a Title VI complaint.

Where can one file?

Complaints related to the Federal-aid highway program may be filed with Smyth County, VDOT, FHWA Division Office, the FHWA Headquarters Office of Civil Rights (HCR), the USDOT Departmental Office of Civil Rights, or the USDOJ.

When must one file?

According to USDOT regulations, 49 CFR §21.11(b), a complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the processing agency.

What should a complaint look like?

Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. However, the complainant may call the receiving agency and provide the allegations by telephone, and the agency should transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature. A complaint should contain the following information:

- A written explanation of the alleged discriminatory actions.
- The complainant's contact information, including, if available: full name, postal address, phone number, and email address.
- The basis of the complaint (e.g., race, color, national origin).
- The names of specific persons and respondents (e.g., agencies/organizations) alleged to have discriminated.
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is on-going.

How are complaints routed?

FHWA Division Offices do not investigate Title VI complaints. Likewise, State DOTs and their Subrecipients do not investigate complaints filed against themselves. Finally, FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency.

With this understanding, complaints should be routed in the following ways:

- All complaints will be routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against Smyth County (a Subrecipient of Federal financial assistance).
- Complaints should be forwarded from the initial receiving agency through the Federal-aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with Smyth County, Smyth County will forward the complaint to VDOT, which will forward the complaint to the VDOT's FHWA Division Office, which will forward the complaint to HCR. If a complaint is filed

with VDOT, VDOT will forward the complaint to the VDOT's FHWA Division Office, which should forward the complaint to HCR.

- VDOT and Smyth County will log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Division Office, VDOT, and Smyth County.

Complaints may also be sent to HCR directly at:

Postal Mail	Federal Highway Administration U.S. Department of Transportation Office of Civil Rights 1200 New Jersey Avenue, SE 8th Floor E81-105 Washington, DC 20590
Email	CivilRights.FHWA@dot.gov
Fax	202-366-1599
Questions? 	202-366-0693

What are the potential outcomes for processing a complaint?

There are four potential outcomes for processing complaints:

- **Accept:** if a complaint is timely filed, contains sufficient information to support a claim under Title VI, and concerns matters under FHWA's jurisdiction, then HCR will send to the complainant, the respondent agency, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
- **Preliminary review:** if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
- **Procedural Dismissal:** if a complaint is not timely filed, is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant,

respondent, and FHWA Division Office a written notice that it is dismissing the complaint.

- Referral\Dismissal: if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

The HCR is responsible for conducting all investigations of State DOTs and other primary Recipients. In the case of a complaint filed against a Subrecipient, HCR may either conduct the investigation itself, or it may delegate the investigation to VDOT. If HCR chooses to delegate the investigation of a Subrecipient, HCR will communicate its acceptance of the complaint to the complainant and respondent, but VDOT will conduct all data requests, interviews, and analysis.

VDOT will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI.

What are the timeframes for investigation?

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.

If VDOT is delegated an investigation from FHWA, VDOT must complete the investigation within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA) as stipulated in 23 CFR §200.9(b)(3)

How does the Investigating Agency gather information?

There are no regulatory requirements for how information is gathered, but VDOT and Smyth

County are required to keep detailed records on how they comply with Title VI and to provide USDOT with access to documents and persons with relevant information. 49 CFR §21.9. Typically, the respondent will receive at least one Request for Information and Position Statement (RFI) to gather documents, and additional requests if necessary. Concurrently, the HCR or VDOT investigator will schedule interviews with relevant parties and conduct site visits as necessary.

Once FHWA starts an investigation, what are the 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, HCR (or an investigator for VDOT) 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.
 - a. 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.

- b 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 UDOT seeks to terminate or suspend 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 .

REVIEW OF AGENCY DIRECTIVES

The Title VI Staff employs the following process (or several processes) to review the Agency directives, policies, and practices:

- The Title VI Staff works collaboratively as needed with a Title VI Advisory Committee - a group consisting of committee members or their appointees, who help to make and implement policies. The committee works to ensure the Agency directives are in keeping with Title VI of the Civil Rights Act of 1964 and other federal nondiscrimination mandates.

