



Title VI Plan

City of Fairfax

November 2023





Accessing This Plan

This Title VI Plan and accompanying documents can be found on the City of Fairfax website: <https://www.fairfaxva.gov/government/city-manager/title-vi>

Printed copies of the city's Title VI Plan also may be accessed at Fairfax City Hall, 10455 Armstrong St., Fairfax, VA 22030.

Additionally, we are here to support you in accessing this information anytime you need it. We will support your access through:

ADA Accommodations

If you need any reasonable accommodation to access this Title VI Plan, such as needing this document in another format, please contact our ADA coordinator via email at HumanServices@fairfaxva.gov or via phone at 703-385-7800.

Limited English Proficiency (LEP) Policy

The city takes all reasonable steps to provide timely and meaningful access for people with LEP. If you need this document or information about Title VI in another language, please contact our Title VI Coordinator at TitleVI@fairfaxva.gov or via phone at 703-385-7800.

Acceso a Este Plan

Este Plan del Título VI y los documentos que lo acompañan se pueden encontrar en el sitio web de la Ciudad de Fairfax: <https://www.fairfaxva.gov/government/city-manager/title-vi>

También se puede conseguir copias impresas del Plan del Título VI de la ciudad en Fairfax City Hall, 10455 Armstrong St., Fairfax, VA 22030.

Estamos aquí para ayudarlo a acceder esta información en cualquier momento que la necesite. Apoyaremos su acceso a través de:

Adaptaciones ADA

Si necesita alguna adaptación razonable para acceder este Plan del Título VI, como necesitar este documento en otro formato, comuníquese con nuestro coordinador de ADA por correo electrónico a HumanServices@fairfaxva.gov o por teléfono al 703-385-7800.

Poliza de Dominio Limitado del Inglés (LEP)

La ciudad toma todas las medidas razonables para brindar acceso oportuno y significativo a las personas con LEP. Si necesita este documento o información sobre el Título VI en otro idioma, comuníquese con nuestro coordinador de Título VI en TitleVI@fairfaxva.gov o por teléfono al 703-385-7800.

RESOLUTION NO. R-23-49

**A RESOLUTION TO AFFIRM, ACKNOWLEDGE AND ACCEPT THE
A RESOLUTION ADOPTING THE CITY OF FAIRFAX TITLE VI PROGRAM**

WHEREAS, pursuant to Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d et seq. ("the Act") and 49 CFR Part 21, the U.S. Department of Transportation (DOT), the Federal Highways Administration (FHWA), and the Federal Transit Administration (FTA) prohibit discrimination on the basis of race, color, or national origin; and

WHEREAS, the City of Fairfax intends that no person 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 of the agency's programs or activities, regardless of funding source; and

WHEREAS, the City of Fairfax intends that no person 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 of the agency's programs or activities, regardless of funding source; and

WHEREAS, as a recipient of federal funds, the City of Fairfax is required to comply with the requirements of the Act and applicable implementing regulations; and

WHEREAS, the City of Fairfax is committed to a policy of nondiscrimination in the conduct of its business, including its Title VI responsibilities for the delivery of equitable and accessible transportation; and

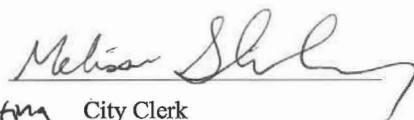
NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Fairfax, Virginia, hereby approved the Title VI plan.

Adopted: November 28, 2023



Mayor

ATTEST:



Acting City Clerk

The vote on the motion to approve was recorded as follows:

VOTE:

Councilmember Bates	Aye
Councilmember Doyle Feingold	Aye
Councilmember Greenfield	Absent
Councilmember Lim	Aye
Councilmember Ross	Aye
Councilmember Stehle	Aye



Title VI Statement of Commitment

The City of Fairfax will effectuate the provisions of Title VI of the Civil Rights Act of 1964, as amended, 49 Code of Federal Regulations (CFR) Part 21, 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 the City of Fairfax receives federal assistance.

Further, as a recipient of federal-aid funding, the City of Fairfax strives to achieve non-discrimination in all its programs and activities whether or not 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, investigations of complaints, allocation of funds, prioritization of projects, and the functions of right-of-way, research, planning, design, construction, and project development. The City of Fairfax will ensure that every manager, supervisor, employee, and subrecipient of federal-aid funds administered by the city is aware of and applies the intent and spirit of Title VI and other non-discrimination authorities in performing assigned duties.

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

The **City of Fairfax Title VI Coordinator** has been designated and is responsible for ensuring that all matters relating to non-discrimination are administered effectively.

Employees of the City of Fairfax, contractors, or applicants with questions, problems, or complaints regarding this statement, and the implementation of the stated provisions, should contact the Title VI Coordinator at 10455 Armstrong St., Fairfax, VA 22030; TitleVI@fairfaxva.gov; 703-385-7800.

A handwritten signature in black ink that reads "RA Edgyn".

October 24, 2023

Agency Administrator

Date



Table of Contents

Section 1: Title VI Program Overview

- Introduction 1
- Overview 2
- Our Commitment 4
- Notice to the Public 4
- Title VI Policy Statement. 6
- Title VI Program Goals 8
- Title VI Assurances 8

Section 2: Title VI Complaints

- Title VI Discrimination Complaint Process 9
- Tracking Complaints 12

Section 3: Processes to Ensure Nondiscrimination

- Organization and Staffing 14
- Title VI Coordinator, Role, Responsibilities 15
- Program Areas and Activities 16
 - Department of Public Works 16
 - Contract Procurement and Consultants/Contractors 17
 - Communications/Marketing 18
 - Planning 18
 - Advisory Committees/Non-Elected Boards. 18
 - Data Collection 18
 - Public Participation. 20
 - Training/Education 20

Section 4: Commitment to Meaningful Engagement

- Environmental Justice. 21
- Limited English Proficiency. 22
 - Four Factor Analysis. 23
- Language Assistance Plan 24
- Public Engagement. 42

Section 5: Title VI Monitoring and Reporting

- Data Analysis Guidelines 43
- Program Area Reviews 45
- Procurement and Consultant/Contractor Compliance 48
- Monitoring Activities Checklist 53
- Annual Title VI Accomplishment Report Template 56

Appendices

- Appendix 1: US DOT Order 1050.2a Assurances (Referred to by US DOT as Appendices A–E) 61
- Appendix 2: Title VI Complaint Form 69
- Appendix 3: Title VI Complaint Log. 75
- Appendix 4: Advisory Committees/ Non-Elected Boards. 81
- Appendix 5: City of Fairfax Language Identification Card 87
- Appendix 6: Public Engagement Plan 88
- Appendix 7: FHWA Data Sources Assessment Form 111
- Appendix 8: US DOT’s LPA Self-Assessment Form 117
- Appendix 9: Nondiscrimination Provision. 123
- Appendix 10: VDOT DBE and SWaM Policy Statement. 124
- Appendix 11: DBE Special Provisions for Construction and Professional Services Contracts 125
- Appendix 12: Section 107.15 – Special Provisions and Use of DBEs. 126
- Appendix 13: Section 107.13 – Prevailing Wage Rates 151
- Appendix 14: Form C-48 PSC – Subconsultant Solicitation Form 153
- Appendix 15: Form C-49 PSC – DBE Good Faith Efforts Documentation . 154
- Appendix 16: Form C-111 PSC Minimum DBE and SWaM requirements for consultant contracts. 162
- Appendix 17: Form C-112A PSC Certification of Binding Agreement with DBE Firms . . 163
- Appendix 18: Title VI Consultant Evaluation Form 164
- Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract 170
- Appendix 20: Form C-63 DBE Payment Compliance Report. 197
- Appendix 21: Compliance Matrix. 199
- Appendix 22: Glossary of Terms 200



Section 1: Title VI Program Overview

Introduction

Title VI of the Civil Rights Act of 1964, as amended, (Title VI) prohibits discrimination on the basis of 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, subrecipients, and contractors whether those programs and activities are federally funded or not.

For a glossary of key terms, definitions, and applicable laws and statutes, check out [Appendix 22](#) or email us directly at TitleVI@fairfaxva.gov with any questions you may have.

Recipients of federal financial assistance (e.g., contracts, loans, grants, agreements, personnel, equipment, etc.) are required to develop a system of policies, procedures, and practices to ensure services, activities, and programs are delivered free from discrimination, hence the development of the subsequent compliant Title VI Program and Implementation Plan.

The Title VI Program is documented within the Title VI Implementation Plan (Title VI Plan) and is available to provide public information on the City of Fairfax’s processes and procedures to prevent discrimination. Title VI only applies to recipients, subrecipients, and consultants receiving federal financial assistance. Beneficiaries (members of the public) are not subject to the provisions of Title VI, but are afforded rights, opportunity, and legal protection from discrimination.

The Title VI Program will be monitored for compliance continually, and the Title VI Plan will be reviewed and/or updated annually and an annual accomplishments report will be developed to ensure compliance.

Recipients of federal financial assistance are required to develop a system of policies, procedures, and practices to ensure services, activities, and programs are delivered free from discrimination.

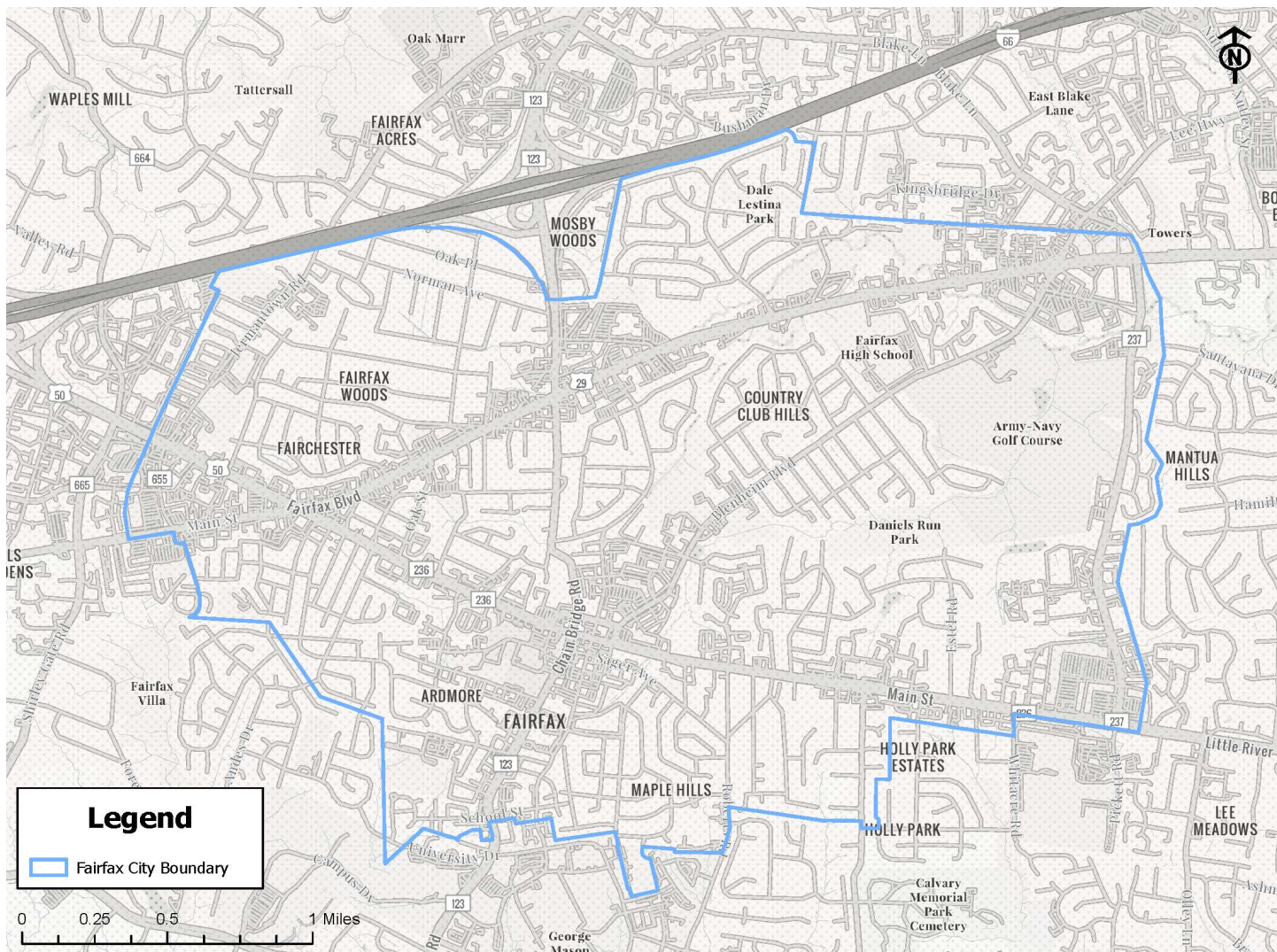




Section 1

Overview

The City of Fairfax (city) is an independent city in the Commonwealth of Virginia with a population of 24,146 (U.S. Census, 2020). As an independent city, Fairfax City occupies 6.3 miles within Fairfax County and is a central location in the Northern Virginia region and a suburb of the Washington, D.C. metropolitan region.



Northern Virginia is an increasingly diverse and growing area in regard to race, color, and national origin. According to the [City of Fairfax Fact Book](#) (2022), which uses publicly available data sources such as the U.S. Census Bureau, the city’s total population estimate for 2020 was 24,146. White (not Hispanic or Latino) residents made up 54 percent of the population, Asian residents made up 18 percent of the population, Hispanic or Latinos made up 18 percent of the population, Black/African American residents made up 4 percent of the population, multiracial residents made up 4 percent, and other racial/ethnic populations made up 2 percent.



Section 1

The city is committed to ensuring inclusivity and equity, and ensuring compliance with federal non-discrimination laws and authorities for those who live, work, and visit the city. The City of Fairfax receives federal funding from the Federal Highway Administration (FHWA) through the Virginia Department of Transportation (VDOT). As a subrecipient to VDOT, the city is required to comply with Title VI. The city has a transit system, the City-University Energysaver Bus System (CUE), in partnership with George Mason University. CUE receives funding through cost-share from the Virginia Department of Rail and Public Transportation (DRPT). Currently, CUE is funded by state and local funds. The city is not a current recipient of federal grant funding from the Federal Transit Administration (FTA), but in the event that the city applies directly, or receives funding through a recipient, proper processes and procedures must be in place to meet FTA Title VI requirements.

The city has established a Title VI Program to comply with Title VI of the Civil Rights Act of 1964, as amended, and the various related non-discrimination authorities and regulations including U.S. Department of Transportation (US DOT) and FHWA Title VI regulations. These include:

- Title VI of the Civil Rights Act of 1964, as amended
- Civil Rights Restoration Act of 1987
- 49 Code of Federal Regulations (CFR) Part 21 Non-discrimination in Federally-Assisted Programs of the Department of Transportation
- 23 CFR Part 200.9 State Highway Agency Responsibilities
- Executive Order 13166 Improving Access to Services for Limited English Proficiency (LEP)
- 70 FR 74087 DOT Policy Guidance Concerning Recipients' Responsibilities to LEP Persons

There is a suite of laws, regulations, and executive orders that expand non-discrimination and legal protections and afford rights, access, and ensure programs and activities are free from discrimination on the grounds of sex, age, income status, and disability status, among others. These include:

- Executive Order 12898: Environmental Justice
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970
- Title IX of the Education Amendments Act of 1972
- Section 504 of the Rehabilitation Act of 1973, as amended
- The Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act (ADA) of 1990



Section 1

The city's Title VI Program, which documents the systems, processes, and procedures, will be enclosed within the Title VI Plan. This document serves as a manual for the city to utilize, document, and serve reference for city employees, subrecipients, contractors, and members of the public to understand the practices and policies the City of Fairfax follows to ensure non-discrimination. The Title VI Plan also serves as a reference for VDOT, FHWA's primary recipient of federal funding, to provide oversight, and ensure the city's compliance with Title VI.

Our Commitment

The City of Fairfax is guided by federal Title VI and its related authorities, and we strive to not only meet these mandates, but to serve all beneficiaries of city services in a manner that is transparent, equitable, and inclusive. The city is committed to making Title VI part of our processes, integrating it throughout our programs and services, and serving as a guide for our public participation efforts. The city's Title VI Program establishes a framework for our efforts to ensure compliance with Title VI and related authorities regarding non-discrimination.

Nuestro Compromiso

La Ciudad de Fairfax se guía por el Título VI federal y sus autoridades relacionadas, y nos esforzamos no solo por cumplir con estos mandatos, sino también por servir a los residentes de la Ciudad de manera transparente, equitativa, e inclusiva. La Ciudad se compromete a hacer que el Título VI sea parte de nuestros procesos, integrándose a través de nuestros programas y servicios, y sirviendo como guía para nuestros esfuerzos de participación pública. Este Plan del Título VI establece un marco para nuestros esfuerzos para garantizar el cumplimiento del Título VI y las autoridades relacionadas con respecto a la no discriminación.

Notice to the Public

The *City of Fairfax Title VI/Nondiscrimination Notice to the Public* is provided in English and Spanish. It is posted in Fairfax City Hall, 10455 Armstrong St., Fairfax, VA 22030.

It also can be found on the City of Fairfax website at <https://www.fairfaxva.gov/government/city-manager/title-vi>.

The City of Fairfax fully complies with Title VI of the Civil Rights Act of 1964, as amended, and related statutes, executive orders, and regulations in all programs and activities and assigns these responsibilities for compliance to the City of Fairfax as appropriate. The City of Fairfax operates without regard to race, color, national origin (including persons with limited English proficiency), income, gender identity, sexual orientation, age, and disability. Any person who believes themselves or any specific class of persons to be subjected to discrimination prohibited by Title VI may by themselves or by representative file a written complaint with the City of Fairfax's designated Title VI Coordinator. A complaint must be filed no later than 180 days after the date of the alleged discrimination or 180 days from the last date on which the alleged event occurred.



Section 1

Accessibility: City of Fairfax meetings are conducted in accessible locations and materials can be provided in accessible formats and in languages other than English. If you wish to attend a City of Fairfax function and require auxiliary aid or service from communications or additional accommodations, please give the City of Fairfax notice five days in advance of the meeting or event.

Please contact the Title VI Coordinator with questions or additional information, for translation or interpretation requests, or if you need assistance to file a Title VI complaint.

Walter English

City of Fairfax Title VI Coordinator

Title VI Coordinator

City of Fairfax

10455 Armstrong St., Fairfax, VA 22030

TitleVI@fairfaxva.gov

703-385-7800

For Americans with Disability Act (ADA) accommodations requests or to file an ADA complaint, please contact the City of Fairfax ADA coordinator via email at HumanServices@fairfaxva.gov or via phone at 703-385-7800.

Aviso al Publico

El Título VI de la Ciudad de Fairfax/Aviso de No Discriminación al Público se proporciona en inglés y español. Está publicado en el Ayuntamiento de la Ciudad de Fairfax en 10455 Armstrong St., Fairfax, VA 22030.

También se puede encontrar en el sitio web de la Ciudad de Fairfax en <https://www.fairfaxva.gov/government/city-manager/title-vi>.

La Ciudad de Fairfax cumple totalmente con el Título VI de la Ley de Derechos Civiles de 1964 y los estatutos, órdenes ejecutivas y reglamentos relacionados en todos los programas y actividades y asigna estas responsabilidades de cumplimiento a la Ciudad de Fairfax según corresponda. La Ciudad de Fairfax opera sin distinción de raza, color, origen nacional, ingresos, género, edad y discapacidad. Cualquier persona que se considere a sí misma o a una clase específica de personas sujeta a la discriminación prohibida por el Título VI puede, por sí misma o por medio de un representante, presentar una queja por escrito al Coordinador del Título VI designado por la Ciudad de Fairfax. Se debe presentar una queja no más de 180 días después de la fecha de la supuesta discriminación o 180 días a partir de la última fecha en que ocurrió el presunto evento.

Accesibilidad: las reuniones de la ciudad de Fairfax se llevan a cabo en lugares accesibles y los materiales se pueden proporcionar en formatos accesibles y en idiomas distintos del inglés. Si desea accesibilidad o adaptaciones en su idioma, comuníquese con el Coordinador del Título VI al 703-385-788 o por correo electrónico a TitleVI@fairfaxva.gov. Si desea asistir a una función



Section 1

de la ciudad de Fairfax y necesita ayuda o servicio auxiliar de comunicaciones o alojamientos adicionales, notifique a la ciudad de Fairfax con cinco (5) días de anticipación.

Por favor contacte al Coordinador del Título VI si tiene preguntas o información adicional, para solicitudes de traducción o interpretación, o si necesita ayuda para presentar una queja del Título VI.

Walter English

Coordinador del Título VI de la Ciudad de Fairfax

Coordinador del Título VI

City of Fairfax

10455 Armstrong St., Fairfax, VA 22030

TitleVI@fairfaxva.gov

703-385-7800

Para solicitudes de adaptaciones de la Ley de Estadounidenses con Discapacidades (ADA) o para presentar una queja de ADA, comuníquese con el coordinador de ADA de la ciudad de Fairfax por correo electrónico a HumanServices@fairfaxva.gov o por teléfono al 703-385-7800.

Title VI Policy Statement

The City of Fairfax affirms its policy to assure all individuals have the right to participate in, receive, interact with, and access federal financially assisted services free of discrimination. The city assumes the requirements and impact of the provision of Title VI that states: the 1964 Civil Rights Act 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."

The city further affirms the Civil Rights Restoration Act of 1987, as amended, and the various non-discrimination authorities that every effort will be made to ensure the legal requirements are met and the spirit and impact of Title VI assure beneficiaries are free of non-discrimination in regard to age, sexual orientation, gender identity, disability, income status, and religion in all programs and activities, whether federally funded or not. The city will also ensure that all consultants and subrecipients (if any) will be monitored for compliance with Title VI. The city shall not intentionally discriminate (disparate treatment), or unintentionally discriminate (disparate impact).

In applying our Title VI policy, the city commits to:

- Ensuring individuals are not denied any services, opportunities, or other benefits for which they are otherwise qualified;
- Providing individuals only superior services and benefits (in quantity or quality) in the same manner as provided to others;



Section 1

- Refraining from segregated or disparate treatment in any manner related to the individual's receipt of services or benefits;
- Removing restrictions that in any way prevent the enjoyment of services, facilities, or any other advantage, privilege, or other benefit provided to others;
- Adopting and using only methods of administration that do not limit participation by any group of recipients or subject any individual to discrimination;
- Addressing all in a manner of respect and dignity, without regard to race, color, or national origin;
- Not permitting discriminatory activity in a facility built in whole or in part with federal funds;
- Making sure all segments of the population have opportunities to participate in the operations of a planning or advisory body that is an integral part of a federally funded program;
- Providing information, without fail, in languages other than English to potential or actual beneficiaries who are of limited English speaking, reading, and writing ability when requested and as appropriate;
- Refraining from discriminatory employment practices under any federally funded program whose objective is to provide employment; and
- Using only facilities that in no way limit or impede access to a federally funded service or benefit.

The city manager is ultimately the responsible party for Title VI compliance, and the Title VI Coordinator leads the implementation of the Title VI Program to eliminate discrimination and ensure compliance with the non-discrimination provisions of Title VI. All city employees, contractors, and subrecipients of federal aid administered by the City of Fairfax share the responsibility for carrying out the city's commitment and obligation to Title VI.

If any person believes that they, individually or as a member of a specific class of person, have been excluded from the participation in, been denied benefits, or subjected to discrimination and unequal treatment based upon race, color, or national origin, under any program or activity provided by the City of Fairfax, they have the right to file a formal Title VI complaint.

Individuals with questions requiring additional information, or need to file a complaint, should contact the Title VI Coordinator. If assistance is needed to file a complaint or to file verbally, please contact the Title VI Coordinator at:

Walter English
Title VI Coordinator
City of Fairfax
10455 Armstrong St., Fairfax, VA 22030
TitleVI@fairfaxva.gov
703-385-7800



Section 1

Title VI Program Goals

To assign roles, responsibilities, and procedures for ensuring compliance with Title VI and related regulations and directives.

To ensure that people affected by city 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.

To prevent discrimination in City of Fairfax programs and activities, whether or not those programs and activities are federally funded.

To establish procedures for identifying impacts in any program, service, or activity that may create illegal adverse discrimination on any person because of race, color, national origin, age, sex, or disability; or on minority populations, low-income populations, persons with LEP, and all protected Title VI populations.

To establish procedures to annually review Title VI compliance within specific program areas within the city.

To set forth procedures for filing and processing complaints by persons who believe they have been subjected to illegal discrimination under Title VI in the city's services, programs, or activities.

Title VI Nondiscrimination Assurances

By accepting federal funds, the city agrees to the conditions, compliance requirements, and enforcement procedures set forth in Title VI Assurances under US DOT 1050.2A ([Appendix 1](#)).

Assurances are signed by the city manager and are binding agreements that commit recipients of federal funds to prevent and ensure non-discrimination in all programs and activities.

The city also will ensure non-discrimination to provide open and fair competition during the procurement process and ensure compliance of consultants/contractors by ensuring that all proposal documents contain non-discrimination provisions. The city does not currently have subrecipient entities that it oversees, but in the event that the city administers federal funding to subrecipients, it will ensure compliance of that entity with Title VI requirements.