- The Title VI Staff is included in the review process when Agency directives are drafted and policies implemented. This process affords the Title VI Staff an opportunity to review for any possible Title VI issues.
- The Title VI Staff reviews all environmental documents, public meetings, and hearing transcripts to ensure staff are aware of any potential Title VI issues.
- The Director and staff serve on the decision-making committees to ensure the Agency directives are in accordance with the federal and state nondiscrimination laws, rules, and regulations; and,
- The Title VI Staff works cooperatively with FHWA Division Civil Rights staff to implement federal nondiscrimination directives.

COMPLIANCE AND ENFORCEMENT PROCEDURES

Remedial Action

The goal for Title VI and regulatory enforcement is to achieve voluntary compliance. If deficiencies are found during a Title VI review, the Compliance Review Report will include a draft corrective action plan (CAP) with projected due dates. The program area staff or the Subrecipient will be able to propose remedial actions to correct the deficiencies. Program areas and Subrecipients are expected to correct all deficiencies according to their CAP and provide periodic updates to the Title VI Coordinator assigned to the review. The Title VI Coordinator will provide technical assistance, as needed, and work with the program areas or Subrecipient's Title VI Coordinator to ensure implementation of the CAP. When the Title VI Coordinator has determined that a sub-recipient's deficiencies are sufficiently corrected, the program area Title VI Coordinator or the Subrecipient will be notified that the review process is complete and no further progress reporting is needed. The Subrecipient will receive an official Closeout Letter signed by the Agency's Title VI Coordinator.

Affecting Compliance

When an internal program area refuses to cooperate or comply with Title VI, the Title VI Coordinator will elevate the matter to the Director, after which, the matter may be referred to the State DOT Civil Rights Manager or responsible USDOT Operating Administration (OA).

When a Subrecipient fails to take appropriate corrective action in response to the findings of deficiencies in the compliance report, the Subrecipient moves from a "deficiency status" to noncompliance; Smyth County will submit two copies of the case file to the State DOT or FHWA with a recommendation that the sub-recipient be found in noncompliance; and/or, may, with the concurrence of the State DOT or FHWA (or other USDOT OA), initiate proceedings to impose sanctions for noncompliance.

Sanctions

In the event that a Subrecipient or contractor ("recipient") fails or refuses to comply with Title VI, the first step taken by the internal program area with oversight of the recipient will be Smyth County attempts the resolve the issue using the program area's normal administrative solutions. However, Smyth County may take any or all of the following steps, with the concurrence of VDOT or USDOT (i.e., FHWA), if the recipient is uncooperative or nonresponsive during attempts by Smyth County to voluntarily resolve the compliance issue:

- a. Cancel, terminate, or suspend the contract or agreement in whole or in part.
- b. Refrain from extending any further assistance to the recipient under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient.
- c. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the recipient; and/or,
- d. Refer the case to the appropriate federal agency for appropriate administrative or legal proceedings. Other means authorized by law.

AUTHORITIES

This section is a reference source of the applicable authorities related to Title VI of the Civil Rights Act of 1964 as amended.

Title VI of the 1964 Civil Rights Act (42 USC 2000d et seq) requires 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.”

The Civil Rights Restoration Act of 1987, P.L. 100-209 further clarified the intent of Title VI to include all programs and activities of entities whether those programs and activities are federally funded or not.

49 CFR Part 21, the U.S. Department of Transportation’s Implementing Regulations of Title VI of the Civil Rights Act of 1964.

23 Code of Federal Regulations (CFR) Part 200, the Federal Highway Administration’s Title VI Program Implementation and Review Procedures.

USDOT Order 1050.2A

Section 162(a) of the Federal-Aid Highway Act of 1973 (Section 324, Title 23 U.S.C.) prohibits discrimination based on sex (gender).