Learn more about Procurement Compliance in Section 5



Section 2: Title VI Complaints

The City of Fairfax takes all alleged complaints of discrimination seriously and commits to identifying, proactively addressing, and eliminating discrimination in all forms, including disparate treatment, as well as the delivery, and access provided to beneficiaries of its programs and services. The city's Human Services Office, which includes the ADA coordinator, currently receives, processes, and addresses ADA complaints and alleged discrimination on the basis of disability. The city accepts online submission of ADA complaints, with options for assistance to submit orally.

The Title VI complaint process will be kept under the auspice of the Title VI Coordinator and will follow similar procedures to ensure consistency with reporting complaints, but will comply with Title VI complaint requirements. City staff can assist with filing complaints in accordance with the procedures outlined, but all complaints must be directed to the Title VI Coordinator to formally file.

Title VI Complaint Process

The following section details the city's complaint process including how to file a complaint, investigation procedures, and tracking processes:

Any person who believes they individually, as a member of a specific class of persons, or in connection with any disadvantaged business enterprise (DBE) were subject to discrimination on the basis of race, color, or national origin with the City of Fairfax's programs and activities may file a Title VI complaint. All complaints will be directed to the city's Title VI Coordinator for initial review and action. A copy of the city's complaint form can be found in [Appendix 2](#) of this document and is [available on the city's website](#).

The city (the recipient of federal funds) investigates complaints filed by the complainant (person filing the complaint), or the complainant's representative. In accordance with federal regulations (49 CFR § 21.11(b)), complaints must be filed no later than 180 days after the date of the alleged act of discrimination or where there has been a case of a continuing course of conduct, the date on which that conduct stopped. In either case, the recipient or their designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for doing so.



The City of Fairfax takes all alleged complaints of discrimination seriously and commits to identifying, proactively addressing, and eliminating discrimination in all forms.



Section 2



How to File a Complaint in Writing

The city will process complaints that are complete and has multiple ways to initiate a formal complaint. A signed complaint form may be filed in writing submitted via email, delivered in person, and/or mailed to:

Walter English

Title VI Coordinator

City of Fairfax

10455 Armstrong St., Fairfax, VA 22030

TitleVI@fairfaxva.gov

703-385-7800



Assistance with Filing Complaints

A complaint can be filed verbally with the Title VI Coordinator. City employees can and must assist with filing a complaint, but ultimately, the complainant will be interviewed by the Title VI Coordinator. The Title VI Coordinator can assist with documenting the complaint in writing, and coordination for signature by the complainant will be required. The Title VI Coordinator can be reached from 8:30 a.m. to 5 p.m. on weekdays (excluding holidays) using the provided contact information. If you do not/prefer not to file a complaint of alleged discrimination pertaining to the City of Fairfax, with the City of Fairfax Title VI Coordinator, the complaint may be filed directly with VDOT or FHWA:

Virginia Department of Transportation (VDOT), Civil Rights Division

Administrator, 1401 East Broad Street, Richmond, VA 23219, Phone:

804.786.2085 Tel, Toll Free: 800.508.3737

Federal Highway Administration (FHWA), 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, Phone: 202-366-0693

If additional assistance is needed to file a complaint or additional information is needed, please contact the city's Title VI Coordinator at TitleVI@fairfaxva.gov or via phone at 703-385-7800.



Required Complaint Form Information

The Title VI Coordinator will review the complaint form for completeness and jurisdiction over the alleged incident. If additional information is required, the Title VI Coordinator will contact the complainant within **10 days** for further information. The complaint should be filled out to the best ability with the following information:

Section 2

- A written explanation of the alleged discriminatory actions;
- The complainant's contact information, including, if available: full name, 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 (provided by the recipient);
- The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is ongoing; and
- Complainant's signature and date of signature.

Complaint Process and Timeline

To ensure timeliness, responsiveness, and justice, the timeframes described below will be adhered to, but are flexible to ensure all complaints are thoroughly resolved.

In accordance with VDOT requirements, once a complaint is accepted for investigation, the city has **60 days** to conduct and completely investigate the complaint, and the process will be thoroughly documented and logged.

The complaint will be logged and tracked. The Title VI Coordinator will notify the VDOT Office of Civil Rights to determine assignment of the investigator and role. Appropriate city staff will be notified, such as a city official in which the alleged complaint was filed against, appropriate senior leadership over the referenced department, city attorney, or city manager.

Please note: If additional information is needed during the investigation to resolve the complaint, the city will formally contact the complainant, and the complainant has **15 days** to send the requested information to the Title VI Coordinator (or assigned VDOT investigator). If no further response is received from the complainant, the investigation may be administratively closed by the city (or VDOT).

If the investigation is assumed by VDOT, the Title VI Coordinator will monitor the process and be available to the VDOT investigator and the complainant.



Section 2



Investigation Outcomes

After the investigation is complete within the **60-day** time frame, the Title VI Coordinator or assigned VDOT investigator will issue findings in a report. Within **90 days** of the complaint's receipt, the city manager will inform the complainant in writing of the final decision reached. The decision will be issued in either:

A closure letter (Letter of Finding, often referred to as a LOF) that summarizes the allegations, a statement that a Title VI violation did not occur, and closure of the investigation process.

OR

A LOF that summarizes the allegations, interviews conducted regarding the incident, and the city's response to the findings.

A complainant can appeal against the decision documented in the LOF within **10 days** after the date of the LOF/closure letter to the city manager and directly with the VDOT Office of Civil Rights, or directly with FHWA.



Complaint Tracking

If the city were to receive any Title VI complaints or be subject to a lawsuit or investigation, the city would track them through its complaint log. The log format can be found in [Appendix 3](#), though the actual complaint log will be kept confidential.

Confidentiality will be of primary importance to assure the privacy of the complainant, and integrity of the investigation, and to prohibit retaliation (28 CFR § 42.107). The identity of the complainant should not be publicly disseminated and should remain confidential to the best of the city's ability during the investigation, to gather as much information to fully inform the investigation process.

Only the number of complaints, investigations, and lawsuits, if any, will be published publicly in the city's annual report.

See Appendix 2 for the Title VI Complaint Form

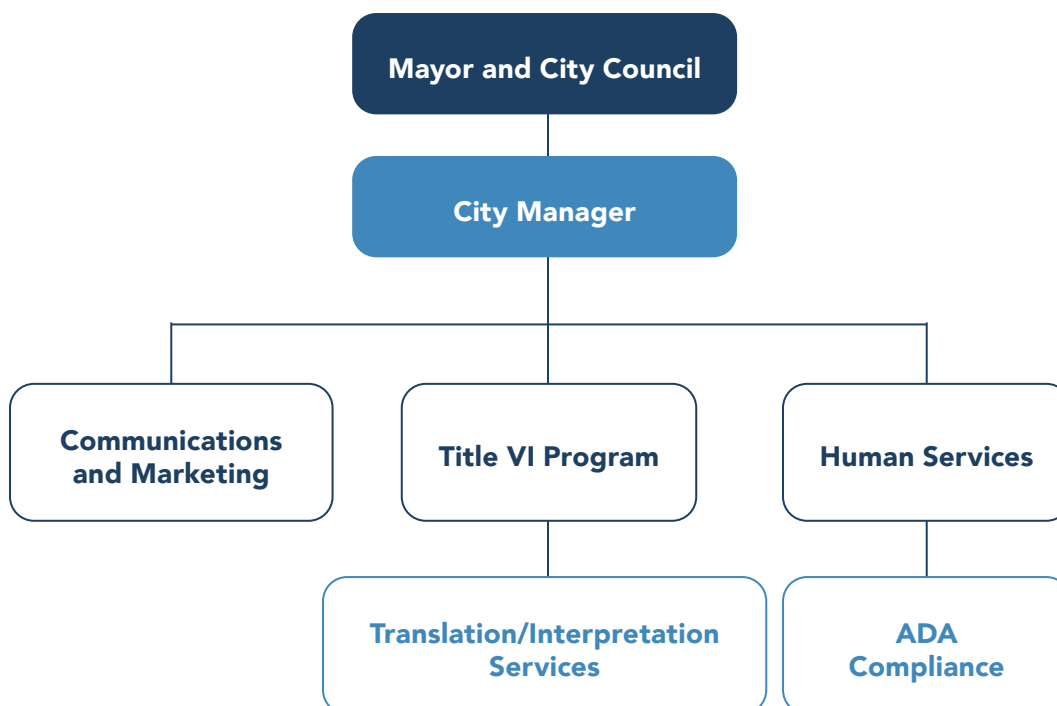


Section 3: Processes to Ensure Nondiscrimination

To ensure the city delivers equitable and fair services free of discrimination, the city:

- Maintains current Title VI Assurances;
- Promptly corrects any deficiency identified;
- Conducts regular internal reviews of its program areas, consultants/subconsultants, advisory boards, etc.);
- Reviews subrecipient Title VI procedures on a regular basis;
- Conducts demographic data collection/analysis on the basis of race, color, or national origin;
- Conducts meaningful outreach and engagement in accordance with Title VI Public Engagement Plan and Language Assistance Plan (LAP) to ensure access for persons with Limited English Proficiency (LEP);
- Documents and prepares annual reports of Title VI accomplishments and efforts;
- Conducts and/or identifies Title VI training for staff, subrecipients, consultants/subconsultants, and members of city boards and commissions; and
- Provides Title VI information upon request.

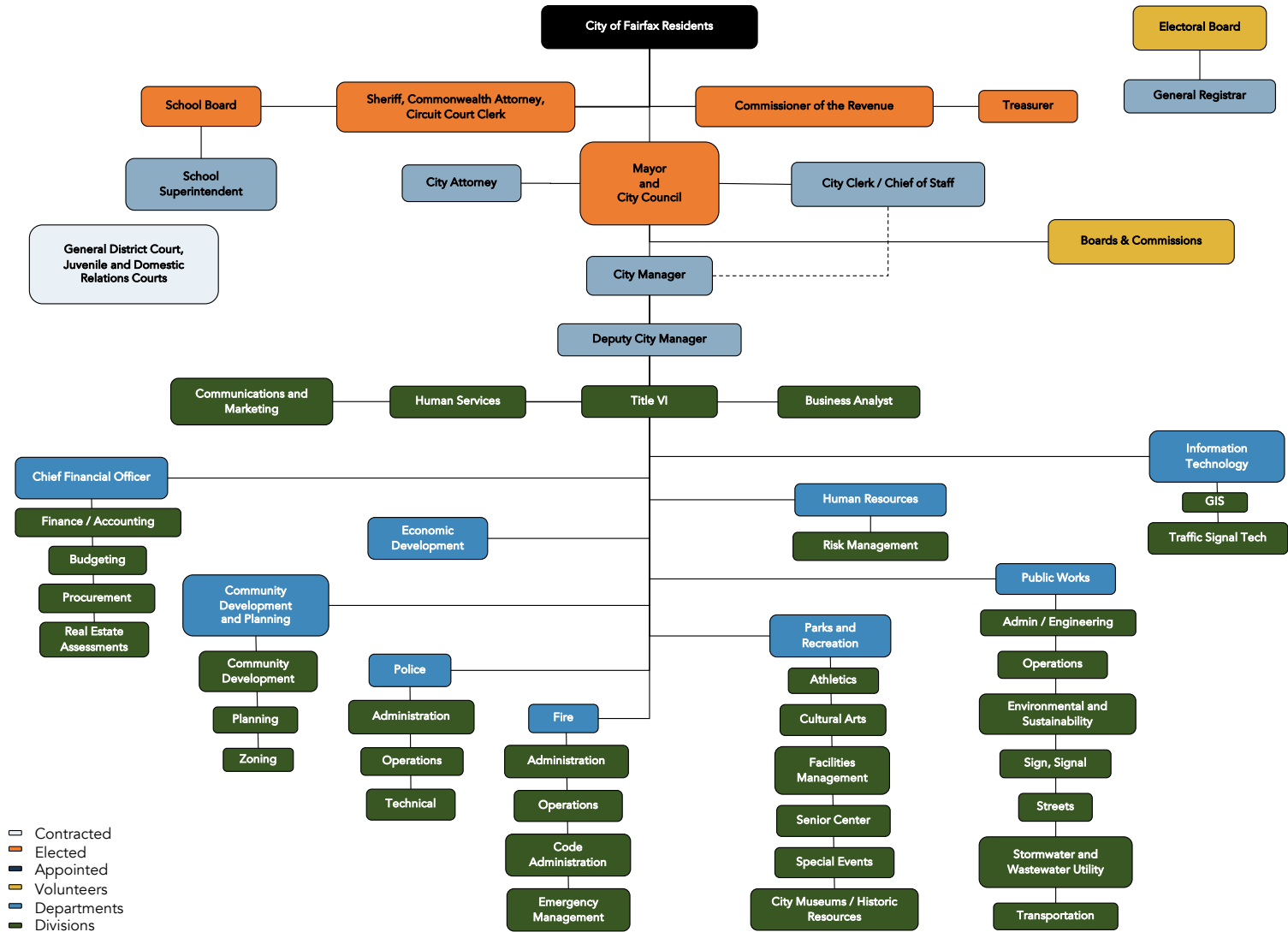
Title VI Oversight and Management





Section 3

Organization and Staffing





Section 3

Title VI Coordinator Role and Responsibilities

The Title VI Coordinator is responsible for ensuring the implementation of the city's Title VI Program. The Title VI Coordinator, under the supervision of the city manager, is generally responsible for coordinating the overall administration of the Title VI Program and overseeing compliance with applicable non-discrimination authorities.

In December 2022, Walter English was designated as the Title VI Coordinator for the City of Fairfax. The Title VI Coordinator, with support from liaisons across city departments, is responsible for ensuring that all elements of the Title VI Program are appropriately implemented and maintained.

General responsibilities of the city's designated Title VI Coordinator include:

- Identifying, investigating, and eliminating instances or patterns of discrimination when found to exist;
- Processing discrimination complaints received by the city and overseeing established procedures;
- Reviewing data collection procedures for compliance with Title VI including demographic data (race, color, or national origin, etc.), public involvement, and language assistance requests;
- Meeting with appropriate staff members to monitor and discuss progress, implementation, and compliance issues related to the city's Title VI Program;
- Working with the Office of Procurement Services to ensure contracts are solicited in accordance with federal and state laws and regulations, and contracts awarded include appropriate language on non-discrimination requirements;
- Working with staff to monitor consultants and suppliers for Title VI compliance and, in cases of Title VI deficiencies, to investigate, resolve, and implement a remedial action plan;
- Developing, maintaining, and disseminating required Title VI information to the general public and, where appropriate, disseminating in languages other than English;
- Assessing communications and public involvement strategies to ensure adequate participation of impacted Title VI protected groups and to address additional language needs, as appropriate;
- Coordinating with the Human Services and Communications offices on a contact list of interpretation and translation service providers, as well as a list of staff resources for conducting needed interpretation and translation services;



Section 3

- Maintaining and updating the Title VI Plan annually and disseminating it to appropriate parties including the City Council, subrecipients, contractors/consultants, committees, staff, and to the general public through the city website;
- Coordinating with appropriate federal, state, and regional entities, as well as in-house sources, to identify and provide city employees with training opportunities regarding non-discrimination and Title VI;
- Reviewing important non-discrimination-related issues, as needed;
- Reviewing the city's Title VI Program annually to assess whether administrative procedures are effective, staffing is appropriate, and adequate resources are available to ensure compliance;
- Conducting an annual review of city programs and activities; and
- Working with departments across the city to prepare annual Title VI accomplishments reporting.

Learn more in Section 5: Title VI Monitoring and Reporting

Program Areas and Activities

The city-identified program areas that directly receive federal aid funding through VDOT and additional program areas and activities that have a key role and impact in implementing the city's Title VI Program. The specific program areas and activities to be reviewed and monitored for compliance with Title VI regulations are documented below.

Departments/Divisions



Department of Public Works

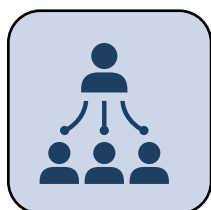
The Public Works Department (DPW) receives FHWA funding through VDOT to implement its federal aid local transportation program. This department is responsible for functions to keep the city operating under the four divisions of Administration and Engineering, Operations, Streets, and Transportation:

- Administration and Engineering are responsible for addressing environmental issues related to the departmental budget, stormwater/flood plain management, construction of projects, processing right-of-way and hauling permits, etc.
- Operations is responsible for the maintenance of the city fleet and facilities, right-of-way beautification, and more.
- Streets is responsible for maintenance such as asphalt, concrete, storm drainage, and snow removal.



Section 3

- Transportation provides a multi-modal network of sidewalks, bicycle paths, roadways, and public transportation options and contains the CUE Bus system, street signs and traffic signal functions. A list of transportation projects in the planning, design, construction, and post-construction (completed) phases can be found on the [Transportation Division webpages](#).
- o National Environmental Policy Act (NEPA) – All federal-aid transportation projects are reviewed in accordance with NEPA regulations to determine a project’s potential effect on the environment (natural, socioeconomic, cultural) and human health, to conduct meaningful public engagement, and to identify and address disproportionately high and adverse impacts on communities, particularly minority, low-income, and persons with Limited English Proficiency (LEP). Transportation-related projects follow the requirements for Public Involvement Manual in accordance with VDOT Locally Administered Projects requirements, as well as the city’s Public Engagement Plan ([Appendix 6](#)) and Language Access Plan ([Section 4](#)). VDOT is responsible for assuring city compliance and reviewing/approving NEPA documentation. Regardless of funding source (federal or state), the acceptance of federal aid requires that all activities and programs, including planned transportation projects, comply with [Title VI non-discrimination requirements](#).



Contract Procurement and Consultants/Contractors

The Office of Procurement Services is responsible for overseeing and ensuring compliance of its procurement contracts for goods and services and ensures compliance with requirements for Disadvantaged Business Enterprise (DBEs), Title VI, and state SWaM regulations for all procurement and operational practices.

Currently, DPW contracts are monitored for compliance with Title VI and to ensure all procedures are being conducted in a “fair and impartial manner” so that no contractor or consultant be excluded. To further expand diversity in procurement, VDOT sets goals for DBE firm participation for prime consultant/contractors or subconsultants/subcontractors, and Prime contractors must not “discriminate on the grounds of race, color, or national origin” and must adhere to Title VI compliance. Title VI compliance is monitored through Title VI Consultant Evaluation form. If contactors/consultants are found to have deficiencies, the procurement services manager and Title VI Coordinator will work with them to address the deficiencies and avoid a finding of noncompliance by the city or VDOT.

Learn more about Procurement in Section 5



Section 3



Communications/Marketing

The Communications and Marketing Office delivers residents, business owners, visitors, and the media general city government-related information and information about municipal services and activities. The city provides this information through resources such as Channel 12, cityscene, and social media accounts.



Planning

The Community Development and Planning Department works to cultivate a more livable city through services to the community and plans, programs, and development review. Within the department, there is the Planning Division, which is responsible for long-term master plans for the city such as the Comprehensive Plan and neighborhood-level Small Area Plans. Planning Commission members advise the city on future developments including preparing and reviewing the Comprehensive Plan, reviewing the Comprehensive Plan, and making recommendations to the city. The division collects demographic and statistical profile data on categories such as population, neighborhoods, housing, transportation network, economic vitality, environment and sustainability, and community services. The analysis of this data is available through the [City of Fairfax Fact Book](#).

Activities

Advisory Committees/ Non-Elected Boards

The city creates advisory committees and non-elected boards to support programs, activities, services, and processes across the city. The city is in the process of establishing its first city-run transportation/transit advisory board; however, city representatives currently sit on three regional transportation/transit-related boards. The city Clerk's Office collects demographics and reports for all advisory committees/non-elected boards.

Learn more in Appendix 4: Advisory Committees/Non-Elected Boards

Data Collection/ Analysis

In accordance with Title VI, the city is required to collect statistical data on affected populations, participants, and beneficiaries of its programs and activities, in regard to race, color, and national origin (including persons with LEP). Additional demographic data that assist in meeting Title VI requirements include age, income, sex (orientation), gender (identity), income, disability, and



Section 3

region. The city has various departments that collect, utilize, and analyze data for various reasons and can be documented in multiple ways: studies, reports, mapping, etc., that are specific to its program and activities.

Below is a list of identified data points and activities that contain Title VI Program-related data. The Title VI Coordinator will continue to identify sources of demographic data that assist in identifying the distribution of its burdens and benefits in relation to minority, persons with LEP:

- The Title VI Coordinator collects Title VI complaint forms.
- The Title VI Coordinator ensures public notice contains information for Language Access Services and will identify language requests (including American Sign Language).
- The Title VI Coordinator and ADA coordinator collect requests for meeting accommodations, ADA accessibility complaints/needs, and track the utilization of the Language Access Line.
- The Title VI Coordinator and applicable city department project manager collect the Public Engagement Feedback Form (including data on race/ethnicity, gender, age, languages spoken, etc.).
- The city manager and Human Resources Office collect information on general discrimination complaints and report to Title VI Coordinator.
- The DPW Transportation Division completes the required federal NEPA documentation. NEPA documentation contains project locations, scope, costs, right-of-way needs, public involvement conducted, impacts analysis including environmental, historic, and socioeconomic impacts, community affects, information of Title VI protected classes including minorities, persons with LEP, Environmental Justice (EJ) populations, and persons with disabilities.
- DPW Administrative and Engineering Division oversees fair and equitable right-of-way and real estate interactions and transactions that may include appraisals, property acquisition, management, and/or relocation consistent with the Uniform Relocation and Real Property Acquisition Policies Act of 1970.
- The Community Development and Planning Department's City of Fairfax Fact Book is updated and released annually. This effort collects the demographics and statistical profile as a standalone resource to provide maps and analysis on population, neighborhoods, housing, transportation, economic vitality, environment and sustainability, and community services.
- The Office of Procurement Services oversees federal Title VI non-discrimination contract requirements, DBE compliance/monitoring, and the consultant Title VI evaluation form.

Learn more in Section 5. Data Analysis Guidelines



Section 3

Public Participation

All city departments conduct public engagement related to their specific activities and programs. The Human Services Office oversees the Language Access Line and ADA accommodations and works closely with the Title VI Coordinator to ensure compliance with Title VI. The city has a Public Engagement Plan and Language Access Plan developed in accordance with Title VI.

Learn more in Section 4. Commitment to Meaningful Engagement

The city will ensure non-discrimination in all activities with public involvement and promote inclusive, meaningful, and accessible engagement by confirming the following are accessible and available:

- Materials reasonably translated into frequently spoken languages as determined by four-factor analysis,
- Title VI Public Notice of Rights,
- Title VI Coordinator contact information,
- Instructions on how to file complaints,
- Instructions to request language assistance service,
- Instructions to request meeting accommodations, and
- Public Engagement Feedback Forms and demographic data collection forms.

Training/Education

The Title VI Coordinator is responsible for providing or distributing information related to training on Title VI issues and regulations for city staff. The Title VI Coordinator will also identify low to no-cost training opportunities through federal (US DOT/FHWA), state (VDOT), or regional resources.

Consultants/contractors, subconsultants, or subrecipients also may receive training, if applicable. The Title VI Coordinator will provide members of the public with additional information related to Title VI if questions are received. Training will be reported and tracked as part of program requirements.

Section 4: Commitment to Meaningful Engagement

Environmental Justice (EJ)

On February 11, 1994, President Clinton signed [Executive Order 12898: Federal Action to Address Environmental Justice in Minority and Low-Income Populations](#). Its purpose is to focus federal attention on the environmental and human health effects of federal actions on minority and low-income populations. The goal of this executive order is to achieve environmental protection for all communities.

Title VI and EJ are similar in that they:

- Address non-discrimination.
- Identify minorities as protected populations.
- Are rooted in the constitutional guarantee that all citizens are created equal.
- Address the involvement of affected residents in the decision-making process.

However, Title VI prohibits discrimination by law, while EJ mandates a process for inclusive decision-making.

EJ requires the full and fair participation of potentially affected communities in the decision-making process, by identifying populations and closely integrating the community by creating effective public involvement strategies tailored to the specific community affected to better understand and be informed on issues, concerns, and values. Like Title VI, EJ ensures that an agency operates in a manner that does not result in the exclusion of protected populations, deny participation in, or reduce the benefits of an agency's programs or activities.





Section 4

The city meets that standard in three phases:

1. **Assess** – Assess potential benefits and impacts of city investments and projects related to EJ populations through demographic data collection.
2. **Identify** – Using the information gathered, identify any disparate impacts to EJ populations.
3. **Address** – Engage affected EJ populations and take action to minimize, mitigate, or eliminate adverse or disparate impacts.

Limited English Proficiency

On August 11, 2000, President Clinton signed [Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency](#) (LEP). Like the EJ Executive Order, the Limited English Proficiency (LEP) Executive Order is structured to avoid adversely affecting these populations, to develop strategies to better engage these populations in their community, and to ensure meaningful access to benefits, services, information, and other important portions of programs and activities.

The city provides meaningful access to its programs and activities by giving persons with LEP adequate and understandable information to participate in its programs and activities and by taking reasonable steps to remove barriers. For a person with LEP, language can present a significant barrier to accessing the benefits of services, activities, and programs, as well as understanding and exercising rights afforded to them. Persons with LEP may be entitled to language assistance at no cost to them with respect to accessing or encountering a service, activity, program, and/or benefit of a federal financially assisted program provided by the city. Failure to provide and ensure access for persons with LEP may constitute discrimination regarding national origin, which is prohibited by Title VI.

The city's Language Access Plan (LAP) conforms to [Executive Order #13166](#) and follows the [USDOT Guidance for implementing the Executive Order, Policy Guidance Concerning Recipients' Responsibility to Limited English Proficient \(LEP\) Persons \(Dec 14, 2005\)\(70 Fed Reg 74087\)](#). This guidance requires recipients of federal funding to conduct a four-factor analysis to prevent discrimination based on race, color, and national origin and take steps to ensure persons with LEP are provided meaningful access.

Assessment of Needs and Resources: Four-Factor Analysis

The US DOT guidance states that funding recipients are required to take reasonable steps to ensure meaningful access to programs by persons with LEP. It also outlines four factors that recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for persons with LEP (referred to as the four-factor analysis):



Section 4

1

Factor 1:

The number or proportion of persons with LEP eligible to be served or likely to be encountered by a program, activity, or service of the City of Fairfax.

2

Factor 2:

The frequency with which persons with LEP come in contact with the City of Fairfax programs, activities, or services.

3

Factor 3:

The nature and importance of programs, activities, or services provided by the City of Fairfax.

4

Factor 4:

The resources available to the City of Fairfax for LEP outreach and associated costs.

The greater the number or proportion of eligible persons with LEP, the greater the frequency with which they have contact with a program, activity, or service, and the greater the importance of that program, activity, or service, the more likely enhanced language services will be needed. Smaller recipients with more limited budgets are typically not expected to provide the same level of language service as larger recipients with larger budgets. The intent of the US DOT's guidance is to suggest a balance that ensures meaningful access by persons with LEP to critical services while not imposing undue burdens on small organizations and local governments.

After completing the above four-factor analysis, recipients can determine which LEP services are appropriate. Recipients have two main ways to provide language services: oral interpretation (in person or via telephone interpretation service) and written translation. The correct array of services should be based on what is deemed both necessary and reasonable in the four-factor analysis. The languages spoken by persons with LEP with whom the recipient has frequent contact often determine the languages into which documents will be translated and the types of interpretation provided.

Factor 1: The number or proportion of persons with LEP eligible to be served or likely to be encountered by a program, activity, or service of the City of Fairfax.

This factor considers the number and proportion of persons with LEP within the City of Fairfax from each language group. Data is collected by the U.S. Census Bureau and was extracted from the 2017-2021 U.S. American Community Survey (ACS) five-year estimates. The language data is used to determine which languages the city will translate written materials into under the DOJ's Safe Harbor Provision¹.

¹ **Safe Harbor Provision** - The US DOT has adopted the US DOJ provision, which stipulates that city provide written translation of vital documents for each eligible LEP language group that constitutes five (5) percent or 1,000 persons, whichever is less, of the total population of persons eligible to be served or likely to be encountered, then such action will be considered strong evidence of compliance with the recipient's written translation obligations.

Section 4

Language Use and English-Speaking Ability

The U.S. Census Bureau has included, as part of the ACS, classifications of how well people speak English ranging from “very well” to “not at all.” For the purposes of the LAP, the City of Fairfax considers individuals who speak English in all categories below “less than very well” as persons with LEP.

According to the ACS, English is identified as the primary language spoken at home for 66.1 percent (population total of 14,860). A total of 7,533 persons in the City of Fairfax older than age 5 (or 33.9 percent) of the city population speak a language other than English at home. Persons speaking English less than “very well” or “not at all” represent 4.6 percent of the overall city population and are considered to have Limited English Proficiency (Table 1).

Table 1: Language Use and English-Speaking Ability in the City of Fairfax

Total Population	Speak Only English*		Speak Other Than English*		Speak English only or speak English “very well” *		Speak English less than “very well” or “not at all” **	
	Percent (%)	Count	Percent (%)	Count	Percent (%)	Count	Percent (%)	Count
24,146	66.1%	14,680	33.9%	7,533	86.3%	19,174	4.6%	1,113

* Individuals 5 years or older

** Data in this column represents persons with LEP

Source: U.S. Census Bureau, 2017-2021 American Community Survey 5-Year Estimates





Section 4

Languages Spoken at Home

Other than English, Spanish (2.2 percent) and Asian/Pacific Island languages (1.9 percent) are the most widely spoken language categories in the City of Fairfax population. Together, Spanish (48.2 percent) and Asian/Pacific Island languages (42.5 percent) comprise 90.7 percent of the total LEP population in the city. Table 2 displays the amount of LEP individuals with LEP age 5 and older by languages spoken at home (Table 2).

Table 2: Total LEP Individuals for Languages Spoken at Home in the City of Fairfax

Languages Spoken	Number of LEP Individuals*	% of city Population	% of LEP Population
Spanish	537	2.2	48.2%
Asian/Pacific Island Languages	473	1.9%	42.5%
Indo-European Languages	22	0.09%	2.0%
Other	81	0.34%	7.3%
Total LEP Population	1,113	4.6%	N/A
Total City Population	24,146		

*Individuals 5 years or older

Source: U.S. Census Bureau Decennial Population (population 2020) and 2017–2021 American Community Survey 5-Year Estimates (LEP 2021)

Number and Proportion of LEP Population by Census Tract

The number and proportion of the LEP populations within the City of Fairfax vary per census tract within city limits (Table 3). Census Tracts located within city limits include Census Tracts 3001, 3002, 3003, 3004, and 3005. One additional census tract is located within the city (4405.04); however, this tract is not included in this assessment as it contains primarily government buildings and facilities and does not contain household or demographic data.

Table 3. Percentage of LEP Individuals per Language Spoken by Census Tract

Census Tract	Total LEP	Spanish LEP Individuals		Other Indo-European LEP Individuals		Asian-Pacific Islander LEP Individuals		Other	
		%	Count	%	Count	%	Count	%	Count
3001	289	14.8%	80	54.5%	12	24.7%	117	98.8%	80
3002	386	51.2%	275	18.2%	4	22.4%	106	1.2%	1
3003	256	15.3%	82	0	0	36.8%	174	0	0
3004	51	15.1%	81	27.3%	6	9.3%	44	0	0
3005	131	3.5%	19	0	0	6.76%	32	0	0
Total	1,113	48.3%	537	1.2%	22	42.3%	473	7.2%	81

*Individuals 5 years or older

Source: U.S. Census Bureau, 2017-2021 American Community Survey 5-Year Estimates (LEP, 2021)



Section 4

Higher concentrations of LEP populations are in residential areas in the northwestern portion of the city within tract 3001 and include the neighborhoods of Cobbdale, Fairchester Woods, and Triangle. Figure 2 depicts the location density of LEP populations, per census tract, located within city limits.