Executive Order 12898 (issued February 11, 1994) addresses disproportionate adverse environmental, social, and economic impacts that may exist in communities, specifically minority and low-income populations.

Executive Order 13166 (issued August 16, 2000) addresses access to services for persons whose primary language is not English and who have limited ability to read, write, speak, or understand English.

TITLE VI ASSURANCES

(STANDARD DOT TITLE VI ASSURANCES -USDOT 1050.2A)

TITLE VI/NONDISCRIMINATION ASSURANCES

DOT Order No. 1050.2A

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

Statutory/Regulatory Authorities

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

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

General Assurances

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

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

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination 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 nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

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

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated or will be (with regard to a "facility") operated or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

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

3. The Recipient will insert the clauses of USDOT 1050.2A Appendix A and USDOT 1050.2A Appendix E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer

of real property, structures, use, or improvements thereon or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-

grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

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

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

Smyth County Board of Supervisors

by


(Signature of Authorized Official)

DATED

5/17/23

APPENDIX

USDOT 1050.2 A
APPENDIX A

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

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

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

USDOT 1050.2A
APPENDIX B

**CLAUSES FOR DEEDS TRANSFERRING UNITED STATES
PROPERTY**

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the *Smyth County Board of Supervisors* will accept title to the lands and maintain the project constructed thereon in accordance with the Virginia General Assembly, the Regulations for the Administration of the Federal-Aid Highway Program and the policies and procedures prescribed by the *Federal Highway Administration* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *Smyth County Board of Supervisors* all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the *Smyth County Board of Supervisors* and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the *Smyth County Board of Supervisors*, its successors and assigns.

The *Smyth County Board of Supervisors* in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its

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

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

USDOT 1050.2A
APPENDIX C

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

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

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

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

USDOT 1050.2A

APPENDIX D

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

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

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

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

USDOT 1050.2A
APPENDIX E

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

Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex).
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age).
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority

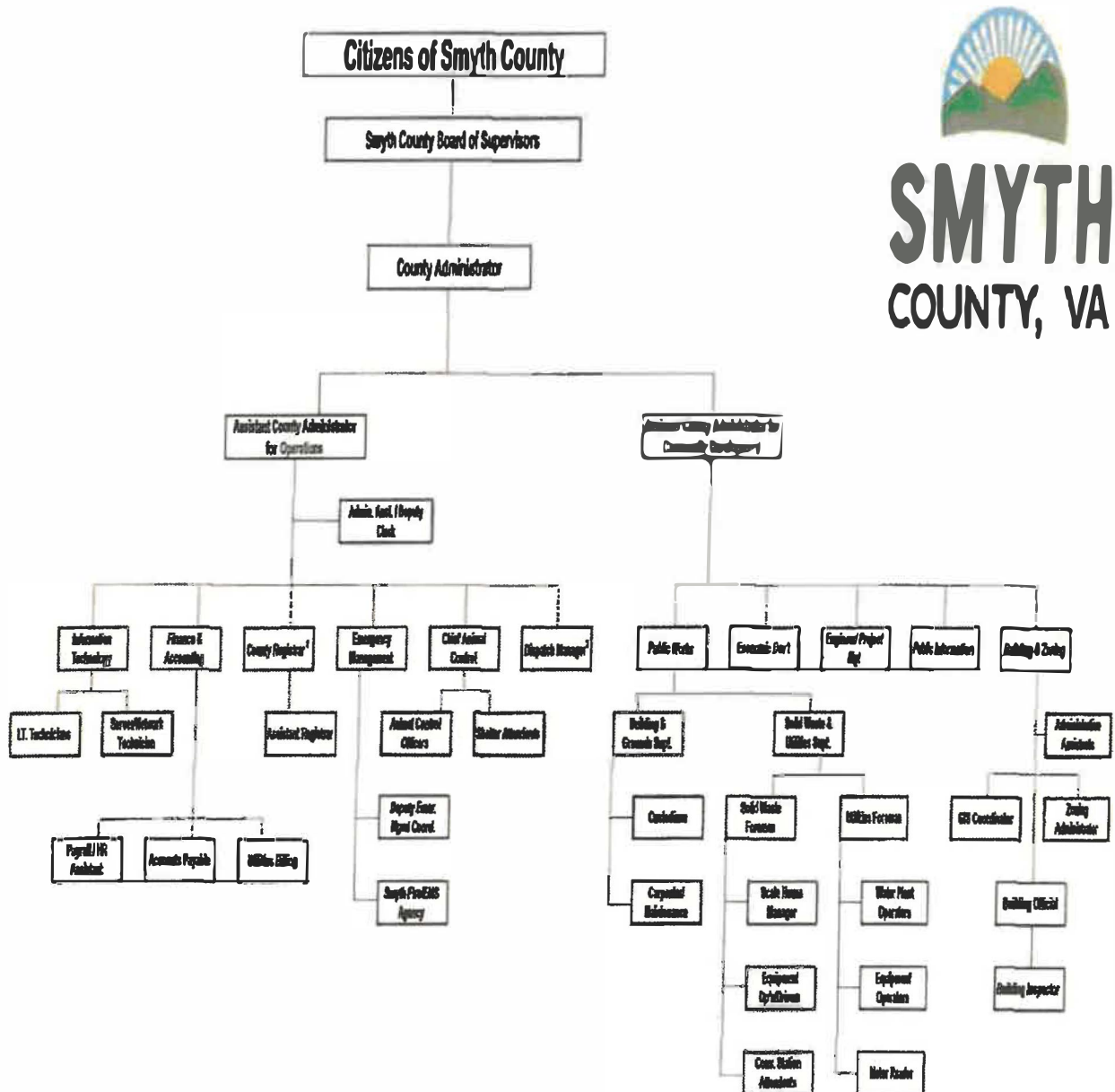
populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency,

And resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100).

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

APPENDIX F – Organizational Chart



SMYTH
COUNTY, VA

APPENDIX G – COMPLAINT FORM



FORM FOR COMPLAINTS

Alleging Violations of Title VI of the Civil Rights Act of 1964

Title VI of the 1964 Civil Rights Act requires 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.”

The following information is necessary to assist us in processing your complaint. Should you require any assistance in completing this form, please let us know. You may contact us at 276-783-3298. Our fax number is 276-783-9314.

Please complete and return this form to:

**Smyth County Administrator’s Office
Attention Title VI Coordinator
121 Bagley Circle, Suite 100,
Marion, VA 24354**

Section I

I believe that I have been (or someone else has been) discriminated against based on:

- ☐ Race
- ☐ Color
- ☐ National Origin

What date did the alleged discrimination take place? _____

Section II

Name: _____

E-mail Address: _____

Postal Address: _____

City, State, Zip: _____

Telephone: _____

Cell: _____

Business: _____

Section III

Are you filing this complaint on your own behalf?

☐ Yes ☐ No

If not, please supply the name and relationship of the person for whom you are complaining: _____

Please explain why you have filed for a third party:

Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party:

☐ Yes ☐ No

Are you represented by legal counsel for this matter?

☐ Yes ☐ No

If yes, please supply name and contact information:

Have you previously filed a civil rights complaint with Smyth County or the Federal Highway Administration?

☐ Yes ☐ No

SECTION IV

Names of specific persons, Agency or public entity alleged to have discriminated:

--

SECTION V

Have you filed this complaint with any of the following agencies?

- ☐ U.S. Department of Justice
- ☐ U.S. Department of Transportation
- ☐ Federal Highway Administration (FHWA)
- ☐ Other: _____

Have you filed a lawsuit regarding this complaint?

Yes ☐ No ☐

If yes, please provide the case number: _____

Section V

Please Include Details of Your Complaint Below. Smyth County or FHWA will contact you to request any additional documentation you may want to submit on behalf of your complaint.