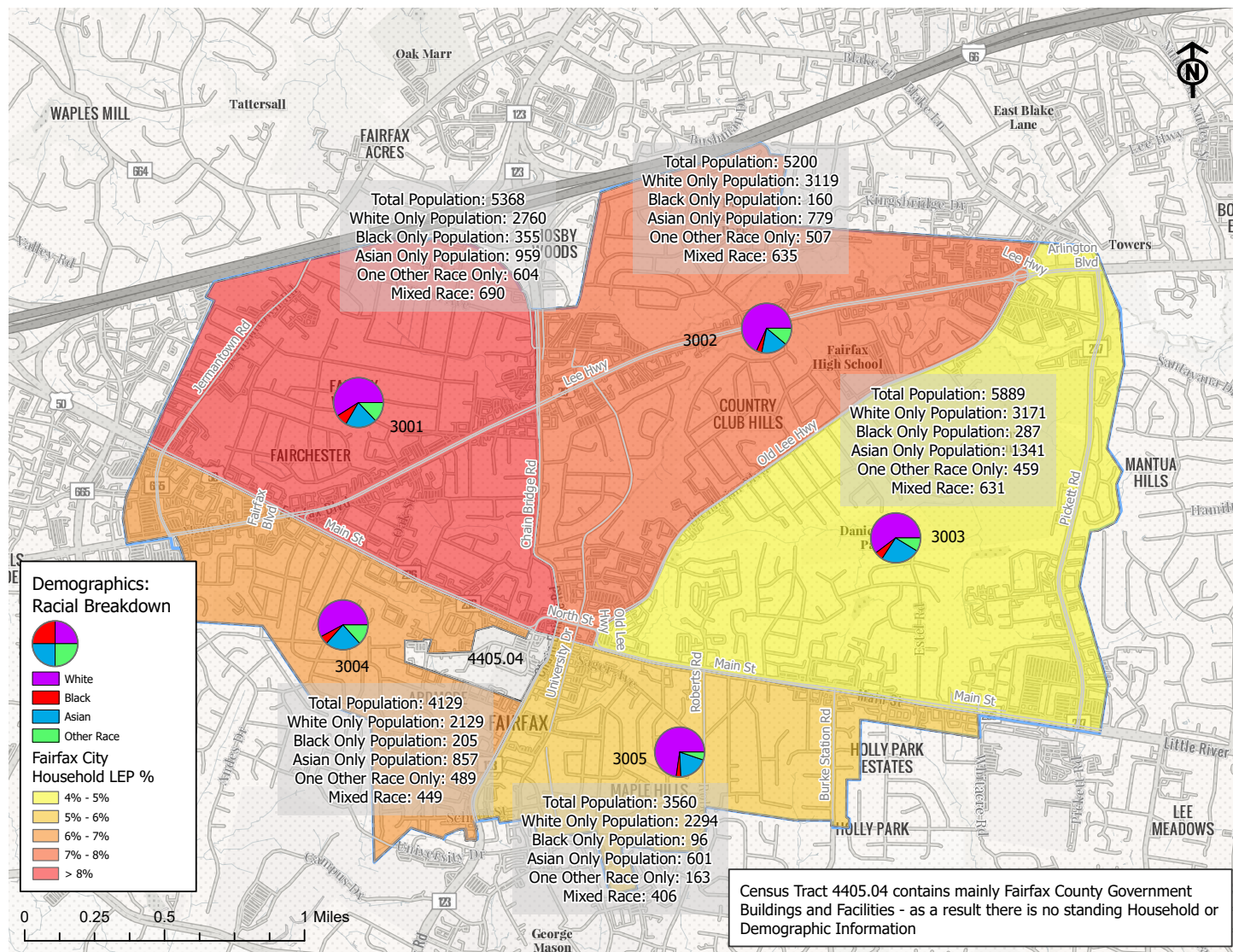


Figure 1. Demographic Breakdown by Census Tract

Section 4

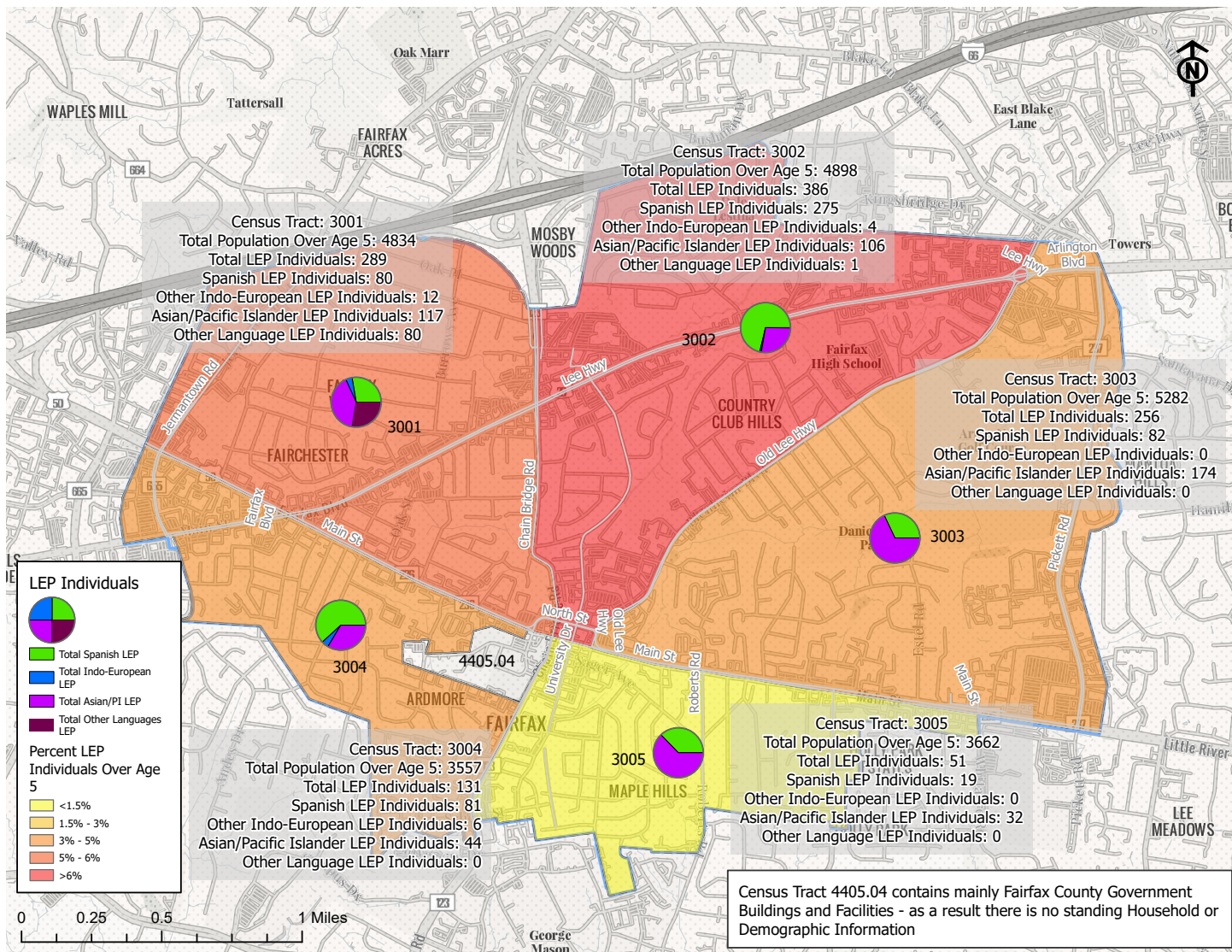


Figure 2. Location Density of LEP Populations

Section 4

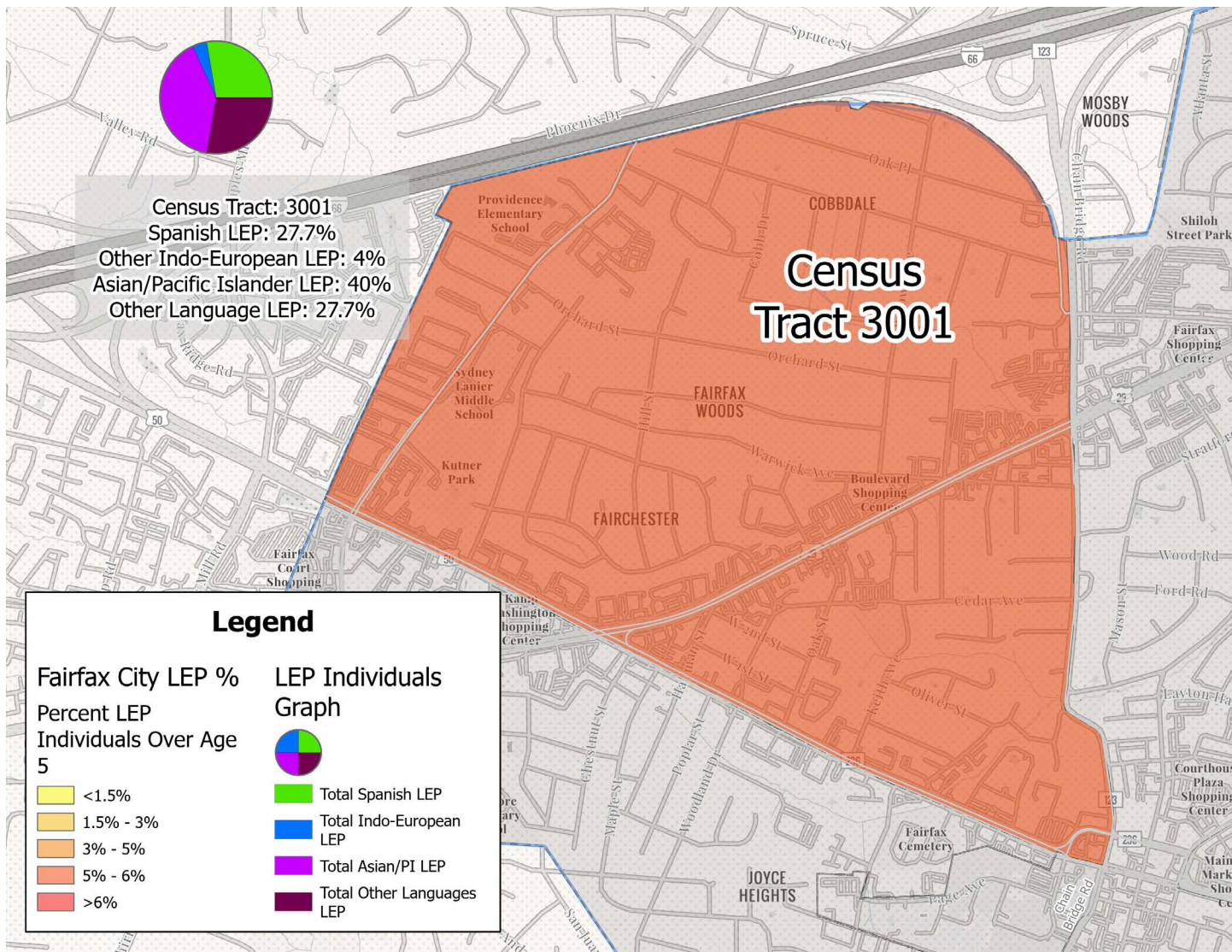


Figure 3. LEP Populations – Census Tract 3001

Section 4

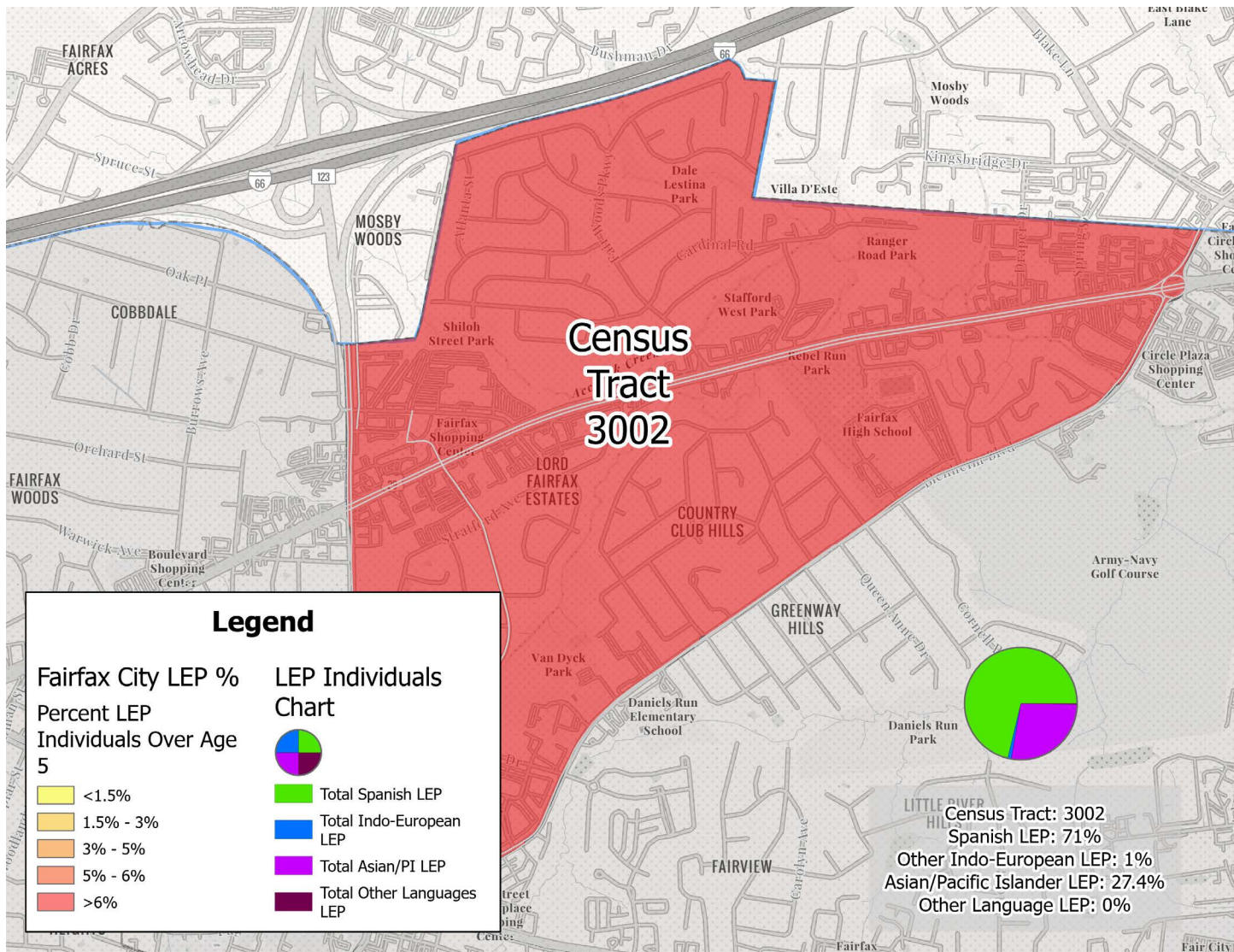


Figure 4. LEP Populations – Census Tract 3002

Section 4

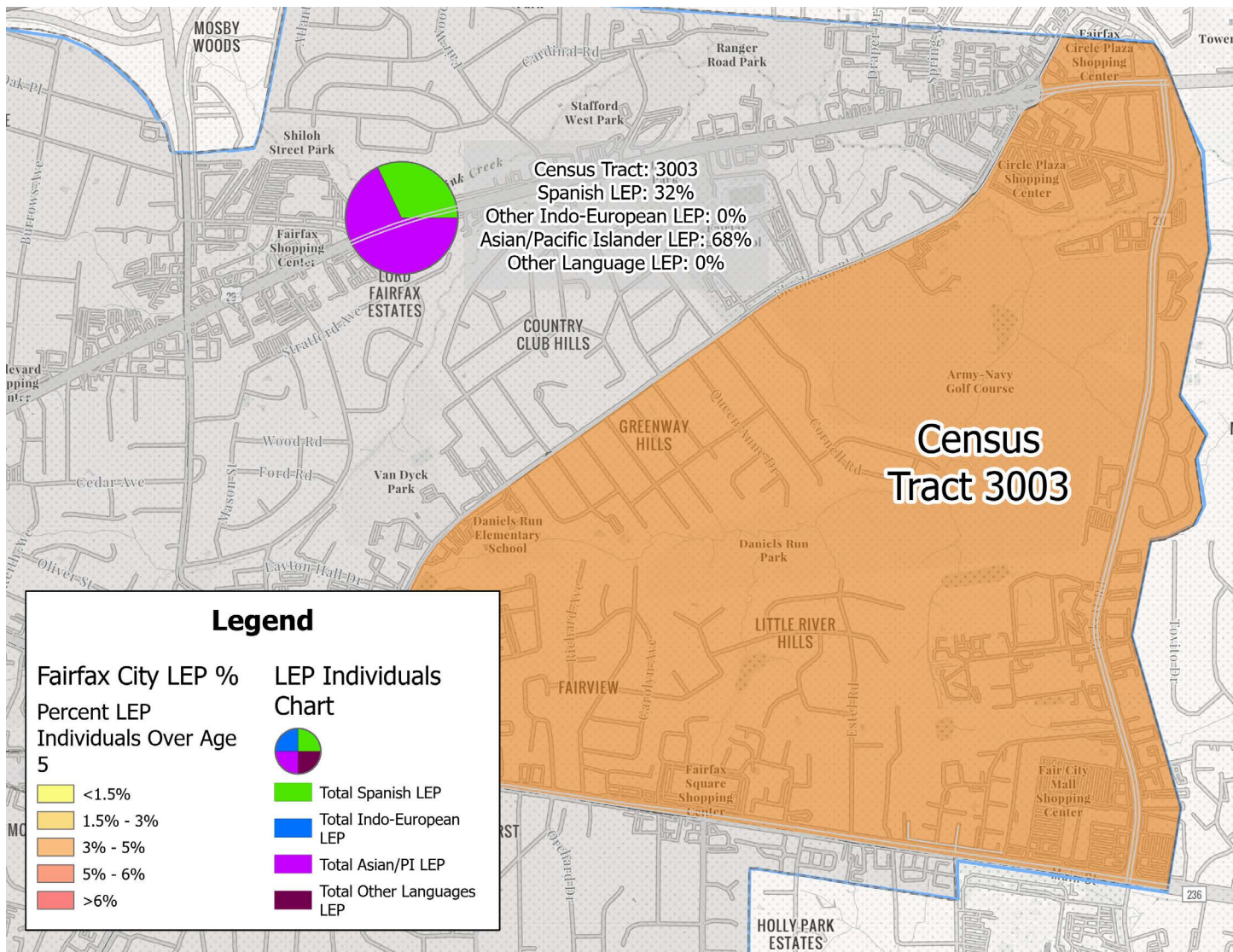


Figure 5. LEP Populations – Census Tract 3003

Section 4

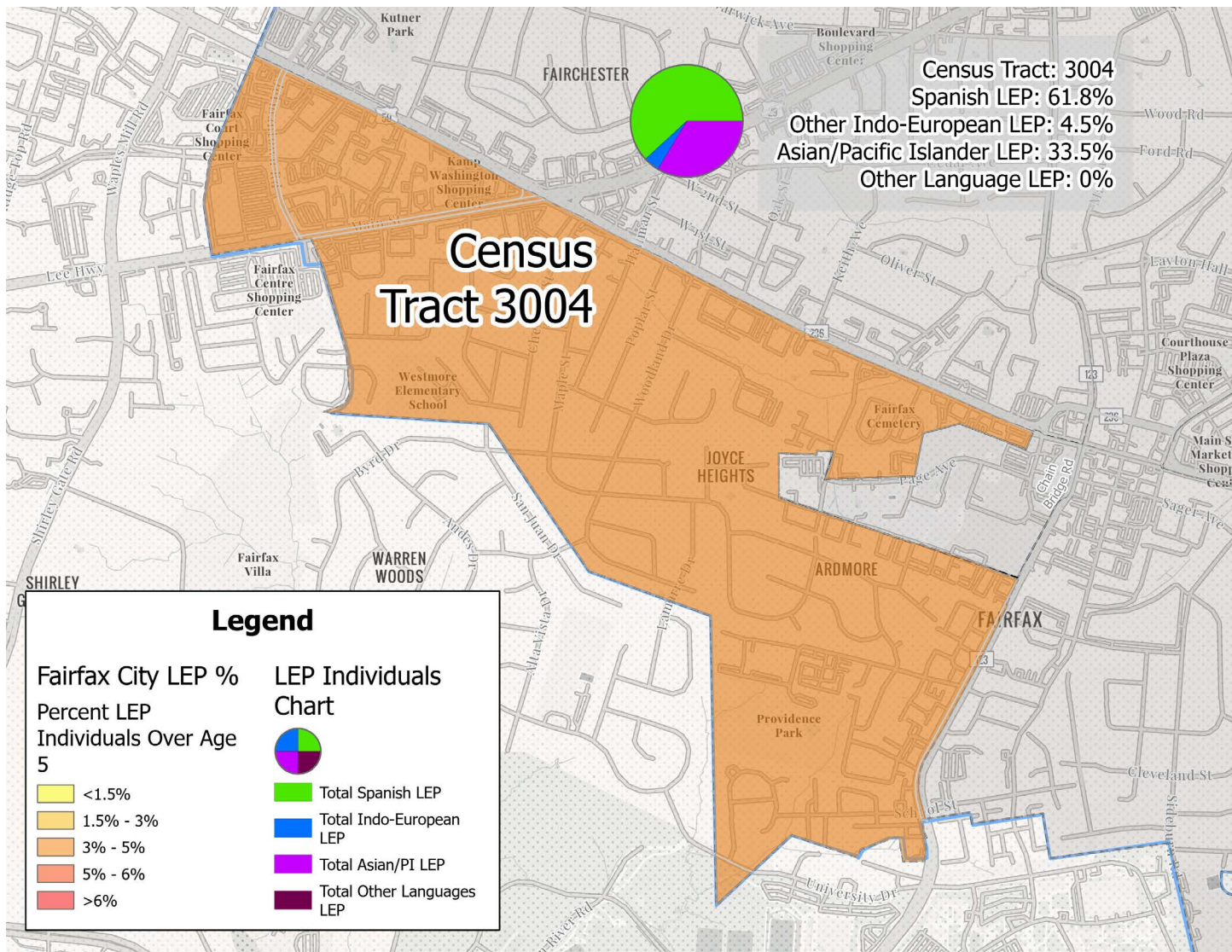


Figure 6. LEP Populations – Census Tract 3004

Section 4

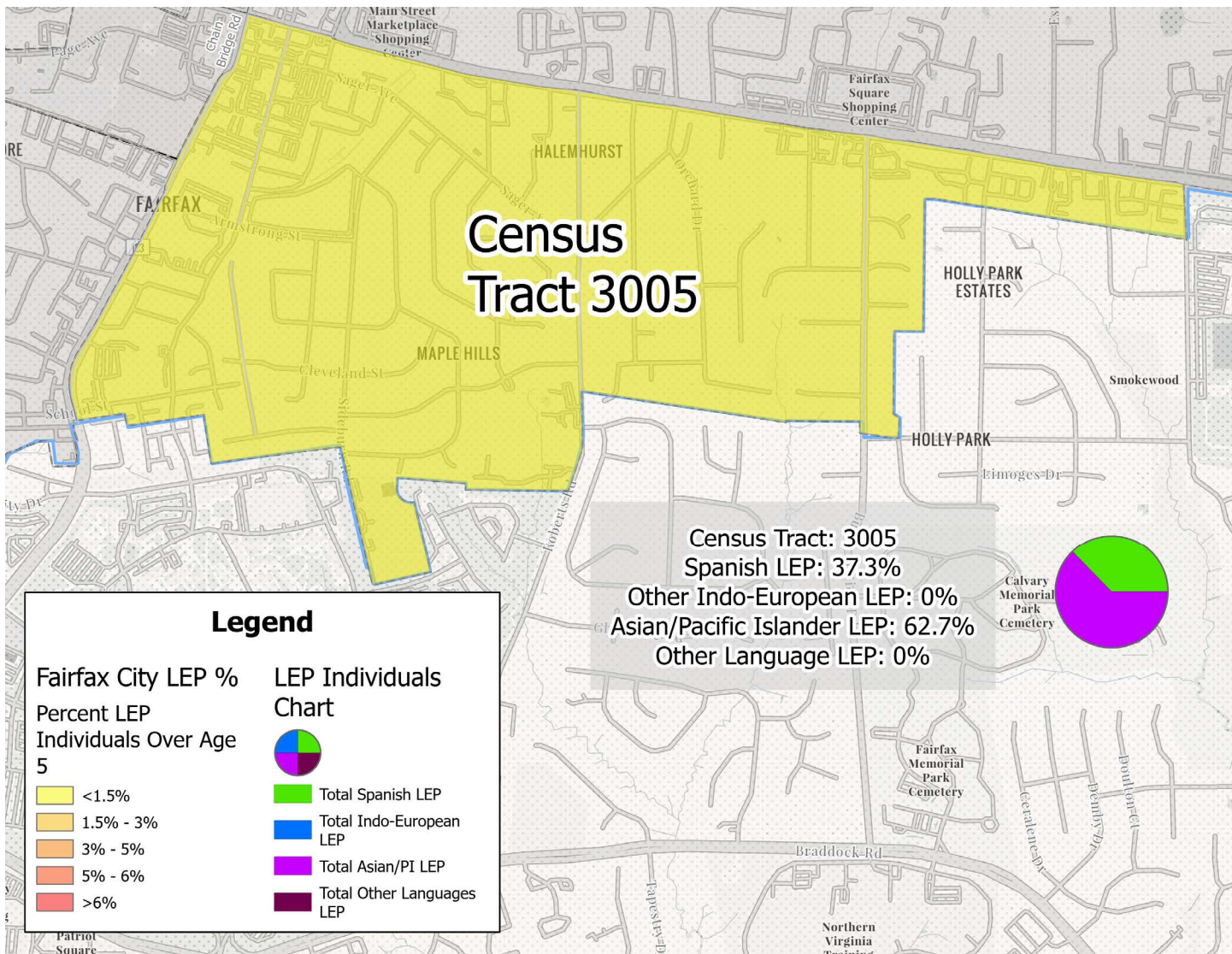


Figure 7. LEP Populations – Census Tract 3005



Section 4

City Language Data Collection Efforts

In addition to the publicly available data such as the US Census, additional resources to identify specific languages spoken within these categories were assessed through review of data collected by Fairfax County Public Schools (FCPS) and an internal City of Fairfax audit.

Table 4 provides information on languages spoken by public school students enrolled in FCPS with a City of Fairfax address. It does not account for populations that do not have children or that have children enrolled in another school system. This data does not indicate total numbers of LEP households but provides insight into specific languages not identified in categories in Table 2 that contains US Census data. Spanish is the most common language spoken other than English, and Vietnamese follows, but at a much lower frequency.

Table 4: Languages Spoken by City of Fairfax Public School Students

Languages Spoken	Number of Students*	% of Student Population
English	1,581	53.6%
Spanish	787	26.7%
Vietnamese	88	3.0%
Arabic	82	2.8%
Korean	51	1.7%
Chinese	32	1.1%
Urdu	32	1.1%
Other	294	10.0%
Total	2,947	100%

* Individuals enrolled in PK-12th Grade

Source: Fairfax County Public Schools, "Language Spoken at Home" data for all FCPS students residing in Fairfax City, School Year 2022-23

In 2023, the city conducted an internal citywide audit to identify current communication channels, services, specific language requests, frequency of language assistance requests and needs, etc. **Additionally, city staff noted that 20 requests were made for American Sign Language (ASL) services.** Table 5 provides a summary of languages that were reported by city staff to have been requested for translation services.

Table 5: Languages Requests

Languages	Number of Requests*	Percent (%) of Requests
Spanish	100	50%
Korean	40	20%
Arabic	20	10%
Vietnamese	20	10%
Other*	20	10%
Total	200	100%

* Other includes Mandarin, Hindi, French, Portuguese, German

Source: Internal city Audit Findings, "Language First Communications"



Section 4

1 Factor 1: Summary of Findings

- The total number of persons speaking English less than “very well” or “not at all” represents 4.6 percent of the overall city population and are considered to have Limited English Proficiency.
- An analysis of the US Census Bureau ACS five-year estimates (2017-2021) documented that the City of Fairfax does not exceed the Safe Harbor Provision for any language and does not require the automatic translations of vital documents, based upon the current estimates provided through US Decennial census and ACS data.
- The majority of LEP populations are in the northwestern portion of city limits; however, pockets of LEP populations are in all areas of the city.

Commitments

- While the Safe Harbor Provisions threshold was not met, meaningful engagement of Title VI protected populations must be conducted. Languages identified will assist with proactive outreach and translation/interpretation needs.
- The city as part of the Title VI Program will conduct data collection through publicly available data and community outreach regarding LEP populations for the sole purpose of ensuring the LAP is current, identifying language assistance needs, and ensuring city programs, services, and activities are accessible for participation by LEP populations.

For each program, project, service, or activity, the data in the LAP will be used by city personnel to identify the number of LEP populations to ensure meaningful public involvement. Please refer to the city’s Public Engagement Plan (PEP) for additional information regarding public involvement, notification procedures, and access.

2 Factor 2: The frequency with which LEP individuals come in contact with City of Fairfax programs, activities, or services.

The city’s key program areas in which LEP individuals come into contact with the programs, activities, or services provided by the city include:

- Federal-aid Highway Transportation/Transit programs (incl. purchases of bus fare)
- Participation in public meetings, surveys, etc.
- Communications and marketing
- Customer service
- City advisory boards



Section 4

Factor 3: The nature and importance of programs, activities, or services provided by the City of Fairfax.

To determine the nature and importance of city programs, activities, or services provided to persons with LEP, the city identified the negative impacts on persons with LEP of not being able to access these benefits.

Transportation: The city provides and maintains a transportation network for vehicles, pedestrians, and bicyclists and CUE transit services in partnership with George Mason University. These transportation services allow those who live, work, and visit the city to access activities in their daily life including residences, employment, education/publish schools, medical care, recreation, grocery, and other activities essential to daily life.

Various transportation options exist for city residents who require transportation services to ensure access to city (and Fairfax County) programs, activities, and services as well as access to those outside of city limits. The following transportation services are available for senior citizens and persons with disabilities:

- **CUE Buses** are a City of Fairfax service and all buses are fully accessible. Specialized transportation services for individuals who are unable to use the CUE Bus because of a disability are provided through the city Wheels and MetroAccess programs. The CUE Transit Guide is provided online, and the guide includes both English and Spanish languages.
- **City Wheels** is a City of Fairfax service. It provides the city, to the Vienna/Fairfax-GMU Metrorail station, to George Mason University, and to Fair Oaks Hospital for city residents with a disability who find it difficult or impossible to use conventional bus service. If an individual requires assistance (e.g., language, disability, etc.), one additional person may accompany the individual at no cost.
- **Fastran** is available for residents who are elderly and have a disability for transportation to medical appointments outside the City of Fairfax limits. Applications for the program are available in both English and Spanish. Fastran is a Fairfax County service available to city residents.
- **MetroAccess** is a shared ride, door-to-door paratransit service for people who cannot use public transportation due to a disability. It is operated by the Washington Metropolitan Area Transit Authority (WMATA). Any city resident who is certified as disabled by MetroAccess may use this service for trips outside the City of Fairfax limits. Service hours are available seven days a week, with extended availability on weekend evenings. The MetroAccess Customer Guide is available in English, Spanish, and audio versions online.
- **Taxi Access** is a transportation program that helps persons with disabilities. An eligible person with a disability may travel by taxicab affordably, safely, and independently with the purchase of discounted taxi fare.

Section 4

- The city's **Human Services** Office provides a comprehensive array of human services to city residents, including programs/services outside of city limits that also serve the City of Fairfax. In many instances, information regarding available programs is provided in both English and Spanish. The Human Services Office manages current translation and interpretation services available to the city and is responsible for coordinating ADA requirements.
- The city's **Refuse and Recycling** Division has translated all public-facing documents into Spanish, Korean, Vietnamese, Arabic, and Farsi. This includes the *Solid Waste Service Guide*, *Recycling Guide*, and other materials with service information.

Factor 4: The resources available to the City of Fairfax for LEP outreach and associated costs.

The city does not currently have a formal documented total count of how many LEP individuals interface with city programs, activities, and services; however, the city does maintain records of requests via the Language Access Line and requests for translations on public outreach materials. The city conducted an internal citywide Language Communication Survey to identify how staff communicates with the public, language access experience and needs, and specific language requests. This survey will be conducted on an annual basis.

The city will adhere to the requirements of the LAP. The city has a contracted Language Access Line managed through the Human Services Office and invests \$5,000 in language interpreter services and invests \$5,000 in the written translation of documents across city departments.

City employees have access to the Language Access Line and receive annual training on its use.





Section 4

Language Access Plan (LAP)

The Title VI Coordinator will be the responsible contact for ensuring the LAP is followed and provides guidance for its use to city staff.

Providing Notice to Persons with LEP

The [City of Fairfax Title VI/Nondiscrimination Notice to the Public](#) is provided in English and Spanish and posted on the Title VI website, and will be posted or incorporated into locations likely to be encountered by persons with LEP identified in the four-factor and the following:

- Fairfax City Hall
- CUE bus stops
- City of Fairfax Police Station
- Fire Station 3
- City of Fairfax Regional Library
- Public areas at all city work locations
- All public notifications, communications, and/or outreach and engagement materials

The city will also coordinate with organizations representing or serving LEP populations to ensure persons with LEP are notified of their rights.

Oral and Written Language Assistance

The city provides oral interpretation services through a contracted provider. The line is also available to provide 24/7 emergency customer support. The Human Services director distributes user cards to all internal city departments with information on how to use and access the Language Access Line. The guidelines below assist city staff in understanding the process and services available to assist with communicating with persons with LEP.

General Guidance

Documentation is imperative to providing the correct resources for persons with LEP to access, participate in, and understand programs, activities, and services provided by the city. All city staff must document when language assistance is requested. The offer to provide no cost/free interpretation must be made clear and understood by the person with LEP. If the offer of free language assistance is waived and the person with LEP utilizes their own interpreter (i.e., a friend, family member, community member, etc.), it must be documented that this service provided by the city was refused. If this service is refused, at no time will anyone under 18 years of age (including friends, family members, community members, etc.) be utilized to provide interpretative services.



Section 4

Resources

Bilingual Staff: The city must employ best efforts to maintain a list of staff and language interpretation capacity. Staff members who serve as translators or interpreters are compensated by the city. There are instances where a qualified translator is required, such as legal proceedings, and bilingual staff may not be able to be used.

Language Interpretation: United Language Group (ULG) is a qualified provider of telephone language translation and is contracted to provide the city with 24/7 emergency telephone assisted interpretation services for more than 200 languages.

Document Translation Services: The city has access to Lionbridge Global Solutions to provide document translation services. Vital documents requiring automatic written translation are determined in with the four-factor analysis and DOJ Safe Harbor Provisions. Non-vital documents needing written translation can utilize bilingual city staff or a qualified translator. Analysis conducted in Factor 1 indicates that no current language group exceeds this threshold, however the city will reasonably accommodate language assistance requests as needed to ensure meaningful engagement in programs, activities, and services by persons with LEP.

Website Translation: The city website provides a translator service powered by Google Translate and is navigable via screenreader.. The city includes clear instructions on the site for requesting translated materials as a backup to the automated service.

- **American Sign Language Interpretation:** The city maintains a list of staff with ASL capacity. If a contact is made with a person who communicates via ASL, the city should first enlist a staff member. If this is not sufficient, utilize the city's contracted ASL interpretation service.
- **Hearing Impaired or Deaf Community Services:** Individuals who are hard of hearing or deaf may utilize TDD/TTY services at 711. A directory of qualified sign language interpreters for in-person needs can be found through the Virginia Department for the Deaf and Hard of Hearing Interpreter Services Program (ISP) and/or qualified interpreters procured through the city directly.

Interaction

The following are opportunities for increased interaction during in-person contact events, meetings, etc.:

- Utilize Language Identification Card ([Appendix 5](#)) as first step to potentially identify the language spoken. The Language Identification Card is located on the Title VI website, and in locations identified in four factor analysis.
- Enlist a bilingual staff member who speaks the person with LEP's language. If this is not possible or sufficient, utilize the city's language assistance provider to assist with language identification and obtain name and contact information.



Section 4

- Telephone Contact: Identify a bilingual city staff to assist, and/or utilize ULG.
- Meetings: Oral interpretation, ASL, and translation services are provided for public meetings upon request. If a city-led meeting is held within a known area that is primarily home to or serves persons with LEP, the city will proactively provide language interpretation.

Costs

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

Requests under \$100: Will be granted automatically. For Spanish, a phone call that may last approximately 30 minutes or a document that is one page typed in English is likely to fit this criterion.

Requests over \$100: The Title VI Coordinator will review based upon the four-factor analysis and grant if deemed vital or as appropriate.

Vital Documents

Vital documents are those considered to be those documents necessary to provide access to your programs, benefits, services, and activities. The failure to provide written translations of city vital documents to persons with LEP may result in discrimination based on national origin. In accordance with the Safe Harbor Provision adopted by the US DOT, if the 5 percent threshold is met but there are fewer than 50 individuals, the city is not required to translate written versions of the vital documents but must provide notice that oral interpretation of these written materials can be provided at no cost.

Below is a listing of documents considered to be vital by US DOT and confirmed by the city:

- Title VI Notice to the Public
- Title VI Complaint Form
- Consent/agreement/applications forms (e.g., real estate transactions)
- Public meeting/outreach events (e.g., notices, notifications, brochures)
- Notices advertising of free language access services
- Transit services (e.g., CUE services, paratransit)
- Notices of decreases in access to benefits of services, programs, and activities
- Notices to loss of benefits of services, programs, and activities



Section 4

Persons with LEP determined to have low literacy in their native language may not benefit from written translation of vital documents, and therefore require oral interpretation services. The city must document instances of this as data becomes available and capture it in the Title VI Program.

While the city does not currently meet the Safe Harbor Provision threshold, the city is committed to proactively providing translated materials and interpretation services as resources allow.

Personnel Training

The city will provide training to employees on the resources available, and how to provide timely and reasonable language assistance services to LEP populations below:

- The Title VI Coordinator will ensure staff are aware of the LEP policy and procedures and where to access the LAP on the city website.
- The Title VI Coordinator will notify city staff of any new language measures implemented.
- The Title VI Coordinator will ensure access to annual training for city staff on how to utilize the Language Assistance Line.

Outreach Techniques

Proactive outreach techniques to ensure persons with LEP are provided information and opportunities to participate include:

- Ensure city staff are aware of and know how to utilize language ID cards.
- Conduct proactive language access services and develop multilingual outreach materials for use at public meetings, distribution, in areas known to or have higher populations of persons with LEP, etc.
- Identify and develop trustworthy partnerships with social services and community organizations represented by and/or serving persons with LEP and gain feedback on the city's language assistance services.
- Develop a community engagement survey or feedback form to gather information from persons with LEP, external stakeholders, and partners.

To ensure language access services are not only provided but effective, the Title VI Coordinator will gather information and feedback on its efforts to ensure language access and participation in city programs and activities by populations with LEP, external stakeholders and partners, and internal city departments.



Section 4

Monitoring the LAP

The Title VI Coordinator will monitor its LEP policies and practices and review annually against the four-factor analysis. The coordinator works with the Human Services director to document requests for translation services and encounters with persons with LEP. Reports will be produced upon request.

The LAP is designed to be routinely updated and the city will explore an update in coordination with its overall Title VI Program update. Each update of the LEP Plan will examine plan components including:

Activities

- Regularly review and monitor demographic data from the four-factor analysis to confirm and identify any new language needs and LEP populations (greater than 5 percent of the population).
- Ensure documentation of and review the frequency of encounters with persons with LEP.
- Document and monitor the use of Language Access Services, including frequency of requests and languages, and use case.
- Collect and maintain demographics statistics as a result of projects and/or studies.
- Review reports, studies on impacts and/or disproportionate effects on LEP populations (i.e., NEPA documents) to ensure consistency of data and update, as needed.
- Review Fairfax County Public Schools data for languages spoken at home by students with a Fairfax City address.

Considerations

- How many persons with LEP were encountered annually?
- Were the needs of these persons with LEP met?
- What is the current LEP population in the city's service area?
- Is a change needed in the types of language translation services provided?
- Is there still a need for continued language assistance for previously identified city programs? Are there other programs that should be included?
- Have the city's available resources, such as technology, staff, and financial costs changed?
- Has the city fulfilled the goals of the LAP?
- Did the city receive any complaints?



Section 4

Public Engagement

Robust public engagement is essential for ensuring representative participation in the city's transportation and programming efforts, initiatives, and decision-making processes. The city's Public Engagement Plan (PEP) serves as a living document meant to let the public know their rights to engage in and how they can meaningfully participate, as well as the services available to engage in city programs, services, and activities.

The PEP is also intended to help those within the city to work together to understand, develop, and execute project-specific public engagement plans that put the city's Title VI commitments into practice when engaging the public. It is reviewed annually and updated as needed.

Read the full Public Engagement Plan in Appendix 6

The following goals outline the intent of the city's commitment and seek to ensure a meaningful engagement process that values a range of representation in public input from community members with different points of view, a variety of needs, and diverse backgrounds.

Goal #1: Create a consistent framework to involve the public that is implemented and utilized across city departments.

The city intends to use this PEP to provide a consistent framework for informing and engaging with the public and meet Title VI non-discrimination requirements. By using this guide across all city departments and with all actions or projects, we can help to make engagement efforts successful, useful, and meaningful. Public engagement is not merely checking a box but is a means to help deliver the best government services possible to our community.

Goal #2: Fostering public engagement processes that support equitable and representative participation of minorities, LEP populations, low-income households, persons with disabilities, etc.

The city aims to provide robust and creative opportunities for the public to engage, while ensuring barriers such as age, ability, language, lack of financial resources, lack of access to technology, or other reasons are eliminated to the greatest possible extent. The city takes seriously its responsibility to bring people together and provide safe, welcoming spaces for all.

Goal #3: Grow trust and credibility between the city and the public through transparent and ongoing communication.

Effective public engagement builds trust and credibility between the city and the public. The city is committed to informing and educating the public so they can purposefully engage and provide feedback, as well as to close the feedback loop so members of the public understand how feedback was used.



Section 5: Title VI Monitoring and Reporting

Data Collection and Analysis Guidelines

Under Title VI, data collection and analysis allows the city to identify beneficiaries, determine how information is distributed to inform and engage, identify and recognize impacts on various populations, and come up with strategies to address impacts and avoid disproportionate impacts.

Below is a list of identified resources, data points, and activities that contain Title VI Program-related data. The Title VI Coordinator will continue to identify sources of demographic data that assist in identifying the distribution of its burdens and benefits in relation to minority, persons with LEP.

Resources:

- o US Census Data (decennial and ACS for demographic information);
- o US EPA EJ Screen for demographic and vulnerability;
- o City of Fairfax Fact Book;
- o Public Education/Services data;
- o Title VI Complaint Forms;
- o Surveys including the CUE ridership survey and public engagement feedback forms; and
- o Reports such as NEPA and planning documentation and regional transportation plans.

Under Title VI, data collection and analysis allows the city to identify beneficiaries, determine how information is distributed to inform and engage, identify and recognize impacts on various populations, and come up with strategies to address impacts and avoid disproportionate impacts.



Activities:

- o The Title VI Coordinator ensures public notice contains information for Language Access Services and will identify language requests (including American Sign Language)
- o The Title VI Coordinator and ADA coordinator collect requests for meeting accommodations, ADA accessibility complaints/needs, and track the utilization of the Language Access Line.
- o The Title VI Coordinator and applicable city department project manager collect Public Engagement Feedback Form (including data on race/ethnicity, gender, age, languages spoken, etc.)
- o The city manager and Human Resources Office collect information on general discrimination complaints and report to Title VI Coordinator.
- o DPW's Transportation Division complete the required federal NEPA documentation.
- o Department of Transportation, Administrative and Engineering Divisions oversees fair and equitable right-of-way and real estate interactions and transactions that may include appraisals, property acquisition, management, and/or relocation consistent with the Uniform Relocation and Real Property Acquisition Policies Act of 1970.
- o The Community Development & Planning Department [City of Fairfax Fact Book](#) is updated and released annually and collects the demographics and statistical profile as a standalone resource to provide maps and analysis on population, neighborhoods, housing, transportation, economic vitality, environment and sustainability, and community services.
- o Procurement Services oversees federal Title VI non-discrimination contract requirements, DBE compliance/monitoring, and the consultant Title VI evaluation form.

The city will adopt and utilize the [FHWA Data Sources Assessment Form \(Appendix 7\)](#) and internal Monitoring Activities Checklist to ensure routine, consistent, and documented data collection practices conducted by the city.





Program Area Reviews

The City of Fairfax is committed to meeting VDOT and FHWA Title VI requirements and understands that all city departments work together to deliver public services to the community, ensure benefits of its programs and activities are equitably distributed, and identify and eliminate potential Title VI issues that may result in discrimination. Program Area Reviews (PARs) is an internal review process conducted annually by the Title VI Coordinator to ensure compliance with Title VI of the Civil Rights Act of 1964, as amended. Additionally, VDOT oversees compliance of the city as a subrecipient and conducts its own compliance reviews. The following describes the internal and external processes by which PARs are conducted.

Purpose – PARs serve as a guide to help the Title VI Coordinator identify any potential concerns and proactively prevent and eliminate discrimination in federal aid program areas and program areas that contribute to the implementation of the Title VI Program. In the event that discrimination is found, the Title VI Coordinator works with the specific Program Area (and corresponding city department) to create a plan to mitigate, address, and resolve the deficiencies. This process is also used to document and highlight efforts made annually to meet Title VI requirements, which are captured in the Title VI Accomplishments and Goals Report.

Liaisons – Each of the Program Areas identified in [Section 3](#) will establish liaisons to assist the Title VI Coordinator. The Title VI liaison is a designated representative knowledgeable of their department's roles, responsibilities, and functions as it relates to their program. The liaisons will participate in semiannual training on Title VI. The liaisons will facilitate information between the Title VI Program and their internal department and will also communicate with the Title VI Coordinator any potential issues, concerns, and/or questions. The Title VI Coordinator will meet quarterly with liaisons in the Program Areas once established to provide updates and/or changes to the Title VI Program and to receive questions/concerns in areas not under PAR for that fiscal year.

Timeline – City programs and activities operate on a fiscal year basis starting July 1. The Title VI Coordinator will review the programs at the beginning of each fiscal year to determine which program will be selected to review activities from the previous fiscal year. The Title VI Coordinator will select at least two Program Areas to review at the start of the fiscal year, and all activities contributing to the Title VI Program ([Section 3](#)) will be monitored annually. Reviews will be conducted to the full extent possible and reasonable to ensure compliance and completeness.

Process – The Title VI Coordinator will notify Title VI liaisons through email of selection for review and include appropriate department interviewees such as department management or personnel with specific knowledge of the program to assist in the review, whether that is in data gathering or providing the Title VI Coordinator with supplemental information. The interview activities will consist of reviewing documents/materials—department Standard Operating Procedures (SOPs), manuals, and public-facing materials—pertinent to the review. The review categories will align with the activities of the city's Title VI Program and with VDOT's LPA Self-Assessment Form ([Appendix 8](#)).



Section 5

The goals of the PAR are to identify:

- Size/scope of the federal aid program and federal aid-funding amount.
- Data collection/analysis procedures.
 - Identify data/information needed for assessment and what types of data/information is collected and what forms.
- Public interactions (i.e., how and where).
- Frequency of interactions with persons with LEP.
- Understand ADA accommodations and LEP language access issues and services.
- Distribution of funding and overall benefits and identify disparate impacts.
 - Comparison of demographics in relation to the distribution of disparate impacts on minorities/persons with LEP and/or discrimination in the distribution of benefits.
- Complaint procedures.
- Training procedures and needs.
- Analyze and report findings (identify follow-up activities, actions, or procedures if deficiencies are found).

This review will consist of the following, as applicable:

- Evaluating program procedures and implementation activities.
- Program (department) practices and policies.
- Title VI Notice to the Public and dissemination of Title VI information.
- Complaints process and complaints received.
- ADA accommodation requests.
- Language Access services/requests.
- A sampling of contracts to ensure inclusion of required Title VI provisions and procurement processes in selecting firms to ensure non-discrimination and consultant/contractor evaluations.
- Public involvement/outreach efforts.
- Sample of projects, activities, etc. associated with the program (e.g., NEPA documents).
- Demographic data collection/analysis procedures specific to each program and identify trends in regard to race, color, and national origin (including persons with LEP).
- Describing Title VI responsibilities, documentation of findings, outcomes, and recommendations.

External Review Conducted by VDOT

VDOT will conduct an external review of its subrecipients, including the city, for its compliance with federal Title VI regulations. VDOT uses specific criteria and methodology to select a representative number of Local Public Agencies (LPAs) reviewed within the fiscal year and notifies LPAs of selection.

Review – VDOT’s external review will be focused on how effectively the city has implemented its Title VI Plan. There will be a (pre-audit) desk review where the city will complete the Self-Assessment form ([Appendix 8](#)) and gather supporting documentation in advance of the on-site/virtual review. city personnel with Title VI duties will be interviewed during the on-site and/or virtual review; this may include the city manager, Title VI Coordinator, transportation director and transportation program personnel, ADA coordinator, procurement manager, and communications and marketing personnel responsible for managing the federal aid compliance with Title VI regulations.

Post Review – The results of the review will be sent to the city to notify of compliance or deficiencies. If found to have deficiencies, the city will have 90 days to create and implement a voluntary corrective action plan to submit to the VDOT. The corrective action plan will allow the city to decide voluntary action before it is found non-compliant. If the city does not fix the proclaimed deficiencies or does not submit a corrective action plan, it may be subject to sanctions, including a suspension of federal funding.

VDOT will conduct an external review of its subrecipients, including the city, for its compliance with federal Title VI regulations. VDOT uses specific criteria and methodology to select a representative number of Local Public Agencies (LPAs) reviewed within the fiscal year and notifies LPAs of selection.





Procurement and Consultant/Contractor Compliance

The City of Fairfax ensures compliance with the provisions of Title VI in its procurement process through (1) advertisements, (2) selection, (3) award, and (4) consultant/contractor¹ and subconsultant contract monitoring. All procurement work is performed with an emphasis on legal compliance, impartiality, and timeliness through streamlined processes in support of city goals and initiatives.

The city is committed to providing excellent customer service and serves as a trusted source of procurement resources, education, and information. The City's Office of Procurement Services (OPS) is the entity responsible for ensuring contract compliance. The Title VI Coordinator works with OPS to ensure compliance of prime consultants/contractors delivering professional services and conducts outreach efforts to ensure that Disadvantaged Business Enterprises (DBE)² have the maximum opportunity to compete for and do business with the city. The Title VI Coordinator and procurement services manager will work collaboratively to identify and remove any barriers in the procurement process and ensure contractors/consultants deliver their programs, services, and work in a manner that is free of discrimination.

To support the consultant and contractor community with Title VI compliance and small business development, internal and external resources include:

- Development of a consultant/contractor survey with an emphasis on gathering information from DBEs.
- Providing or sharing resources for general Title VI/Non-discrimination training.
- Assisting with the development of non-discrimination processes on an as-needed basis.
- Promoting the City of Fairfax Economic Development Authority.
- Promoting the Mason Enterprise Center (MEC) services, including mentorship programs.
- Promoting VDOT DBE outreach resources, such as training and webinars.
- Promoting Virginia Department of Small Business and Supplier Diversity resources for business development, state, and federal certification, and advancing small businesses.

The following summarizes Title VI and DBE compliance requirements at various stages of the procurement process.

1 **Contractor:** A person [or consultant/contractor] who holds a Federal Highway Administration (FHWA) direct or federally assisted construction contract or subcontract regardless of tier. (Title 23 CFR 230.407 (i)), or any person who participates through a contract or subcontract in a Department of Transportation (US DOT) assisted highway, transit, or airport program. (Title 49 CFR 26.5).

2 **Disadvantaged Business Enterprises (DBEs)** are classified as an entity owned (51 percent or greater) by a person who is socially and economically disadvantaged such as minorities (Black/African American, Native American, Hispanic, Asian-Pacific and Subcontinent Asian) and women. Members of other groups may qualify as socially and economically disadvantaged such as persons with disabilities, however, designations are made on a case-by-case basis.



Section 5

Advertisements

Solicitations

All city solicitations are currently advertised on the city's Solicitations webpage and the eVA website, which provides solicitations across the Commonwealth of Virginia. Submissions of responses to city solicitations are only accepted electronically. The city includes all applicable non-discrimination language and DBE provisions in all contract advertising documents. This includes the statement of federal funds, DBE provisions, [US DOT 1050.2A, Appendices A and E non-discrimination provisions](#), and ADA commitments upfront and in the initial sections of an Invitation to Bid (IFB) or Request for Proposal (RFP):

THIS PROJECT IS FEDERALLY FUNDED

AS SUCH, THIS PROJECT SHALL BE SUBJECT TO COMPLIANCE WITH THE FEDERAL AND VDOT REGULATIONS CONTAINED IN THIS DOCUMENT AND ELSEWHERE. THE CITY, VDOT'S CIVIL RIGHTS DIVISION OR OFFICE OF GENERAL INSPECTOR, GENERAL AUDITING DIVISION OF FHWA WILL PERFORM AUDITS TO ENSURE COMPLIANCE WITH ALL APPLICABLE TERMS AND CONDITIONS AND GUIDELINES CONTAINED IN THIS DOCUMENT OR ELSEWHERE. THE DBE GOAL FOR THIS SOLICITATION IS SET AT X%.

AMERICAN WITH DISABILITIES ACT (ADA) COMMITMENT

THE CITY OF FAIRFAX IS COMMITTED TO COMPLYING WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA) OF 1990. THIS DOCUMENT WILL BE MADE AVAILABLE IN ALTERNATE FORMAT UPON REQUEST – PLEASE CONTACT THE CITY'S FINANCE DEPARTMENT FOR MORE INFORMATION.

OPS will determine all appropriate forms for inclusion in an advertisement package for each specific procurement opportunity. For federally funded transportation contracts, the city will submit the prepared contract documents to VDOT for pre-advertisement review and approval prior to advertisement. VDOT has 45-60 days to complete the review.



Section 5

OPS will ensure the following attachments (Appendices 1, 9-20) are included within the solicitations, and not as separate postings, to demonstrate to VDOT all required forms are enclosed:

- [Appendix 1](#): US DOT Order 1050.2A Standard Title VI Assurances Appendices A-E
- [Appendix 9](#): Nondiscrimination Provision
- [Appendix 10](#): VDOT DBE and SWaM Policy Statement
- [Appendix 11](#): DBE Special Provisions for Construction and Professional Services Contracts
- [Appendix 12](#): Section 107.15 – Special Provisions and Use of DBEs
- [Appendix 13](#): Section 107.13 – Prevailing Wage Rates
- [Appendix 14](#): Form C-48 PSC – Subconsultant Solicitation Form
- [Appendix 15](#): Form C-49 PSC – DBE Good Faith Efforts Documentation
- [Appendix 16](#): Form C-111 PSC Minimum DBE and SWaM requirements for consultant contracts
- [Appendix 17](#): Form C-112A PSC Certification of Binding Agreement with DBE Firms
- [Appendix 18](#): Title VI Consultant Evaluation Form
- [Appendix 19](#): FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract
- [Appendix 20](#): Form C-63 DBE Payment Compliance Report

DBE Participation

VDOT and the city will ensure that DBEs, as defined in Title 49 CFR Part 26, have the maximum opportunity to participate in the performance of federally funded contracts/programs by meeting or exceeding DBE participation goals established. As a recipient of federal aid, the city must and is committed to promoting and providing qualified DBE firms full and fair access to do business with the city on federally funded contracts as a prime consultant/contractor or subconsultant/subcontractor. Prime firms need to demonstrate the process to ensure DBE utilization in the proposal submission. All determinations pertaining to the DBE designation are made in accordance with Small Business Administration (SBA) designations and US DOT DBE Program regulations, and not the authority of the city. The city must ensure its procurement processes provide participation and utilization in accordance with US DOT DBE regulations for participation.



Section 5

The [DBE Directory of Certified Vendors](#) is maintained by the Virginia Department of Small Business and Supplier Diversity (DSBSD). Consultants are encouraged to take all necessary and reasonable steps to ensure DBE firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider DBE firms as potential subconsultants. The consultant is encouraged to contact DBE firms to solicit their interest, capability, and qualifications. Any agreement between a consultant and a DBE firm whereby the DBE firm promises not to provide services to other consultants is prohibited.

The city will engage and build a diverse consultant, contractor, and vendor base in accordance with federal contract DBE requirements and state contract SWaM requirements and identify opportunities to maximize procurement equity for small, disadvantaged, and minority business owners (Executive Order 35 and Executive Order 20)^{3,4}. The city will ensure that DBE firms are aware of contracting opportunities and understand how to compete for and maintain business with the city. The following language must be inserted into all solicitations, Invitation for Bids (IFBs), and Requests for Proposal (RFPs):

The City of Fairfax in accordance with the provisions of Title VI of the Civil Rights Act of 1964, as amended, (42 U.S.C §§ 2000d - 2000d-7) 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 a 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.

Selection

The city must select consultants and contractors in a non-discriminatory manner and ensure DBE utilization goals are established. The procurement manager will submit the draft Solicitation (RFP, IFB) to VDOT for review and incorporation of DBE goals and Title VI language prior to advertisement. Upon receipt of proposals/responses to bids, proposals are reviewed for cost breakdown, utilization, and contracts assignments to achieve the goal. The consultant/contractor will complete a pre-award Title VI Evaluation Form within 10 (ten) workdays of notification of selection and determine the processes in place to ensure compliance with Title VI provisions (see Section 4, Consultant/Contractor Monitoring). Prior to the award, all responses submitted by contractors/consultants will be reviewed to ensure DBE goals are met.

³ [Executive Order \(EO\) 20](#): Advancing Equity for Small, Women, and Minority Owned Businesses

⁴ [Executive Order \(EO\) 35](#): Advancing Equity for Small, Women-, Minority-, and Service-Disabled Veteran-Owned Businesses in State Contracting



Section 5

Award

Title VI Evaluation forms ([Appendix 18](#)) must be reviewed and approved prior to contract awards. In addition to including copies in the solicitations, all awarded federal-aid contracts must contain Title VI non-discrimination provisions containing US DOT Order 1050.20A, Appendices A and E ([Appendix 1](#)) in all awarded contracts for consultant services, and Form-FHWA-1273 Requirements Provisions for Federal Aid Construction contracts ([Appendix 19](#)). Upon award of construction contracts, the city must coordinate with the District Civil Rights Office (DCRO) to attend the pre-construction meetings. Prime consultants/contractors are required to ensure provisions are in their subconsultant contracts/agreements. Examples of such contracts include but may not be limited to:

- Construction contracts, both prime and subcontracts, and vendor/supply agreements
- Consultant agreements for performance of work in connection with federal-aid highway projects. Typical ones are for design work and environmental studies.
- Research agreements with colleges, universities, or other institutions
- Fee appraiser and fee attorney contracts in connection with federally aided right-of-way work
- Contracts between a state transportation agency (STA) and a contractor for relocation of utilities (does not apply when the utility company itself or its contractor relocates utilities)

Title VI Assurances contained within US DOT ORDER 1050.2A Appendices A-E commit the city, subrecipients, and consultants/contractors to the general assurance and specific provisions. The city is committed to the provisions and oversight and enforcement of VDOT in the event of non-compliance. Assurances in US DOT Order 1050.2A A and E must be included in all contracts/agreements, Appendices B, C, and D apply to specific land or property conveyance activities (US DOT Order 1050.2A, Appendix B), deeds, licenses, permits (US DOT Order 1050.2A, Appendix C), and property transfer or construction on property acquired by federal assistance (US DOT Order 1050.2A, Appendix D).

Awarded federal-aid construction contracts (in accordance with 23 CFR 633.102) must contain the provisions set forth in form FHWA-1273, *Required Provisions for Federal-Aid Construction Contracts*. All prime construction contractors are responsible for and will ensure compliance of their subcontractors by including the provisions enclosed in the form within each subcontract. When a contractor signs a federal-aid contract of \$10,000 or more in contract value, the non-discrimination provisions in form FHWA-1273 constitute the contractor's Equal Employment Opportunity/Affirmative Action Program standards for that contract. This form may be included in contract advertisements/solicitations but must be inserted in all contract and subcontract documents.



Section 5

Monitoring Activities Checklist

The Title VI Coordinator will utilize a monitoring checklist to ensure routine and consistent monitoring of its program, activities, and services. The following checklist will serve as a living document that can be edited as the Title VI Program matures. Monitoring activities that are completed should be documented in the Title VI Accomplishments and Goal Report.

Title VI Monitoring Activities Checklist

Activity	Description	Frequency	Status / Action Taken
Website	Review Title VI website content, materials/documents (e.g., Title VI Plan), links, and contact information is current.	Quarterly	
	Check Fairfax Resolve has most recent Title VI Complaint Form.	Quarterly	
Public Notification of Rights	Ensure information on Title VI notice is current (including how to file complaint).	Quarterly	
	Review and identify locations for notice to be posted and published.	Annually	
	Identify new locations and strategies for dissemination of Title VI information.	Annually	
	Review procedures on how to file and handle a complaint and ensure forms available in accessible formats and languages.	Annually	
	Review complaints log.	As applicable	



Section 5

Data Collection/ Analysis Processes	Review US Census Bureau Decennial (2020) and American Community Survey, U.S. Environmental Protection Agency's EJScreen: Environmental Justice Screening and Mapping Tool, and <i>City of Fairfax Fact Book</i> .	Annually	
	Review surveys: community-wide surveys conducted by various departments such as Community Development, Transportation, CUE Bus Rider Survey.	Quarterly	
	Review public engagement forms to capture demographic information, trends, and feedback.	Quarterly	
	Review ADA/Accommodations Requests to identify demographic information, trends, and needs.	Quarterly	
	Identify and review reports (e.g., transportation NEPA documentation such as: Number and type (EIS, EA, CE, etc.) and MPO long-range transportation plans for distribution of transportation program to identify demographics, program/funding distribution).	Annually	
	Identify additional local, regional, and state data resources (e.g., Fairfax County school board for languages spoken, social services departments, etc.).	Quarterly/ as needed	
Language Assistance	Extrapolate Language Access Line (UGL) requests, including number of requests, costs, languages, oral interpretation, or translation.	Quarterly	
	Receive information from communications/marketing department, and other city staff to identify needs and improve access for persons with LEP.	Annually	
	Review of Public Engagement forms to identify languages spoken other than English (does not always indicate LEP).	Quarterly	
	Identify internal language service's needs (e.g., disseminate Internal Language Services Audit).	Annually	



Section 5

Public Engagement	Review PEP, policies, strategies for public engagement to identify and address potential barriers to engagement.	Annually	
	Review public outreach materials, mailings, surveys, as appropriate.	Annually	
	Review meetings statistics: number of meetings held, meeting attendees, time of day, etc.	Quarterly	
	Review meeting transcripts/comments as applicable to ensure comments received are incorporated into decision-making (quantitative and qualitative review).	Quarterly, or as needed	
	Review ADA accommodations requests to understand frequency, and types (e.g., visual, physical, ASL, or in person).	Quarterly	
Consultant Contracts	Review Title VI consultant evaluation forms status (coordinate with OPS).	Quarterly	
	Review demographic information of prime firms Title VI evaluation form (primes are responsible for subconsultant/ subcontractor compliance).	Annually	
	Review procurement practices overseen by OPS (e.g., outreach, DBE).	Annually	
	Ensure appropriate Title VI non-discrimination language and US DOT Order 1050.2A is within contract documents.	Annually	
Training / Education	Identify US DOT and VDOT, regional training opportunities for the Title VI Coordinator, Title VI Liaisons, and or staff with high impact on Title VI Program or interact with the public.	Annually/ as needed	
	Facilitate Title VI training to city staff, subrecipients, contractors or other boards/ advisory committees.	Annually	
Program Areas and Activities Compliance Reviews	Identify and coordinate with programs, and activities to be reviewed at the start of each fiscal year (e.g., transportation program could include selection of transportation specific projects (planning/design, construction, or maintenance activities) and review scope, size, location, environment, impacts, right-of-way, schedule, cost, temporary/permanent construction impacts, demographic of project locations to determine if there is disparate impact.	July 1 of each year	
	Establish recurring timeframe to meet with Title VI liaisons.	Quarterly	



Section 5

Annual Accomplishments Report Template

The city will publish an annual report documenting its accomplishments and progress as related to Title VI, as well as outlining its goals for the upcoming year. The report will be submitted to VDOT and published on the city’s Title VI webpage.

The following template outlines the required sections and information as codified by FHWA regulations, 23 CFR §200.9. As a subrecipient of federal funds, the accomplishments and goal report will detail activities to monitor and ensure compliance with the city’s federal aid transportation program and program areas supporting Title VI implementation.

**ANNUAL TITLE VI ACCOMPLISHMENT REPORT
CITY OF FAIRFAX**

Reporting Period _____ Report Submission Date _____

Agency Information

Name and title of administrative head:

NAME: _____ TITLE: _____

ADDRESS: _____

CITY/COUNTY: _____ ZIP CODE: _____

PHONE: _____ FAX: _____

EMAIL: _____

Name and title of designated Title VI Coordinator:

NAME: _____ TITLE: _____

PHONE: _____ FAX: _____

EMAIL: _____

I. POLICY STATEMENT

Describe any changes to your approved policy statement that have resulted from changes in legislation, local ordinances, etc., or a change in Agency Administrator.

Submit a copy of the policy statement with the new Agency Administrator’s signature.



Section 5

II. ORGANIZATION, STAFFING, STRUCTURE

- A. Organization: Describe any changes in the city's organization that modify the Title VI Program or the role of the Title VI Coordinator.
- B. Staffing: Provide all changes in descriptions of duties, names, race, and gender of the support staff responsible for Title VI compliance monitoring.
- C. Structure: Provide all changes in supervisory staff (names, race, and gender) responsible for Title VI compliance for each of the city's program areas. The program area liaisons work directly with the Title VI Coordinator. Report the liaison positions and indicate any vacancies.

Table I. Title VI Special Emphasis Program Area Liaisons

Name	Gender/ Ethnicity	Title	Program	Dates Served

III. TITLE VI PROGRAM IMPLEMENTATION

Selection of Consultants/Sub-consultants

Describe efforts accomplished in compliance with the procedures included in the Title VI Implementation Plan.

Sub-recipients Reviews and monitoring

List any Title VI compliance reviews the city has conducted during the past year, name of the reviewers, and the results and/or conclusion of each review.

Data Collection

Provide summary of efforts accomplished in this area.

Community Outreach and Public Education

Describe actions that have been taken to promote internal (within the city) and external (sub-recipient of the agency's federal funds) compliance with Title VI.

Describe efforts accomplished for public dissemination of the city's Title VI Program.

Public Involvement

List actions, meetings, scheduled events, etc that help your city promote both internal and external compliance with Title VI Program. Describe efforts on monitoring posting of notices to the public, to include proposed projects, hearings, meetings, formation of advisory boards, and other similar efforts. Provide total number of public meetings related to transportation that the city hosted.



Section 5

Identify outreach activities, strategies and methods of dissemination and how Title VI information was disseminated.

Specify methods used to collect demographic information from the transportation-related public meetings. (Self-identification surveys, notes by staff, etc.) Include summaries of Public Involvement Forms collected at each meeting, listing the demographics of those who attended by meeting.

Limited English Proficiency

Highlight any accomplishments and outreach efforts under this area. Include efforts in learning about locations of LEP population and the inclusion of LEP communities in all of your programs and activities.

List any language assistance services requested. For which languages? Who provided the service? In addition, list vital documents translated during the reporting period and identify the languages.

Environmental Justice

Describe efforts and accomplishments in identifying potential impacts to minority and/or low income populations.

IV. COMPLAINTS

Describe each Title VI complaint, if any, its basis (race, gender, etc.), and its resolution. Provide a copy of the investigative report(s).

Table 2. Title VI Complaint Log

Complaints	Date	Summary (include basis of complaint: race, color, national origin, or other protected class)	Status	Actions Taken

V. ACCOMPLISHMENT REPORT FOR EACH PROGRAM AREA

A. Planning

- 1) How many consultant projects for planning were awarded and their dollar value?
- 2) Describe efforts made to utilize minority and female consultants and subcontractors in federally funded contracts.
- 3) Describe any studies conducted to provide data relative to minority persons, neighborhoods, income levels, physical environments, and travel habits. Describe efforts carried out to ensure that Title VI considerations were included in the planning stage?
- 4) Identify the number of planning hearings held. Describe efforts to ensure resident participation in the hearings, particularly by minorities and women. How many minorities and women both individually and through their organizations were represented, and their role(s) in the citizen participation effort? Describe /provide attendance records, including race, gender, disability, etc.