Important: We cannot accept your complaint without a signature, please submit this form with a signature.

Complainant's Signature

Date

APPENDIX H – COMPLAINT LOG

[illegible]

Appendix I

Smyth County Consultant Title VI Evaluation Form

Introduction

Smyth County is a recipient of federal financial assistance. As a recipient, the County is required to comply with Title VI of the Civil Rights Act of 1964, as amended and other nondiscrimination laws and authorities. Title VI of the Civil Rights Act of 1964, prohibit agencies and sub-recipients receiving federal assistance from discriminating against anyone or any group in the United States on the ground of race, color, or national origin. Other regulations and directives prohibit discrimination based on sex, age, disability, or low-income. The United States Department of Transportation (USDOT) and Federal Highway Administration (FHWA) Regulations (49) Code of Federal Regulations (CFR), Part 21, and 23 CFR, Part 200 respectively, and other applicable orders and authorities provide guidelines, actions, and responsibilities for VDOT's implementation of the Title VI Program. These laws and regulations include but are not limited to the following:

- The 1970 Uniform Act (42 USC 4601) — prohibits unfair treatment of displacees
- Section 504 of the 1973 Rehabilitation Act (29 USC 790) — prohibits discrimination based on disability
- The Federal-Aid Highway Act 1973 (23 USC 324) — prohibits discrimination based on gender
- The 1975 Age Discrimination Act (42 USC 6101) — prohibits age discrimination (any age)
- The Civil Rights Restoration Act of 1987 — clarified the original intent of nondiscrimination organization-wide
- Executive Order 12898 on Environmental Justice (EJ) addresses disproportionately high and adverse human health and environmental effects on minority and low-income populations
- Executive Order 13166 on Limited English Proficiency (LEP) - ensures people who are limited English proficient (LEP) have meaningful access to services

These laws and regulations prohibit discrimination in federally assisted programs and activities. Title VI of the 1964 Civil Rights Act 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 benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

By contracting with Smyth County, a contractor is obligated to comply with the laws and regulations listed above and within the Memorandum of Agreement (MOA) executed between the County and the contractor. Smyth County is required to monitor an organization's compliance with the nondiscrimination provisions.

To monitor compliance, each contractor and all sub-contractors are required to submit a Title VI Evaluation Form. This requirement is applicable for all contractors.

The Title VI Evaluation Form provides documentation that a contractor has procedures in place to prevent discrimination in programs and services based on Title VI.

Smyth County will request a Title VI Evaluation Form within ten (10) days of notification of selection for new contractors or contractors that do not have a current assessment on file with the County. The Assessment Form should be submitted to the Program Manager at Smyth County.

Once the Title VI Evaluation Form is provided to Smyth County, the Title VI Coordinator reviews the information and issues a pre-award letter within fifteen (15) days of receiving documentation or may schedule an on-site review within the same time frame to confirm information provided in the Evaluation Form. The Title VI Coordinator may request additional information and/or recommend corrective actions. The Title VI Coordinator may randomly schedule on site compliance reviews at the contractor's office.

If the report is approved, a letter is sent out with an expiration date for one year from the date of the approval letter. Typically, the letter remains current and on file with Smyth County for a period of one year. An updated report is required annually for contractors who continue to perform under a contract with Smyth County. It should be noted that if Smyth County conducts an on-site compliance review the contractor can still be found to be out of compliance during the one-year period.

Failure to comply with the nondiscrimination provisions may result in cessation of negotiations, withholding of payments, cancellation, termination, or suspension of the contract in whole or in part.

Should you have any questions about Smyth County's Title VI Program or the Evaluation Form, contact Alicia Richardson at 276-706-8305 or at arichardson@smythcounty.org.