Section 5

B. Location

- 1) Describe complaints filed, if any, resulting from the choice of highway location decisions, or the procedure used for arriving at the decisions.
- 2) Describe efforts to encourage adequate representation of minorities and women on boards and committees involved in the development of transportation projects.
- 3) How many Environmental Impact Statements were reviewed? Summarize comments provided on the EIS about adverse impacts on marginalized and low-income communities, persons with disabilities, or seniors.
- 4) How many consultants currently have contracts involving project development activities and their dollar value? How many are minority consultants and their dollar value? Where minority and women participation is low, describe efforts to increase their participation.
- 5) How many project location public hearings were held? Describe how these hearings were advertised, including efforts to provide notification to minorities.
- 6) Describe any outside-the-box efforts to identify minority leaders and encourage their participation.
- 7) Was there a need to utilize bilingual advertisements, announcements, notices, etc.?

C. Design

- 1) How many consultant firms currently have design contracts and their dollar value? How many of these are held by minority and women owned firms and their dollar value?
- 2) Describe efforts to increase minority and female participation in consultant contracts. Does the agency maintain a list of minority and woman consultants? If so, how many firms are on the list? How many are receiving contracts?
- 3) How many highway design phase public hearings were held? Describe minority individuals, groups and organizations that participated in the hearings, including efforts to involve them. Provide a summary of concerns and issues raised, if any, related to minority communities. Describe actions taken to facilitate and/or address these concerns.
- 4) Identify Title VI complaints filed, if any, in the Design Program area. Provide a summary of each with basis, status, actions proposed, and actions taken.
- 5) Identify any significant Title VI problem areas, accomplishments, and actions to take during the ensuing year.

D. Right of Way

- 1) Identify the number of civil rights complaints filed, if any, in each of the following Right-of-Way functional areas:
 - Appraisals
 - Negotiations
 - Relocation Assistance and Payments
 - Property Management
- 2) How many appraisers were utilized and how many were minority and women? What efforts were made by the Title VI Coordinator to increase minority and women representation if they were low?
- 3) Identify the number of negotiations. Does the negotiator's log reflect any disparity in negotiations with minorities as compared to non-minorities?



Section 5

- 4) Explain concerns, if any, raised by historically disadvantaged populations or women about their options in the negotiation phase.
- 5) Identify the number of relocations.
- 6) Describe concerns, if any, raised by historically disadvantaged populations or women on replacement housing, referral housing and advisory services.
- 7) Identify the number of contracts awarded for providing relocation assistance, the opportunities given to historically disadvantaged populations and women to obtain these, and how many they received.
- 8) Describe special efforts made to comply with Title VI regulations?

E. Construction

- 1) Describe civil rights complaints, if any, the agency received on their competitive bidding procedures, and the corrective action, if any was needed, that the agency has taken. Provide a summary of any concerns raised by SWaM or DBE businesses about licensing, pre-qualifications, lack of sub-contracting opportunities, etc.
- 2) Summarize the efforts carried out to encourage the use of minority individuals, firms, or agencies for maintenance agreements or construction contracts.
- 3) Describe any agency procedures that were reviewed to assure Title VI compliance in subcontract agreements, first and second tier, material supply and equipment lease agreements.
- 4) List any significant accomplishment goals and/or action items to be taken during the upcoming year.

F. Education and Training

- 1) Describe efforts made to encourage participation in Title VI training program(s).
- 2) Identify the types of non-discrimination programs city staff attended, whether the agency sponsored or co-sponsored the programs, the number of city staff that attended.

G. Administration

- 1) Describe activities undertaken to assure Title VI compliance with contractors and by contractors. (Title VI requirements are to be included in all contracts, subcontracts, and consultant agreements.) Describe reviews made to ensure contractors and consultants are apprised of Title VI requirements and to ensure that contractors and/or consultants are adhering to Title VI requirements.

VI. TITLE VI TRAINING

Describe Title VI training, if any, that was provided, how many participants attended, their titles, etc. Describe participation in any other kind of civil rights training (e.g., title and course content), and provide a list of participants by job title (e.g. supervisor, manager, etc.)

VII. GOALS

What area(s) of Title VI does your agency plan to focus on in the upcoming year? Describe areas of focus as they relate to each program area.



Appendix 1: US DOT ORDER 1050.2a Assurances

The **City of Fairfax, Virginia**, (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 VDOT, including the Federal Highway Administration.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these 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.P.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 **City of Fairfax** in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 US. C.§§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

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




Appendix 1: US DOT ORDER 1050.2a Assurances

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 **City of Fairfax** also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transfers, and/or assignees to comply) with all applicable provisions governing FHWA 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 FHWA. You must keep records, reports, and submit the material for review upon request to FHWA 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 details in program guidance.

The **City of Fairfax** gives this ASSURANCE in consideration of and for obtaining federal grants, loans, contracts, agreements, property, and/or discounts or other Federal-aid and Federal financial assistances 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 **City of Fairfax**, 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.

City of Fairfax, Virginia


 by -----
 Robert Stalzer, City Manager

DATED ----- October 24, 2023 -----



Appendix 1: US DOT ORDER 1050.2a Assurances

APPENDIX A

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

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



Appendix 1: US DOT ORDER 1050.2a Assurances

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

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the City of Fairfax will accept title to the lands and maintain the project constructed thereon in accordance with (Name of Appropriate Legislative Authority). 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, Non-discrimination in Federally-assisted programs of the U.S Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the City of Fairfax 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 City of Fairfax 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 City of Fairfax its successors and assigns.

The City of Fairfax 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



Appendix 1: US DOT ORDER 1050.2a Assurances

regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the City of Fairfax 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.)

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 City of Fairfax pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above non-discrimination covenants, City of Fairfax 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.*



Appendix 1: US DOT ORDER 1050.2a Assurances

- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the City of Fairfax 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 City of Fairfax and its assigns.

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

APPENDIX D

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

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

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non discrimination covenants, City of Fairfax 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, City of Fairfax will there upon revert to and vest in and become the absolute property of City of Fairfax and its assigns. *

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



Appendix 1: US DOT ORDER 1050.2a Assurances

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

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



Appendix 1: US DOT ORDER 1050.2a Assurances

- 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 2: Title VI Complaint Form

Any person who believes they—or a specific class of persons—were subject to discrimination on the basis of race, color, or national origin in City of Fairfax programs or activities or programs/activities that are sponsored or supported by the city may file a Title VI complaint.

For the purposes of this process, we refer to the person who submitted the discrimination complaint as the complainant and refer to the person/agency the complaint is about as the recipient.

The complainant must file the discrimination complaint no later than 180 days after the date of the alleged act of discrimination. Where there has been a continued course of conduct, the 180-day timeframe begins after the date on which that conduct stopped.

In either case, the recipient (City of Fairfax) or their designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for doing so.

There are multiple ways to submit a formal complaint—online, hard copy, and/or verbally.

If you prefer to submit a hard copy, download the form to fill out. Mail or deliver the completed form to: Title IV Coordinator, City of Fairfax, 10455 Armstrong Street, Fairfax, VA 22030.

Forms can also be submitted as an attachment via email to the Title VI Coordinator at TitleVI@fairfaxva.gov.

If assistance is needed in filing a formal complaint verbally, please contact the Title VI Coordinator by phone at (703) 385-7800 during regular business hours (Monday – Friday, 8:30 a.m. – 5 p.m.).

Upon receipt of your completed form either via the online form, email, mail, or hand delivery, the city’s Title VI Coordinator will review your form and contact you to finalize the submittal within 10 business days.

Title VI Complaint Form

SECTION I

NAME: _____

ADDRESS: _____

PHONE: _____ EMAIL: _____

SECTION II

Are you filing this complaint on your behalf? Yes or No (circle one)

If "Yes," go to Section III

If "No" and you are filing on behalf of someone else, answer the following:

- Supply the name and relationship for the person for whom you are complaining

NAME: _____ RELATIONSHIP: _____

- Explain why you have filed for a third party:

- Have you obtained permission from the third party to file on their behalf? Yes or No (circle one)



Appendix 2: Title VI Complaint Form

SECTION III

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

- Race
- Color
- National Origin

DATE OF THE ALLEGED DISCRIMINATION: _____

Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved and, if known, include the names and contact information of the person(s) who discriminated against you or of any witness:

Are you represented by legal counsel for this matter? Yes or No (circle one)

If "Yes," provide legal counsel name and contact information:

NAME: _____

ADDRESS: _____

PHONE: _____ EMAIL: _____

SECTION IV

NAME OF AGENCY COMPLAINT IS AGAINST: _____

CONTACT: _____ TITLE: _____

PHONE: _____ EMAIL: _____

SECTION V

Have you previously filed a Title VI Complaint with the City of Fairfax? Yes or No (circle one)

SECTION VI

Have you filed this complaint with any other federal, state, or local agency, such as the U.S. Department of Justice, U.S. Department of Transportation, Federal Highway Administration, or Virginia Department of Transportation? Yes or No (circle one)

Have you filed this complaint with any federal or state court? Yes or No (circle one)

If "Yes" to either of the above, provide agency and/or court contact name and information:



Appendix 2: Title VI Complaint Form

NAME: _____ TITLE: _____

AGENCY OR COURT: _____

ADDRESS: _____

PHONE: _____ EMAIL: _____

- I understand that by filling out this form, I am giving the City of Fairfax permission to contact me about my Title VI Complaint.
- I understand that this online form does not automatically file a formal complaint. The city's Title IV coordinator will review your form and contact you to finalize the submittal within 10 business days.

Next Steps

As part of our commitment to ensuring adherence to Title VI and other non-discrimination authorities, the city follows a detailed Discrimination Complaint Procedure.

WITHIN 10 DAYS the Title IV coordinator shall:

- acknowledge receipt of the allegation in writing
- inform the complainant of action taken or proposed action to process the allegation
- advise the respondent of their rights under Title VI and related statutes,

WITHIN 10 DAYS a letter will be sent to the appropriate state and federal organizations. This letter will list the names of the parties involved, the basis of the complaint, and the assigned investigator.

WITHIN 60 DAYS the Title IV coordinator:

- will conduct and complete an investigation of the allegation(s), and based on the information obtained,
- will render a recommendation for action in a report of findings to the city manager.

If it is a complaint against the city, these actions will be handled by the appropriate state investigator will prepare a final investigative report and send it to the complainant, respondent (city personnel listed), the city's Title IV coordinator, and appropriate federal agency.

Note: The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.

WITHIN 90 DAYS the Title IV coordinator:

- will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter, as well as of their appeal rights with the appropriate state and federal agencies.
- will also provide a copy of the determination and report findings to the appropriate state agency.

If the decision is turned over to a state or federal organization for further investigation, the Title IV coordinator will monitor the investigation and notify the complainant of updates, in accordance with applicable regulations and policies and procedures of state agencies.

If the complaint is turned over to Federal Highway Administration (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).

At any time during an investigation, the complainant will be able to communicate with the city's Title IV coordinator.



Apéndice 2: Formulario De Queja Del Título VI

Cualquier persona que crea que el/ella, o una clase específica de personas, estuvo sujeta a discriminación por motivos de raza, color u origen nacional en los programas o actividades de la ciudad de Fairfax o programas/ actividades patrocinados o apoyados por la ciudad puede presentar una Denuncia del Título VI.

Para los fines de este proceso, nos referimos a la persona que presentó la queja por discriminación como el demandante y nos referimos a la persona/agencia sobre la que se refiere la queja como el destinatario.

El denunciante debe presentar la denuncia por discriminación no más de 180 días después de la fecha del acto presunto de discriminación. Cuando ha habido una conducta continua, el plazo de 180 días comienza después de la fecha en que terminó esa conducta.

En cualquier caso, el destinatario (ciudad de Fairfax) o su designado pueden extender el plazo para la presentación o renunciar al plazo en interés de la justicia, especificando por escrito el motivo de hacerlo.

Hay varias formas de presentar una queja formal: en línea, en papel y/o verbalmente.

Si prefiere enviar una copia impresa, descargue el formulario para completarlo. Envíe por correo o entregue el formulario completo a: Coordinador del Título IV, City of Fairfax, 10455 Armstrong Street, Fairfax, VA 22030.

Los formularios también se pueden enviar como archivo adjunto por correo electrónico al coordinador del Título VI en TitleVI@fairfaxva.gov.

Si necesita ayuda para presentar una queja formal verbalmente, comuníquese con el coordinador del Título VI por teléfono al (703) 385-7800 durante el horario comercial habitual (de lunes a viernes, de 8:30 a.m. a 5:00 p.m.).

Al recibir su formulario completo, como a través del formulario en línea, correo electrónico, correo postal o entrega en mano, el coordinador del Título VI de la ciudad revisará su formulario y se comunicará con usted para finalizar el envío dentro de los 10 días hábiles.

Upon receipt of your completed form either via the online form, email, mail, or hand delivery, the city's Title VI coordinator will review your form and contact you to finalize the submittal within 10 business days.

Formulario De Queja Del Título VI

SECCIÓN I

NOMBRE: _____

DIRECCIÓN: _____

TELÉFONO: _____ CORREO ELECTRÓNICO: _____

SECCIÓN II

¿Está presentando esta queja en su nombre? Sí o No (marque uno con un círculo) Si la respuesta es "Sí", vaya a la Sección III

Si respondió "No" y presenta la solicitud en nombre de otra persona, responda lo siguiente:

- Proporcione el nombre y la relación de la persona por quien presenta la queja.

NOMBRE: _____ RELACIÓN: _____

- Explique por qué ha presentado una solicitud en nombre de otra persona:

- ¿Ha obtenido permiso del tercero para presentar la solicitud en su nombre? Sí o No (circule uno)



Apéndice 2: Formulario De Queja Del Título VI

SECCIÓN III

Creo que la discriminación que experimenté se basó en (seleccione todas las opciones que correspondan):

- Raza
- Color
- Origen Nacional

FECHA DE LA SUPUESTA DISCRIMINACIÓN: _____

Explique lo más claramente posible qué sucedió y por qué cree que fue discriminado. Describa todas las personas que estuvieron involucradas y, si las conoce, incluya los nombres y la información de contacto de las personas que lo discriminaron o de cualquier testigo:

¿Está representado por un asesor legal para este asunto? Sí o No (marque uno con un círculo) Si respondió "Sí", proporcione el nombre del asesor legal y la información de contacto:

NOMBRE: _____

DIRECCIÓN: _____

TELÉFONO: _____ CORREO ELECTRÓNICO: _____

SECCIÓN IV

NOMBRE DE LA AGENCIA DE DONDE LA QUEJA ES CONTRA: _____

CONTACTO: _____ TÍTULO: _____

TELÉFONO _____ CORREO ELECTRÓNICO: _____

SECCIÓN V

¿Ha presentado anteriormente una queja del Título VI ante la ciudad de Fairfax? Sí o No (circule uno)

SECCIÓN VI

¿Ha presentado esta queja ante alguna otra agencia federal, estatal o local, como el Departamento de Justicia de los EE. UU., ¿Departamento de Transporte de EE. UU., Administración Federal de Carreteras o Departamento de Transporte de Virginia? Sí o No (circule uno)

¿Ha presentado esta denuncia ante algún tribunal federal o estatal? Sí o No (circule uno)

Si respondió "Sí" a cualquiera de las preguntas anteriores, proporcione el nombre y la información de contacto de la agencia y/o el tribunal:

NOMBRE: _____ TÍTULO: _____

AGENCIA O TRIBUNAL: _____

DIRECCIÓN: _____

TELÉFONO: _____ CORREO ELECTRÓNICO: _____



Apéndice 2: Formulario De Queja Del Título VI

- Entiendo que al completar este formulario, le doy permiso a la ciudad de Fairfax para que se comuniquen conmigo sobre mi queja del Título VI.
- Entiendo que este formulario en línea no presenta automáticamente una queja formal. El coordinador del Título IV de la ciudad revisará su formulario y se comunicará con usted para finalizar la presentación dentro de los 10 días hábiles.

Próximos Pasos

Como parte de nuestro compromiso de garantizar el cumplimiento del Título VI y otras autoridades antidiscriminatorias, la ciudad sigue un Procedimiento detallado de Quejas Por Discriminación.

DENTRO DE 10 DÍAS el coordinador del Título IV deberá:

- confirmar la recepción de la acusación por escrito
- informar al denunciante de las medidas adoptadas o propuestas para procesar la denuncia
- informar al demandado sobre sus derechos bajo el Título VI y estatutos relacionados,

DENTRO DE 10 10 DÍAS se enviará una carta a las organizaciones estatales y federales correspondientes. Esta carta enumerará los nombres de las partes involucradas, el fundamento de la queja y el investigador asignado.

DENTRO DE 60 DÍAS el coordinador del Título IV:

- conducirá y completará una investigación de las acusaciones y, basándose en la información obtenida,
- presentará una recomendación de acción en un informe de resultados al administrador de la ciudad.

Si se trata de una queja contra la ciudad, estas acciones serán manejadas por el investigador estatal apropiado, preparará un informe de investigación final y lo enviará al denunciante, al demandado (personal de la ciudad en la lista), al coordinador del Título IV de la ciudad y a la agencia federal correspondiente.

Nota: La queja debe resolverse por medios informales siempre que sea posible. Estos intentos informales y sus resultados se resumirán en el informe de resultados.

DENTRO DE 90 DÍAS el coordinador del Título IV:

- notificará al demandante por escrito sobre la decisión final, incluyendo la disposición propuesta del asunto, como sus derechos de apelación ante las agencias estatales y federales correspondientes.
- también proporcionará una copia de la determinación e informará los resultados a la agencia estatal correspondiente.

Si la decisión se entrega a una organización estatal o federal para una investigación adicional, el coordinador del Título IV monitoreará la investigación y notificará al denunciante sobre las actualizaciones, de acuerdo con las regulaciones, políticas y procedimientos aplicables de las agencias estatales.

Si la queja se entrega a la Administración Federal de Carreteras (FHWA), no existe un plazo reglamentario para completar las investigaciones. Sin embargo, FHWA se esfuerza por completar todas las tareas dentro de los 180 días a partir de la fecha de aceptación. Si al VDOT se le delega una investigación de la FHWA, el VDOT debe completar la investigación dentro de los 60 días posteriores a la recepción (es decir, la fecha en que recibe la queja delegada de la FHWA) como se estipula en 23 CFR. §200.9(b)(3).

En cualquier momento durante una investigación, el denunciante podrá comunicarse con el coordinador del Título IV de la ciudad.



Appendix 3: Title VI Complaint Log

Title VI Discrimination Complaint Procedure

As part of its commitment to ensuring adherence to Title VI and other non-discrimination authorities, the City of Fairfax follows a Discrimination Complaint Procedure. The city handles Title VI complaints through the following process:

1. Any person who believes that they, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, as amended, or any non-discrimination authority, may file a complaint with the city. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the city's Title IV Coordinator for review and action.
2. The 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.
3. Complaints shall be in writing, signed by the complainant and/or the complainant's representative, and may be filed by mail, fax, in person, or email. Complaints should set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. If a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title IV Coordinator. If necessary, the Title IV Coordinator will assist the person in putting the complaint in writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled in the usual manner.
4. 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.



Appendix 3: Title VI Complaint Log

5. Within 10 days, the Title IV Coordinator shall acknowledge receipt of the allegation in writing, inform the complainant of action taken or proposed action to process the allegation, advise the respondent of their rights under Title VI and related statutes, and advise the complainant of other avenues of redress available, such as the appropriate state and federal agencies and organizations.
6. Within 10 days, a letter will be sent to the appropriate state and federal agencies. This letter will list the names of the parties involved, the basis of the complaint, and the assigned investigator.
7. In the case of a complaint against the City of Fairfax, a state-level investigator will prepare a final investigative report and send it to the complainant, respondent (city personnel listed in the complaint), the Title IV Coordinator, and appropriate federal agency.
8. Generally, the following information will be included in every notification to the appropriate state agency:
 - Name, address, and phone number of the complainant.
 - Name(s) and address(es) of alleged discriminating official(s).
 - Basis of complaint (i.e., race, color, national origin, sex, age, handicap/disability, income status, limited English proficiency).
 - Date of alleged discriminatory act(s).
 - Date of complaint received by the recipient.
 - A statement of the complaint.
 - Other agencies (state, local or federal) where the complaint has been filed.
 - An explanation of the actions the recipient has taken or proposed to resolve the issue identified in the complaint.
9. 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 the City of Fairfax. HCR may either conduct the investigation itself, or it may delegate the investigation to VDOT. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.



Appendix 3: Title VI Complaint Log

10. If VDOT is delegated an investigation from FHWA, VDOT will complete the investigation within 60 days of receipt of the complaint. If FHWA conducts the investigation it will generally be complete within 180 days from the date of acceptance. The Title IV coordinator will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of their appeal rights with the state and federal agencies if they are dissatisfied with the final decision. The Title IV coordinator will also provide to the appropriate state agency a copy of the determination and report findings.
11. If a non-discrimination complaint that originated at the city is turned over to and investigated by a state or federal organization or another agency, the city's Title IV coordinator will monitor the investigation and notify the complainant of updates, in accordance with applicable regulations, policies, and procedures.
12. Pursuant to the Virginia Public Records Act (VPRA) § 42.1-76 et seq., the city will retain Discrimination Complaint Forms and a log of all complaints filed with or investigated by the city. The log will include the following information: Name of Complainant; Name of Respondent; Basis of Complaint (i.e., race, color, national origin, sex, age, disability, or retaliation); Date complaint received by the city; Date the city forwarded the complaint to state/federal agency's Title VI Program Manager if applicable; Statement of the complaint, including specific details, relevant facts and documentation; Final disposition of the complaint.
13. Records of complaints and related data will be made available by request in accordance with the Virginia Freedom of Information Act.

If the city were to receive any Title VI complaints or be subject to a lawsuit or investigation, the city would use a log set up on the city's intranet for tracking purposes. The log format matches the examples on the following pages.



Appendix 3: Title VI Complaint Log

Investigation Log

Investigations	Date	Summary (include basis of complaint: race, color, national origin, or other protected class)	Status	Actions Taken



Appendix 3: Title VI Complaint Log

Lawsuit Log

Lawsuits	Date	Summary (include basis of complaint: race, color, national origin, or other protected class)	Status	Actions Taken



Appendix 3: Title VI Complaint Log

Title VI Complaint Log

Complaints	Date	Summary (include basis of complaint: race, color, national origin, or other protected class)	Status	Actions Taken



Appendix 4: Advisory Committees/Non-Elected Boards

The City of Fairfax hosts advisory committees and non-elected boards to support programs, activities, services, and processes across the city. The city transportation/transit advisory board is undertaken by the City Planning Commission. City representatives currently sit on three regional transportation/transit related boards.

City Advisory Committees/ Non-Elected Boards:

- **Board of Architectural Review:**

- Hears requests for new construction, alteration, or significant landscaping in the Historic, Transition and Architectural Control Districts. Also reviews signage in the Historic and Transition Districts and some multi-tenant buildings and centers in the Architectural Control District.

- **Board of Building Code Appeals**

- Acts on applications for appeals from building official decisions based on the provisions of the Virginia Uniform Statewide Building Code, which relate to the technical aspects of building maintenance regulations and to all the other provisions of such code.

- **Board of Equalization**

- Hears appeals of assessed value of real estate.

- **Board of Zoning Appeals**

- Decides on special exceptions and requests for variances, special exceptions, and requests for variances from the requirements of the zoning ordinance. Acts on appeals from any order or decision of the zoning administrator.

- **Commission for Women**

- Identifies and advocates for the needs of women in the city. Promotes programs to increase awareness and provide services to the community.

- **Commission on the Arts**

- Encourages and provides opportunities for artistic expression within the city. It is not necessary to be an artist to be on the commission.

- **Economic Development Authority**

- Fosters and promotes economic development and redevelopment in the City of Fairfax in harmony with the proper balance of commercial and residential enterprise and in alignment with the future needs of the community.



Appendix 4: Advisory Committees/Non-Elected Boards

- **Environmental Sustainability Committee**

- o Serves in an advisory role to the City Council and all boards and commissions on environmental and energy conservation issues.

- **Fairfax Village in the city Advisory Board**

- o Helps residents aged 55 and up and those with disabilities to age in place within the City of Fairfax community. A joint effort of city staff and community volunteers, the Village works to build personal connections between neighbors, share useful information, and facilitate access to area resources. The Advisory Board is made up of 9 to 15 members who are representatives from key stakeholder organizations along with three at-large resident members serving three-year terms and appointed by the City Council.

- **Historic Fairfax City, Inc.**

- o Promotes and encourages appreciation for, and preservation of, the history and artifacts of the City of Fairfax. The Board of Directors serves as an advocacy group working in close cooperation with the Office of Historic Resources. The City Council appoints five members of the 20-member Board of Directors.

- **Park and Recreation Advisory Board**

- o Serves in an advisory role to the City Council and makes recommendations on park and recreation facilities and programs.

- **Personnel Advisory Board**

- o Hears grievances of city employees as part of the final step of the grievance procedure for city personnel.

- **Planning Commission**

- o Serves in an advisory capacity to the City Council and plans for the future development of the city, including transportation and transit planning. Prepares and reviews the Comprehensive Plan; reviews subdivision and site plan submission; and makes recommendations to City Council on Capital Improvement Program, rezonings, and text amendments.

- **Retirement Plan Administrative Committee**

- o Establishes rules and procedures to be followed by the participants and contingent annuitants or beneficiaries in filing applications for benefits and for furnishing and verifying proofs necessary to receive all applications for benefits.



Appendix 4: Advisory Committees/Non-Elected Boards

In addition, there are numerous regional boards and commissions comprised of representatives from area jurisdictions that include a representative from the City of Fairfax.