TITLE VI EVALUATION FORM

This Title VI Evaluation Form is used as a Pre-award Review and Post-award Review. Smyth County is required to conduct routine assessments prior to releasing funds to ensure Title VI compliance. A pre-award review assists Smyth County in determining whether applicants operate in a nondiscriminatory manner. Pre-award reviews can also be used to require applicants to take preventive measures to ensure that discrimination will not occur in their services as a condition of receiving contracts. Pre-award reviews represent a frontline approach to eliminating and preventing discrimination before it occurs.

Post-Award Reviews are generally conducted after a contractor begins the scope of work. However, to minimize the burden on contractors, this form serves as both a pre-award and post-award compliance tool.

Smyth County must also conduct on-site reviews of prime contractors periodically to ensure that the contractor remains in compliance with Title VI and to verify that the contractor has preventive measures to ensure nondiscrimination by their sub-contractors.

Name of Preparer:	Preparer's Title:	
Phone #:	Email Address:	
Name of Organization:	Address of Organization:	
Address of Virginia location where project will be done:		
Type of Contractor/Organization:		
<input type="checkbox"/> Private Organization <input type="checkbox"/> Governmental Agency	<input type="checkbox"/> Supplier <input type="checkbox"/> Other	
Workforce for Virginia Location(s)		
Total	% Minority	% Female
Business Ownership/Control Minority <input type="checkbox"/> Yes <input type="checkbox"/> No Female <input type="checkbox"/> Yes <input type="checkbox"/> No		DBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No SWAM Certified <input type="checkbox"/> Yes <input type="checkbox"/> No
Does your organization currently have contracts or subcontracts with Smyth County? <input type="checkbox"/> Yes <input type="checkbox"/> No What is your organization's most recent date of Title VI approval? _____		
Status of Project(s):	Value of current Contract(s):	
What does your organization have in place to ensure nondiscrimination in your scope of work and your programs and services?		

**Virginia Workforce
CONSULTANT EQUAL EMPLOYMENT OPPORTUNITY WORKFORCE ANALYSIS**

Employment at this establishment – Report all permanent full and part-time employees including apprentices and on-the job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered zeros.

[illegible]

Disadvantaged Business Enterprises DBE

10. Did your organization award any contracts/subcontracts related to Smyth County work to DBEs during the reporting period? If yes, provide the following:

- a. The DBE's name and amount awarded.
- b. Total # of contracts awarded to DBEs.
- c. Total dollar amount of contracts awarded to DBEs during the reporting period?

I certify that the data given in this report is correct to the best of my knowledge.

Signature:

(Authorized Officer)

(Title)

(Date)

For Office Use only:

Provide award? Yes _____ No _____

Recommendations:

Organization, Staffing, & Training

What type of services will your organization provide Smyth County?

Identify the person responsible for the administration of Title VI policies and procedures (a Title VI Coordinator). Provide the name, position, title, and contact information.

- 1. Is your Title VI Coordinator, project managers, and other staff made aware of Title VI compliance and regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration's 23 Code of Federal Regulations 200? Please explain how they are made aware.**
- 2. What procurement procedures does your organization have in place to ensure nondiscrimination in the selection and retention of subcontractors including procurements of materials and leases of equipment?**
- 3. How does your organization notify your subcontractors and suppliers of their obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, or national origin?**
- 4. Are facilities and meeting areas fully accessible to persons with disabilities?**
- 5. Does your organization have a system in place to accommodate persons with disabilities? If yes, how does your organization notify the public? If no, please explain.**
- 6. How are limited English proficient persons made aware that they can receive translation services for access to services?**
- 7. Has your organization been reviewed by any governmental agencies for compliance with Title VI and other laws and regulations? If yes, provide a copy of the letter identifying the review findings?**
- 8. Does your organization receive federal assistance (grants, loans, donations of property, or detail of personnel) from any Federal government entity?**
- 9. List any discrimination complaints and/or lawsuits received in Virginia during the reporting period. Include the basis for the complaint (ethnicity, gender, etc.) and summarize the outcome or resolution. If applicable, include a copy of the investigation report.**