Related to transportation, these include:

- Metropolitan Washington Council of Governments (MWCOG): The Mayor is a residing member of the Metropolitan Washington Council of Governments (MWCOG) Transportation Planning Board (TPB) to identify regional transportation improvements, investments and contribute to the long-range transportation plan, transportation improvement program, and Unified Planning Work Program.
- Northern Virginia Transportation Authority (NVTA or The Authority) – NVTA is responsible for long range transportation project planning, prioritization and funding for regional transportation projects in Northern Virginia. As the leading elected official for the city, the Mayor is a member of the Authority. Additional City Council members sit on the Authority’s various committees.
- Northern Virginia Transportation Commission (NVTC) – NVTC is comprised of 21 Commissioners and five alternates. Fourteen are locally elected officials from its six member jurisdictions, including the Mayor of the City of Fairfax. The Mayor also serves on NVTC’s Legislative and Policy Committee.

Board/Committee	Size	Term Length	Term Limit
Board of Architectural Review	7 Members	3 Years	None
Board of Building Code Appeals	7 Members	5 Years	None
Board of Equalization	3 Members	3 Years	None
Board of Zoning Appeals	5 Members	5 Years	None
Commission for Women	9 Members	3 Years	None



Appendix 4: Advisory Committees/Non-Elected Boards

Board/Committee	Size	Term Length	Term Limit
Commission on the Arts	15 Members	3 Years	None
Economic Development Authority	7 Members	4 Years	None
Environmental Sustainability Committee	9 Members	3 Years	None
Fairfax Village in the city Advisory Board	9–15 Members	3 Years	None
Historic Fairfax City, Inc.	5 Members	5 Years	None
Park and Recreation Advisory Board	13 Members	3 Years	None
Personnel Advisory Board	3 Members	3 Years	None
Planning Commission	7 Members	4 Years	None
Retirement Plan Administrative Committee	7 Members	3 Years	None
Transportation Advisory Committee	TBD	TBD	TBD

Demographic Breakdown

When considering appointments to committees, maintaining a diverse group of individuals is a city priority with a commitment to identify members of minority groups, and persons with LEP who are affected by and recipients of benefits of city actions.

City staff work with the City Council to ensure they are aware of community members of various races and ethnicities who may have an interest in serving on committees and non-elected boards and that they understand the importance of having committees that are representative of the city’s diverse population.

The membership roster changes annually. The following information on the current gender and ethnicity breakdown of members and applicants in the aggregate is accurate as of January 2023.

This information is gathered annually and will be split out by specific board and committee compositions in future updates of the Title VI Plan.

Members’ Gender	53% Male
	47% Female
Members’ Ethnicity	81% Caucasian/Non-Hispanic White
	11% Asian or Pacific Islander
	3% African American
	3% Other
	2% Prefer Not to Disclose



Appendix 4: Advisory Committees/Non-Elected Boards

Applicants' Gender	53% Male
	45% Female
	2% Nonbinary
Applicants' Ethnicity	79% Caucasian/Non-Hispanic White
	8% Asian or Pacific Islander
	5% African American
	3% Other

Recruitment Best Practices

The City of Fairfax values diversity and welcomes input from all interested parties, regardless of race, color, national origin, cultural identity, background, or income level. Moreover, the city believes that the best programs and services result from careful consideration of the needs of all residents and the meaningful involvement of community members.

In accordance with the city's commitment to non-discrimination the city commits to the following best practices for recruiting to fill vacancies on its boards and committees:

- **Culturally Responsive Outreach and Expanded Advertisement of Vacancies**

The city will expand its recruitment channels to reach a more diverse pool of candidates. These strategies include building and leveraging relationships with community partners, professional networks, and organizations serving/representing minorities, LEP (Limited English Proficient), and other marginalized populations to promote involvement in boards and committees. The city will advertise vacancies on both in-person and online platforms. These platforms include targeted social media outreach, newsletters, newspapers, community centers, media outlets, places of worship and platforms and outlets in languages other than English.

- **Outline Time Commitment and Expectations**

The city will clearly articulate on its website the time commitment required and member expectations for each board or committee. This includes the time commitment for the application process itself. Sharing this information publicly ensures applicants are able to have a full picture of the commitment and broadens the applicant pool by not relying only on existing board/committee members to share this information.

- **Limit Time to Fill Vacancies**

The City Council will review applications, host interviews, and make appointments in a timely manner, aiming to limit vacancies to no more than three months. Applicants will be able to request the status of their application at any time.



Appendix 4: Advisory Committees/Non-Elected Boards

- **Equitable Review of All Applicants**

All qualified applicants will be considered. No preference will be shown for applicants who previously served on a board or committee. Selection criteria will be shared with all applicants.

To further support a diverse pool of applicants and members of the city's boards and committees, the city makes the following commitments:

- **Establish Clear Benchmarks for Committee/Board Compositions**

The city strives to have a committee and board composition that is representative of the racial, gender, ethnic, age, and language diversity of the city and will establish clear benchmarks and goals. Having these benchmarks identified allows for more targeted recruitment efforts.

- **Collect Committee and Boards Demographics Data Annually**

The city will collect demographic data (at a minimum, race, color, and national origin) for all appointed members of city committees and boards. This data will be compared to the city's established benchmarks and reported annually.

- **Share Opportunities for Involvement Beyond Committee/Board Assignments**

The city will reach out to marginalized communities even when there aren't specific openings for committee or board assignments, building a pipeline of engagement and future board or committee participation.



Appendix 5: City of Fairfax Language Identification Card

I speak English | English (example)

Unë flas shqip	Albanian
አማርኛ እናገራለሁኝ።	Amharic
Ես Հայերէն կը խօսիմ	Armenian
أنا أتكلم اللغة العربية	Arabic
Мен азәрбајан дилинде данышырам	Azeri
আমি বাংলা বলি।	Bengali
Govorim bosanski	Bosnian
	British Sign Language
Аз говоря български	Bulgarian
ကျွန်ုပ် မြန်မာလိုတတ်ပါသည်။	Burmese
Parlo català	Catalan
我講廣東話	Cantonese
我講客家話	Hakka
我说普通话	Mandarin
Govorim hrvatski	Croatian
Mluvím cesky	Czech
Jeg taler dansk	Danish
من دری صحبت می کنم	Dari
Ik spreek Nederlands	Dutch
Ik spreek Vlaams	Dutch /Flemish
Ma räägin Eesti keelt	Estonian
Medoa Ewegbe	Éwé
من فارسی صحبت می کنم	Farsi

Minä puhun suomea	Finnish
Je parle français	French
მი ვუთხარაბარბოტო ზარბთულოდ	Georgian
Ich spreche Deutsch	German
Μιλώ τα ελληνικά	Greek
કુલિયાચારીનાં ઘણાં શબ્દો છે.	Gujarati
Na yia Hausa	Hausa
אני מדבר עברית	Hebrew
मैं हिन्दी बोलता हूँ	Hindi
Én magyarul beszélek	Hungarian
Saya bicara bahasa Indonesia	Indonesian
Anam asu igbo	Igbo
Ti sarc ke' llocano	Ilacano
Parlo italiano	Italian
私は日本語を話す	Japanese
Мен казахша билемин	Kazakh
Nvuga ikinyarwanda	Kinyarwanda
나는 한국어를 말한다	Korean
Kurmancî zimanê min e	Kurdish Kurmanji
من په زمانه كوردی سۆزانی قسه نهكهم	Kurdish Sorani
Es runāju latviski	Latvian
Ngai nalobaka Lingala	Lingala

Aš kalbu lietuviškai	Lithuanian
Jas zboruvam makedonski	Macedonian
Saya Bicara Bahasa Malay	Malay
मो मराठी बोलतो	Marathi
Mo koze créole	Mauritian Creole
Eu vorbesc Moldovenește	Moldovan
Би Монгол хэлээр ярьдаг	Mongolian
म नेपाली बोल्दछु ।	Nepalese
Jeg snakker norsk	Norwegian
Say salitac et Pangasinan	Pangasinan
I sabi speak pidgin or broken english	Pidgin English
Mówię po polsku	Polish
Eu falo português	Portuguese
زه پښتو خبری کولای شم	Pushto
سین پنجاب بولدا ہوں	Punjabi
ਮੈਂ ਪੰਜਾਬੀ ਬੋਲਦਾ ਹਾਂ	Punjabi
Eu vorbesc limba Română	Romanian
Я говорю по-русски	Russian
Говорим српски	Serbian
මම සිංහල භාෂාව කතාකරමි	Sinhalese
Ndino taura Shona	Shona
Hovorím po slovensky	Slovak
Govorim slovenski	Slovenian

Wahan ku hadlaa Soommali	Somali
Hablo español	Spanish
Ninasema Kiswahili	Swahili
Jag talar svenska	Swedish
Tagalog arg aking salita	Tagalog
தமிழ் பேசுகிறேன் தெலுங்கு	Tamil
ฉันพูดภาษาไทย	Thai
ነግርኛ እናረብ።	Tigrigna
Ndi ngakula Tshiluba	Tshiluba
Ben Türkçe konuşuyorum	Turkish
Mekan Twi	Twi
Я розмовляю українською мовою	Ukrainian
Мен ўзбекча гапираман	Uzbek
میں اردو بولتا ہوں	Urdu
Tôi nói tiếng Việt	Vietnamese
Mo le so yoruba	Yoruba

Language Identification Chart by Dr. Lucila Makin/APCI



Appendix 6: Public Engagement Plan

Purpose of This Plan

The City of Fairfax is an independent city in the Commonwealth of Virginia with a population of 24,146 (U.S. Census, 2020). As an independent city, Fairfax City occupies approximately 6.3 miles within Fairfax County and is a central location in the northern Virginia region, as well as a suburb of the Washington, D.C. metropolitan area. Northern Virginia is a diverse area regarding race, color and national origin. The city is committed to ensuring inclusivity and equity while ensuring compliance with federal non-discrimination laws and authorities for those who live, work, and visit the city.

In accordance with Title VI of the Civil Rights Act of 1964, as amended, and its related authorities, the city is required to have a formal Public Engagement Plan (PEP) that provides transparency into the process and ensures practices for public engagement that do not discriminate on the grounds of race, color, or national origin and to ensure the meaningful engagement of minorities, Limited English Proficient (LEP) populations, persons with disabilities, low-income households, etc. or put an undue burden on historically marginalized communities¹ from being able to participate in programs, activities, and services provided by the city.

Robust public engagement is essential for ensuring representative participation in the city's transportation and programming efforts, initiatives, and decision-making processes. The PEP serves as a living document meant to let the public know their rights to engage in and how they can meaningfully participate, as well as the services available to engage in city programs, services, and activities.

The PEP is also intended to help those within the city to work together to understand, develop, and execute project-specific Public Engagement Plans that put the city's Title VI commitments into practice when engaging the public. It is reviewed annually and updated as needed.

Our Commitment

The City of Fairfax is guided by Title VI and its related authorities, and we strive not only to meet these mandates, but also serve city residents in a manner that is transparent, equitable, and inclusive. The city is committed to making Title VI part of our processes, integrating throughout our programs and services, and serving as a guide for our public participation efforts. The city's Title VI Program, which includes this PEP, establishes a framework for our efforts to ensure compliance with Title VI and related authorities regarding non-discrimination.

¹ For this document, we are using the definitions from EO13985. "The term 'equity' means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality."



Appendix 6: Public Engagement Plan

Notice to the Public

The City of Fairfax Title VI/Nondiscrimination Notice to the Public is provided in English and Spanish. It is posted in the City of Fairfax City Hall located at 10455 Armstrong Street, Fairfax, VA 22030. It can also be found on the City of Fairfax website at: <https://www.fairfaxva.gov/government/city-manager/title-vi>.

The City of Fairfax fully complies with Title VI of the Civil Rights Act of 1964 and related statutes, executive orders, and regulations in all programs and activities and assigns these responsibilities for compliance to the City of Fairfax, as appropriate. The City of Fairfax operates without regard to race, color, national origin (including persons with Limited English Proficiency), income, gender identity, sexual orientation, age, and disability. Any person who believes themselves or any specific class of persons, to be subjected to discrimination prohibited by Title VI may by themselves or by representative file a written complaint with the City of Fairfax designated Title VI Coordinator. A complaint must be filed no later than 180 days after the date of the alleged discrimination or 180 days from the last date on which the alleged event occurred.

Accessibility: The City of Fairfax meetings are conducted in accessible locations and materials can be provided in accessible formats and in languages other than English. If you wish to attend a City of Fairfax function and require auxiliary aid or service from communications or additional accommodations, please give the City of Fairfax five (5) days' notice.

Please contact the Title VI Coordinator with questions or additional information, for translation or interpretation requests, or if you need assistance to file a Title VI complaint.

City of Fairfax Title VI Coordinator

Title VI Coordinator
City of Fairfax
10455 Armstrong Street
Fairfax, VA 22030
TitleVI@fairfaxva.gov
(703) 385-7800

For Americans with Disability Act (ADA) accommodations requests or to file an ADA complaint, please contact the City of Fairfax ADA coordinator via email at HumanServices@fairfaxva.gov or via phone at (703) 385-7800.



Appendix 6: Public Engagement Plan

Aviso al Publico

El Título VI de la Ciudad de Fairfax/Aviso de No Discriminación al Público se proporciona en inglés y español. Está publicado en el Ayuntamiento de la Ciudad de Fairfax en 10455 Armstrong Street, Fairfax, VA 22030 También se puede encontrar en el sitio web de la Ciudad de Fairfax en <https://www.fairfaxva.gov/government/city-manager/title-vi>.

La Ciudad de Fairfax cumple totalmente con el Título VI de la Ley de Derechos Civiles de 1964 y los estatutos, órdenes ejecutivas y reglamentos relacionados en todos los programas y actividades y asigna estas responsabilidades de cumplimiento a la Ciudad de Fairfax según corresponda. La Ciudad de Fairfax opera sin distinción de raza, color, origen nacional, ingresos, género, edad y discapacidad. Cualquier persona que se considere a sí misma o a una clase específica de personas sujeta a la discriminación prohibida por el Título VI puede, por sí misma o por medio de un representante, presentar una queja por escrito al Coordinador del Título VI designado por la Ciudad de Fairfax. Se debe presentar una queja no más de 180 días después de la fecha de la supuesta discriminación o 180 días a partir de la última fecha en que ocurrió el presunto evento.

Accesibilidad: las reuniones de la ciudad de Fairfax se llevan a cabo en lugares accesibles y los materiales se pueden proporcionar en formatos accesibles y en idiomas distintos del inglés. Si desea accesibilidad o adaptaciones en su idioma, comuníquese con el Coordinador del Título VI al 703-385-788 o por correo electrónico a TitleVI@fairfaxva.gov. Si desea asistir a una función de la ciudad de Fairfax y necesita ayuda o servicio auxiliar de comunicaciones o alojamiento adicional, notifique a la ciudad de Fairfax con cinco (5) días de anticipación.

Por favor contacte al Coordinador del Título VI si tiene preguntas o información adicional, para solicitudes de traducción o interpretación, o si necesita ayuda para presentar una queja del Título VI.

Coordinador del Título VI de la Ciudad de Fairfax

Coordinador del Título VI
City of Fairfax
10455 Armstrong St
Fairfax, VA 22030
TitleVI@fairfaxva.gov
(703) 385-7800

Para solicitudes de adaptaciones de la Ley de Estadounidenses con Discapacidades (ADA) o para presentar una queja de ADA, comuníquese con el coordinador de ADA de la ciudad de Fairfax por correo electrónico a HumanServices@fairfaxva.gov o por teléfono al (703) 385-7800.



Appendix 6: Public Engagement Plan

Goals

The city welcomes public participation in its planning and programming efforts, initiatives, and decision-making processes. The following goals outline the intent of the city's commitment and seek to ensure a meaningful engagement process that values a range of representation in public input from community members with different points of view, a variety of needs, and diverse backgrounds.

Goal #1: Create a consistent framework to involve the public that is implemented and utilized across city departments.

The city intends to use this PEP to provide a consistent framework for informing and engaging with the public and meet Title VI non-discrimination requirements. By using this guide across all city departments and with all actions or projects, we can help to make engagement efforts successful, useful, and meaningful. Public engagement is NOT merely checking a box but is a means to help deliver the best government services possible to our community.

How to Measure:

- Annual evaluation of all public engagement efforts citywide
- Attendance at public meetings including a break out of attendance by meeting format (in-person, hybrid, virtual, etc.)
- Number of responses to online surveys or comment forms
- Number of translated materials and languages (see Language Access Plan (LAP))
- Requests for oral interpreters (see LAP)
- ADA accommodation requests

Goal #2: Fostering public engagement processes that support equitable and representative participation of minorities, LEP populations, low-income households, persons with disabilities, etc.

The city aims to provide robust and creative opportunities for the public to engage, while ensuring barriers such as age, ability, language, lack of financial resources, lack of access to technology, or other reasons are eliminated to the greatest possible extent. The city takes seriously its responsibility to bring people together and provide safe, welcoming spaces for all.

How to Measure:

- Tracking and evaluation of locations of meetings held
- Collecting voluntary demographics of participants in each engagement process



Appendix 6: Public Engagement Plan

- Using sentiment surveys about why people chose to participate and their experience in that process

Goal #3: Grow trust and credibility between the city and the public through transparent and ongoing communication.

Effective public engagement builds trust and credibility between the city and the public. The city is committed to informing and educating the public so they can purposefully engage and provide feedback, as well as to close the feedback loop so members of the public understand how feedback was used.

How We Measure:

- Public comment evaluation
- Sentiment of media coverage
- Analytics of communications tactics

How We Do It

When the Public Weighs In

The city is committed to offering public engagement opportunities for a wide range of projects, policies, and activities that have an impact on the people who live, work, and play in the city.

To determine when the public has the opportunity to participate, the city department in charge of the potential opportunity for engagement asks itself the following questions to make the determination as to whether the public will weigh in.

- **What is the legally required level of public participation?**

The public has a legal right to provide input on certain proposed government actions. For example, the city is the recipient of federal funds and must ensure its projects are done in accordance with the National Environmental Policy Act (NEPA). NEPA requires environmental review of actions that “individually or cumulatively have a significant effect on the human environment” and mandates opportunities for public input as part of the process including those actions which may cause disproportionate effects on minority, low-income, LEP, disabled, and other underserved populations require engagement of these actions. The Federal Highway Administration (FHWA) and Virginia Department of Transportation (VDOT) also require public participation on various types of locally administered projects.

Public participation that is legally mandated typically has required timelines and specific types of engagement opportunities that are outlined. The city department in charge of the proposed project up for engagement is responsible for ensuring these mandates are met.



Appendix 6: Public Engagement Plan

- **What is the anticipated equity impact?**

The city is committed to exploring the equity impact of a proposed project and ensuring no disproportionately high and adverse impact is borne by marginalized communities.

- **How will engaging the public help improve the outcome?**

Diverse perspectives contribute to innovative solutions, better-targeted policies, and programs that are more likely to address the needs and aspirations of the public.

The city is committed to evaluating each potential engagement opportunity for external impact. For instance, it may not make sense to engage the public on an administrative change that simply changes operating procedure for city staff, but it may make sense to engage the public if that administrative change would substantially change the way the public interacts with city staff members.

- **What are the resource needs and potential limitations/constraints for public engagement?**

The city must clearly define the limitations of the project at the start. Common limitations include time, finances, available resources, and legislative or jurisdictional barriers. It is important to understand why these limitations exist and to be able to provide accurate and consistent information to the public, if asked.

City staff, in coordination and consultation with the city's Communication Department, will determine if public engagement will be done in-house or if consultant support or outside vendor is needed to ensure robust public engagement opportunities are implemented.

City Council Meetings

In addition to project-specific engagement opportunities, the Fairfax City Council is committed to encouraging all residents to present their views on issues of concern and offers an opportunity for comment at all city council regular meetings. For the latest information and processes to comment at a city council meeting, [please visit the city website](#).



Building a Project Community Engagement Plan



Building and implementing an effective community engagement strategy can be vital to the success of a project—not only does it involve raising awareness, but done well, it can generate buy-in from stakeholders and use the considerations, knowledge, and experience of the community to shape the design and implementation of the project. A comprehensive engagement plan should be informed by a deep understanding of the community and its stakeholders. City staff responsible for engagement for each project should:

1

Identify the goals and objectives of community engagement

Resources: Refer to the **IAP2 Spectrum of Public Participation** to identify your goals for community engagement

2

Identify key internal and external stakeholders

Considerations that may require a longer timeline:

1. Are you reaching out to a new community where there is no existing relationship?
2. Are translations or accessibility accommodations needed?
3. Will information be distributed by mail or through community partners?

3

Identify your timeline and budget

Considerations for budget:

1. What can be handled in house?
2. Are there partner organizations that can provide resources to help with community engagement?
3. Will you need to bring on a consultant to help with outreach?

4

Develop key messages

Tip: Ensure messages are written in plain language and are understandable to the general public.

5

Identify engagement tactics and communication channels

Tip: Ensure your identified tactics are the preferred method of engagement for the community you are trying to reach.

6

Develop key performance metrics to measure success of your engagement efforts



Appendix 6: Public Engagement Plan

Engagement Goals and the Role of the Public

Clearly determining the purpose of a proposed engagement is critical. city staff planning for an engagement process should answer two questions:

- What do you need to focus on?
- What do you need to achieve?

The [Spectrum of Public Participation](#) was developed by the International Association of Public Participation (IAP2) to help clarify the role of the public in planning and decision-making, and to outline how much influence the community has over planning or decision-making processes. It identifies five levels of public participation and the answers to those initial questions will help the city determine which level they should plan for.

Inform

The Inform level of public participation provides the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions. It does not actually provide the opportunity for public participation at all. Sometimes there is no opportunity for the public to influence decision-making and simply giving the public what they need to fully understand the project and decision and to reach their own conclusions is the appropriate choice.

Consult

The Consult level of engagement allows the agency to obtain public feedback on analysis, alternatives and/or decisions. The promise is to “listen and acknowledge” issues raised, but not necessarily to act on them. Consult can be useful for obtaining feedback about a draft plan or for exploring a range of viewpoints early in a longer process.

Involve

The Involve level of engagement sees the agency work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered. This level goes beyond just one meeting.

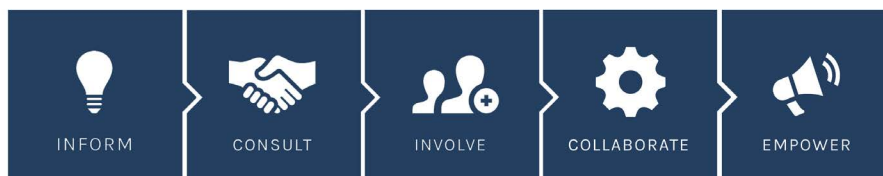
Collaborate

The Collaborate level is about partnering with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution. It implies an interactive process with an emphasis on two-way processes and requires trust to be built.

Appendix 6: Public Engagement Plan

Empower

The Empower level places the final decision-making in the hands of the public, but this does not mean it is the highest level of community engagement. At this level, the community can make a decision through a process that requires little interaction or engagement, like a referendum.



The Empower level is not the only way to empower stakeholders in public meetings and public processes. By clearly outlining the public's role and setting clear expectations, including what will be done with the public input provided, the city can help ensure engagement is meaningful.

See a breakdown of meeting types by engagement level.

Stakeholder identification Process

The city will conduct an initial inventory and analysis of stakeholders that is representative of those who live and work in the city or of those who may have vested interest in the project, study, program, activity, or service. Utilizing a combination of GIS and online data resources, and site visits, city staff will verify and supplement the stakeholder list to ensure a comprehensive repository is developed and maintained throughout the process. The city will utilize publicly available online data sources and coordinate with the appropriate city representatives to review the draft stakeholder list. The goal is to identify what individuals, groups, or organizations (including public, private, and non-profits) that are potential stakeholders or partners, particularly those serving and/or representing underserved populations particularly minorities, persons with LEP, low-income status, disabilities, seniors, etc.

Data sources will include, but are not limited to, federally/nationally available data, the Commonwealth of Virginia and City of Fairfax databases, resources, and available documents, such as:

- US Census Bureau (Decennial and American Community Survey)
- Departments of Housing/Urban Development
- Departments of Education
- Departments of Health
- Department of Planning
- LEP.Gov
- State/Local government sources
- [City of Fairfax: Fact Book](#)
- Community organizations or social services representing and/or serving minority, low-income status, persons with LEP, disabilities, and seniors.



Appendix 6: Public Engagement Plan

Timeline of Public Engagement

The city is committed to providing enough time to allow for meaningful engagement. While some timelines are legally mandated, the city strives to the greatest extent possible to ensure public comment periods are a minimum of 30 days and expanded to 45-60 days, when possible.

Engagement Tactics and Communication Channels

The type of public communication and outreach for a project will be determined on the project's scale and significance. Localized projects may require more specialized outreach within the project area, while others may require extensive outreach efforts throughout the entire city, including historically underserved areas. Typically, supplemental communication materials are provided for both in-person and virtual engagement techniques. These include, but are not limited to, brochures, poster boards, surveys, newsletters, tailored webpages, StoryMaps, mailers, door hangers, etc. The city department conducting the engagement will work with the Communications Department to determine the best tactics for the project

[Some engagement tactics and communication channels the city has access to include:](#)

- City-hosted Public Meetings
- Community Organization Meetings
- City Boards and Commissions
- Community Events and Festivals
- [Engage Fairfax](#)
- [Social Media](#)
- *Cityscene* Newsletter
- Homeowner and Civic Associations
- Videos
- City Website
- *City Clips* Email Newsletter
- Project Subscriber Emails
- Direct Mail
- CUE Bus advertisements
- Fairfax City Alert
- Channel 12
- City Council Meetings
- Media Outreach
- Community Partner Outreach

The Communications Department evaluates these tactics and channels regularly and adds or adjusts platforms as necessary to reach city residents.



Appendix 6: Public Engagement Plan

Closing the Feedback Loop

The city is committed to closing the feedback loop with the public following a public engagement process. We will acknowledge comments received, feedback gathered, and ensure transparency of how input will be used.

If a meeting is held, a written record of the meetings should be developed and include the following: meeting date, location, attendance sheets, as well as public comments received and to be addressed. Not all comments can be addressed, but the maximum extent practicable stakeholders should understand at the beginning of outreach events and at appropriate milestones, how feedback is utilized, incorporated, and/or documented.

It is the city's intent for residents to understand how they played a role in any final decisions and overall process.

Internal Evaluation

Following a comment period, city staff will internally evaluate the process itself, separately from the evaluation of public feedback. This evaluation will include an equity analysis and discussion of what worked, what didn't, and what should be adjusted for future similar efforts.

Ensuring Inclusive and Accessible Engagement

Reasonable Accommodations

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the City of Fairfax will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Upon request, the City of Fairfax will provide reasonable aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City of Fairfax programs, services, and activities — including qualified American Sign Language (ASL) interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

While not all accommodations can be provided without advance notice, the City of Fairfax will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services and activities. For example, individuals with service animals are welcomed in City of Fairfax offices, even where pets are generally prohibited.



Appendix 6: Public Engagement Plan

How to Request Service

Anyone who requires an auxiliary aid or service for effective communication or a modification of policies or procedures to participate in a program, service, or activity of the City of Fairfax should contact the office of the ADA Coordinator as soon as possible — but no later than five (5) working days before the scheduled event:

City of Fairfax ADA Coordinator
Fairfax City Hall
10455 Armstrong St.
Fairfax, VA 22030
Phone: 703-385-7850 (TTY: 711)
Email: HumanServices@fairfaxva.gov

Please note: the ADA does not require the City of Fairfax to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

The City of Fairfax will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

Languages Other than English

The city provides translation and interpretation services through contracted services. The Contractors provide professional translation interpreters and related services.

Translated materials and/or interpreters for meeting participants with native languages other than English will be provided if requested at least five working days in advance of the meeting. Contact the Title VI Coordinator via email at TitleVI@fairfaxva.gov or via phone at 703-385-7800.

The city's website provides website translator service that is powered by Google Translate for persons with LEP.

For providing in-person language services to persons with LEP, all city employees are required to complete a mandatory language access training annually. New and/or returning employees must take one-on-one training if they are hired after the annual training date(s).



Appendix 6: Public Engagement Plan

Meeting Location and Considerations

Public information meetings will be held at various locations across the City of Fairfax to inform the public of the process and to solicit ideas, input, and feedback. Public hearings and public information meetings will be held at locations accessible to and at times convenient to minority and disabled residents. Locations are selected on a project-by-project basis. To the extent feasible, meeting locations held within the community will be ADA-compliant and public transportation accessible.

Several factors contribute to the location and timing of public meetings held by the city:

- Locations accessible by transit
- Locations with free parking
- ADA accessible locations
- Availability of key staff members and presenters
- Availability of participants—a mix of hours to provide options including time of day considerations for seniors, as well as evening and weekend times for those who are unable to participate during traditional work hours.
- Other events, holidays, and potential conflicts—local community events, such as festivals, high school and professional sporting events, and other community meetings, are considered when scheduling meetings. Holidays including religious, and state and federal holidays, are considered when scheduling meetings.
- Cultural and social considerations, such as avoiding Islamic prayer times or holding a meeting in a building named after an enslaver.

Accountability

Any person who believes they individually, as a member of a specific class of persons, or in connection with any disadvantaged business enterprise (DBE), were subject to discrimination on the basis of race, color, or national origin with the City of Fairfax's programs and activities may file a Title VI complaint. All complaints will be directed to the city's Title VI Coordinator for initial review and action. The Title VI Complaint form in English and Spanish can be found below or on the city website.



Title VI Complaint Form

SECTION I

NAME: _____

ADDRESS: _____

PHONE: _____ EMAIL: _____

SECTION II

Are you filing this complaint on your behalf? Yes or No (circle one)

If "Yes," go to Section III

If "No" and you are filing on behalf of someone else, answer the following:

- Supply the name and relationship for the person for whom you are complaining

NAME: _____ RELATIONSHIP: _____

- Explain why you have filed for a third party:

- Have you obtained permission from the third party to file on their behalf? Yes or No (circle one)

SECTION III

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

- Race
- Color
- National Origin

DATE OF THE ALLEGED DISCRIMINATION: _____

Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved and, if known, include the names and contact information of the person(s) who discriminated against you or of any witness:

(Additional lines on the following page.)



Are you represented by legal counsel for this matter? Yes or No (circle one)

If "Yes," provide legal counsel name and contact information:

NAME: _____

ADDRESS: _____

PHONE: _____ EMAIL: _____

SECTION IV

NAME OF AGENCY COMPLAINT IS AGAINST: _____

CONTACT: _____ TITLE: _____

PHONE: _____ EMAIL: _____

SECTION V

Have you previously filed a Title VI Complaint with the City of Fairfax? Yes or No (circle one)

SECTION VI

Have you filed this complaint with any other federal, state, or local agency, such as the U.S. Department of Justice, U.S. Department of Transportation, Federal Highway Administration, or Virginia Department of Transportation? Yes or No (circle one)

Have you filed this complaint with any federal or state court? Yes or No (circle one)

If "Yes" to either of the above, provide agency and/or court contact name and information:

NAME: _____ TITLE: _____

AGENCY OR COURT: _____

ADDRESS: _____

PHONE: _____ EMAIL: _____

- I understand that by filling out this form, I am giving the City of Fairfax permission to contact me about my Title VI Complaint.
- I understand that this online form does not automatically file a formal complaint. The City's Title VI Coordinator will review your form and contact you to finalize the submittal within 10 business days.



Formulario De Queja Del Título VI

SECCIÓN I

NOMBRE: _____

DIRECCIÓN: _____

TELÉFONO: _____ CORREO ELECTRÓNICO: _____

SECCIÓN II

¿Está presentando esta queja en su nombre? Sí o No (marque uno con un círculo) Si la respuesta es "Sí", vaya a la Sección III

Si respondió "No" y presenta la solicitud en nombre de otra persona, responda lo siguiente:

- Proporcione el nombre y la relación de la persona por quien presenta la queja.

NOMBRE: _____ RELACIÓN: _____

- Explique por qué ha presentado una solicitud en nombre de otra persona:

- ¿Ha obtenido permiso del tercero para presentar la solicitud en su nombre? Sí o No (circule uno)

SECCIÓN III

Creo que la discriminación que experimenté se basó en (seleccione todas las opciones que correspondan):

- Raza
- Color
- Origen Nacional

FECHA DE LA SUPUESTA DISCRIMINACIÓN: _____

Explique lo más claramente posible qué sucedió y por qué cree que fue discriminado. Describa todas las personas que estuvieron involucradas y, si las conoce, incluya los nombres y la información de contacto de las personas que lo discriminaron o de cualquier testigo:



¿Está representado por un asesor legal para este asunto? Sí o No (marque uno con un círculo) Si respondió "Sí", proporcione el nombre del asesor legal y la información de contacto:

NOMBRE: _____

DIRECCIÓN: _____

TELÉFONO: _____ CORREO ELECTRÓNICO: _____

SECCIÓN IV

NOMBRE DE LA AGENCIA DE DONDE LA QUEJA ES CONTRA: _____

CONTACTO: _____ TÍTULO: _____

TELÉFONO _____ CORREO ELECTRÓNICO: _____

SECCIÓN V

¿Ha presentado anteriormente una queja del Título VI ante la ciudad de Fairfax? Sí o No (circule uno)

SECCIÓN VI

¿Ha presentado esta queja ante alguna otra agencia federal, estatal o local, como el Departamento de Justicia de los EE. UU., ¿Departamento de Transporte de EE. UU., Administración Federal de Carreteras o Departamento de Transporte de Virginia? Sí o No (circule uno)

¿Ha presentado esta denuncia ante algún tribunal federal o estatal? Sí o No (circule uno)

Si respondió "Sí" a cualquiera de las preguntas anteriores, proporcione el nombre y la información de contacto de la agencia y/o el tribunal:

NOMBRE: _____ TÍTULO: _____

AGENCIA O TRIBUNAL: _____

DIRECCIÓN: _____

TELÉFONO: _____ CORREO ELECTRÓNICO: _____

- Entiendo que al completar este formulario, le doy permiso a la ciudad de Fairfax para que se comunique conmigo sobre mi queja del Título VI.
- Entiendo que este formulario en línea no presenta automáticamente una queja formal. El coordinador del Título IV de la ciudad revisará su formulario y se comunicará con usted para finalizar la presentación dentro de los 10 días hábiles.



Appendix 6: Public Engagement Plan

ADA Grievance Procedure

The City of Fairfax Grievance Procedure may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Fairfax. (Please note: the City of Fairfax Personnel Policy governs employment-related complaints of disability discrimination.)

Please submit complaints that a program, service, or activity of the City of Fairfax is not accessible to persons with disabilities to ADA Coordinator, Lesley Abashian. The complaint should be submitted by the grievant and/or their designee as soon as possible, but no later than sixty (60) calendar days after the alleged violation.

Please make the complaint in writing; however, alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, may be made available for persons with disabilities upon request. The complaint must include important points of information about the alleged discrimination such as name, address, phone number of complainant, and the location, date, and description of the problem.

- Within fifteen (15) calendar days after receipt of the complaint, ADA Coordinator Lesley Abashian or approved designee will meet with the complainant to discuss the complaint and the possible resolutions.
- Within fifteen (15) calendar days of this meeting, ADA Coordinator Lesley Abashian or approved designee will respond (in writing, or, where appropriate, in a format accessible to the complainant, such as large print, Braille, or audiotape). The response will explain the position of the City of Fairfax and offer options for substantive resolution of the complaint.
- Within fifteen (15) calendar days of receipt of the city's response, the complainant and/or their designee may appeal the decision if they feel the response does not satisfactorily resolve the issue. Appeals must be submitted to Fairfax City Manager Robert Stalzer or his designee.
- Within fifteen (15) calendar days of receipt of the appeal, city Manager Rob Stalzer or approved designee will meet with the complainant to discuss the complaint and possible resolutions.
- Within fifteen (15) calendar days after the meeting regarding the appeal, city Manager Rob Stalzer or approved designee will respond (in writing, or, where appropriate, in a format accessible to the complainant) with a final resolution of the complaint.

All written complaints received by ADA Coordinator Lesley Abashian or her designee, appeals to city Manager Rob Stalzer or his designee, and responses from these two offices will be retained by the City of Fairfax for at least three years.



Appendix 6: Public Engagement Plan

In Practice: Resources for City Staff

Meeting Types by Engagement Goal

Different meeting formats address certain goals better than others. Once you have determined your public participation goal, you can better design the meeting.

Type of Engagement	Description	Goal				
		Inform	Consult	Involve	Collaborate	Empower
MEETINGS						
Charrette	Intense, multi-day effort to design a product or solve a problem. Most commonly used in urban planning.	●	●	●	●	
Advisory Committees/Task Forces	Small group of people representing various interests to advise an agency on programs or actions. Advisory groups can be multi-year or indefinite arrangements, while task forces usually complete a single task and then disband.	●	●	●	●	
Focus Groups	Small group discussions where participants are selected randomly or based upon community demographics.	●	●	●		
Listening Sessions	In-person meetings between managers and stakeholders focused on providing a venue for stakeholders to voice their interests and concerns.	○	●	○		
Open House	Staffed booths or stations on specific topics and participants attend any time during an announced period.	●	○	○		
Open Space	Unstructured meeting format allowing participants to suggest meeting topics and participate in discussions of interest to each individual.	●	●	●		
Public Hearing/Meeting	A formal meeting where participants provide statements, which are recorded for the public record. Responses to comments are not	○	●			
Samoan Circle/Circle Dialogue	Participants sit in a circle and everyone is given an opportunity to speak with dialogue moving in a circular pattern.	○	●	●		
Scientific Review Panels	Identified speakers present information or differing views and develop recommendations. Often is open to the public and includes an opportunity for public comment.	●	●	●		
Small Groups/Breakouts	After opening a presentation, smaller groups are formed to discuss an issue or complete a specific task. Summaries of small group discussions can be presented orally or written, and an open comment period can follow.	○	●	●		
Symposium/Presentations/Panel	Participants are presented information, which is sometimes followed by questions and answers.	●				

● = Most likely to be effective ○ = Somewhat likely to be effective ○ = Least likely to be effective



Appendix 6: Public Engagement Plan

Type of Engagement	Description	Goal				
		Inform	Consult	Involve	Collaborate	Empower
MEETINGS						
Targeted Stakeholder Briefings	Personal visit, small group meeting, or call to inform specific stakeholders of progress made or an action taken and listen to interests and concerns.	●	●	●		
Town Hall	Experts or decision makers sit at a head table and provide information as well as listen to public opinions/views. Those at the head table can offer response to comments.	●	○	○		
Webinar/ Conference Call	Virtual meetings that allow participants to share information and discussion via phone or computer.	○	○			
Workshops	Informal, problem-solving focused, interactive, and often involve a combination of small group and plenary discussions. Participants usually offer expertise or unique perspective.	●	●	●		
OTHER ENGAGEMENT TYPES						
Interviews	Face-to-face or telephone interaction with stakeholders conducted by the agency or by a third-party representative.	○	●	○		
Online Engagement	Interaction between agency and stakeholders through online tools such as social media, email, and web conferencing.	●	●	●		
Polling or Survey	A series of questions in a structured format presented to participants for answers typically done via writing.	○	●	○		

● = Most likely to be effective ○ = Somewhat likely to be effective ○ = Least likely to be effective

The meeting format will be tailored to meet the city’s interests and goals but should strive to address public interests where possible and appropriate. Consider potential meeting attendance—some formats work better for larger crowds and others work better for smaller meetings. When appropriate, a combination of approaches will be explored to allow participants to engage in multiple ways and increase inclusivity.

In any meeting type, the city aims to incorporate innovative activities and communications materials to encourage conversation about different perspectives. Expanding the way information is presented through visualizations, images, videos, and animations can also accommodate those who learn in different ways.

Public Meeting Logistics Checklist

Anticipated number of attendees: _____

Venue

- ADA Accessible
- Accessible by Public Transit
- Free Parking
- Convenient location for the public
- Active location with foot traffic
- Wifi or Wired Internet
- Room capacity _____

Venue Setup

- Tables
 - Round tables
Quantity: _____
 - Rectangle tables
 - 4 ft
Quantity: _____
 - 6 ft
Quantity: _____
 - Cocktail tables
Quantity: _____
- Room Setup
 - U-Shape
 - Boardroom
 - Classroom
 - Theater
 - Banquet Rounds
 - Other: _____
- Lectern
- Chairs
Quantity: _____
- Trash Receptacles
Quantity: _____

Audio/Visual

- Microphone
- Projector
- Screen
- Monitor or TV Display
- Speakers
- Mic Stands
- Easels
- Stanchions

Catering

- Water Stations
- Food
 - Lunch
 - Dinner
 - Snacks
- Coffee
- Options for Common Dietary Restrictions
 - Vegetarian
 - Gluten Free
 - Low Sugar/Carbs

Materials

- Pens
- Notepads
- Hand sanitizer
- Disinfecting wipes
- Folders
- Painter's tape
- Masking tape
- Duct tape
- Extension cords
- Power strips
- Dot labels
- Nametags
- Laptops
- Tablets



Accommodations

The City of Fairfax welcomes all community members to participate in our processes and is committed to providing reasonable accommodations to make meetings accessible for everyone.

While not all accommodations can be provided without advance notice, the City is happy to provide all possible reasonable accommodations.

Vision Services/Aids

- Documents read aloud
- Request escort
- Other _____

Mobility Services/Aids

- Walking escort
- Wheelchair escort
- Extra-wide wheelchair
- Transfer assistance
- Other _____

Hearing Services/Aids

- Notepad
- Other _____

Other Needs/Notes

- Cognitive impairment
- Sound sensitivity
- Speech impairment
- Uses hearing aids
- Uses service animals
- Uses notepad
- Uses walker
- Uses cane
- Requires additional time
- Other _____

Requests

- Speak loudly
- Speak slowly
- Make eye contact
- Reads lips
- Speak on right side
- Speak on left side
- Other _____



The City of Fairfax Public Meeting Feedback Survey

Thank you for participating in today's public meeting! The City of Fairfax is seeking your feedback on today's meeting to guide future community engagement and planning efforts.

Meeting location: _____

Select an answer between 1 and 5, with 1 being "strongly disagree" and 5 being "strongly agree."

1) The meeting had clear objectives that were met.

- 1 2 3 4 5

2) The meeting had clear objectives that were of interest to me.

- 1 2 3 4 5

3) The meeting location was convenient for me.

- 1 2 3 4 5

4) Do you have suggestions for other public meeting venues?

5) How did you find out about this meeting?

- Social media Community organization: _____
 Newspaper ad Other website: _____
 The City website
 Word of mouth Other: _____

DEMOGRAPHICS

The City is committed to providing equitable access to our public meetings. To help the City identify the community members we are reaching and where we could do better, please complete the following questions on demographics (optional):

6) Age

- Younger than 18 35 to 44 55 to 64
 18 to 24 45 to 54 65 to 74
 25 to 34 75 years and older

7) Race

- White Hispanic/Latino American Indian/Alaskan
 Black/African Asian Other

8) Ethnicity

- American Filipino North African
 Asian American Japanese Pakistani
 Caribbean Islander West African Vietnamese
 Chinese Korean Other
 Eastern European Middle Eastern

9) Please share your zip code: _____

CONCLUSION

10) Additional comments on the meeting:





Appendix 7: Sample FHWA Data Sources Assessment Form

Contracts and Finance

Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Construction Contracts – Provisions	[Contracts Specialist]	[Contracts Specialist]	Electronic Project File on [internal shared drive]	None.	Information used to assess whether Appendices A and E are included in all construction contracts.
Construction Contracts – Bidding	[Contracts Specialist]	[Contracts Specialist]	Advertisement Records and Construction Manual	None.	Information used to assess whether Title VI references are included in all advertisements for construction contracts. Policies assessed to ensure non-discrimination.
Construction Contracts – Prequalification	[Contracts Specialist]	[Prequalification Department Official]	[Prequalification Database]	None.	Data and information used to assess non-discrimination in the prequalification process.
Professional Services Contracts – Provisions	[Contracts Specialist]	[Procurement Official]	Electronic Project File on [internal shared drive]	None.	Information used to assess whether Appendices A and E are included in all construction contracts.
Professional Services Contracts – Bidding	[Contracts Specialist]	[Procurement Official]	Advertisement Records and Procurement Manual	None.	Information used to assess whether Title VI references are included in all advertisements for construction contracts. Policies assessed to ensure non-discrimination.
Professional Services Contracts – Selection and Award	[Contracts Specialist]	[Procurement Official]	Form 145 (Proposal Scoresheet), Proposal Records, Bidders List	None.	Data and information used to assess non-discrimination in the selection and award process. Demographics of all proposers compared to selectees.
Contract Amounts	[Finance Specialist]	[Finance Specialist]	[Internal Database]	U.S. Census – 5 Year ACS, 2010 Census	Data used to assess distribution of contracting dollars compared to demographics of counties and MSAs.



Appendix 7: Sample FHWA Data Sources Assessment Form

Planning

Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Public Involvement – STIP Development Meetings	[Planning Specialist]	Communications Data Team	[Internal Database] – Communications	None.	Data used to track the number of public meetings held during the STIP development process.
Public Involvement – STIP Development Meeting Attendee Demographics	[Planning Specialist]	Communications Data Team	[Internal Database] – Communications	Form 1234: completed by attendees	Data is used to compare meeting attendee demographics with the demography of the state or areas affected.
Public Involvement – Text of Formal Comments submitted during STIP development process	[Planning Specialist]	[Planning Specialist]	Electronic Project File on [internal shared drive]	Email, website submissions	Information used to assess non-discrimination in public participation process.
Public Involvement – Text of Informal Comments submitted during STIP development process	[Planning Specialist]	[Planning Specialist]	Electronic Project File on [internal shared drive]	Oral comments noted by Communications staff at meeting.	Information used to assess non-discrimination in public participation process.
Public Involvement – Civil Rights Personnel Meeting Attendance	[Title VI Coordinator]	[Title VI Coordinator]	[Internal spreadsheet] on [internal shared drive]	None.	Information used to assess the number of public meetings civil rights personnel attend.
Project Prioritization – Scoring data for prioritization reviewers	[Planning Specialist]	[Planning Specialist]	Scoring sheets and [database] managed by Planning Division	Some scoring sheets collected from regional/local partners	Data used to assess the individual and overall scores for projects in the prioritization process.
Project Prioritization – distribution of projects statewide	[Planning Specialist]	[Planning Specialist]	[Internal spreadsheet] on [internal shared drive]	U.S. Census – 5 Year ACS, 2010 Census; TIP data where necessary	Data used to compare distribution of projects to demographics of counties or MSAs
Certification Reviews – Policy Reviews and recommendations	[Title VI Coordinator]	[Title VI Coordinator]	[Civil Rights Division Certification Files]	MPO Title VI, LEP, TIP, and Long-Range Plans	Information used to make recommendations to MPOs during certification process. Includes analysis of LRTP equity studies regarding projected travel demand, impacts and demographics.



Appendix 7: Sample FHWA Data Sources Assessment Form

Environment

Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Public Involvement – Project Area Demographics	[Environmental Specialist]	Communications Data Team	[Internal Database] – Communications	U.S. Census – 5 Year ACS, 2010 Census	Data is used to compare meeting attendee demographics with the demography surrounding the project.
Public Involvement – Meeting Attendee Demographics	[Communications Specialist]	Communications Data Team	[Internal Database] – Communications	Form 1234: completed by attendees	Data is used to compare meeting attendee demographics with the demography surrounding the project.
Public Involvement – Text of Formal Comments	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Email, website submissions	Information used to assess non-discrimination in public
Public Involvement – Text of Informal Comments	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Oral comments noted by Communications staff at meeting.	Information used to assess non-discrimination in public participation process.
Public Involvement – Civil Rights Personnel Meeting Attendance	[Title VI Coordinator]	[Title VI Coordinator]	[Internal spreadsheet] on [internal shared drive]	None.	Information used to assess the number of public meetings civil rights personnel attend.
Project Scoping	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	U.S. Census – 5 Year ACS, 2010 Census	Information used to assess potential impacts for each project alternative compared to the demographics of the populations
Environmental Review – Number of Categorical Exclusions	[Environmental Specialist]	[Environmental Specialist]	[Internal spreadsheet] on [internal shared drive]	None.	Data used to track the number of categorical exclusions.
Environmental Review – Number of Environmental Assessments	[Environmental Specialist]	[Environmental Specialist]	[Internal spreadsheet] on [internal shared drive]	None.	Data used to track the number of Environmental Assessments



Appendix 7: Sample FHWA Data Sources Assessment Form

Environment (cont.)

Environmental Review – Number of Environmental Impact Statements	[Environmental Specialist]	[Environmental Specialist]	[Internal spreadsheet] on [internal shared drive]	None.	Data used to track the number of Environmental Impact Statements
Environmental Review – Number of Community Impact Assessments	[Planning Specialist]	[Planning Specialist]	[Internal spreadsheet] on [internal shared drive]	None.	Data used to track the number of Community Impact Assessments
Environmental Review – Demographics of Project/Study Area	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	U.S. Census – 5 Year ACS, 2010 Census	Data used to as basis for comparison of project impacts.
Environmental Review – Air Quality Impacts for Each Alternative	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Air Quality Report	Data compared for each alternative to assess disparities.
Environmental Review – Noise Impacts for Each Alternative	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Noise Impact Report	Data compared for each alternative to assess disparities.
Environmental Review – Right of Way Impacts	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Right of Way Form 1235 (relocatee profile)	Data used to compare demographic impacts to relocatees for each project alternative.
Environmental Review – Mitigation Measures	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	None.	Qualitative information assessed to determine whether impacts addressed equitably.



Appendix 7: Sample FHWA Data Sources Assessment Form

Right of Way

Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Public Involvement – Right of Way Project meetings	[Right of Way Specialist]	Communications Data Team	[Internal Database] – Communications	Form 1234: completed by attendees	Data is used to compare meeting attendee demographics with the demography of the state or areas affected.
Relocation – Appraisal Data	[Right of Way Specialist]	[Right of Way Specialist]	Electronic Project File on [internal shared drive]	Right of Way Form 1235 (relocatee profile), Appraisal Log and Recommendation	Data used to assess demographics of relocatees compared to Just Compensation offers.
Relocation – Assistance Data	[Right of Way Specialist]	[Right of Way Specialist]	Electronic Project File on [internal shared drive]	Right of Way Form 1235 (relocatee profile), relocation assistance contractor files	Data and information used to assess demographics of relocation packages offered to relocatees, including counselling and relocation payments.
Consultants	[Right of Way Specialist]	[Right of Way Specialist]	Contracts Division database	None.	Data and information used to assess non-discrimination in advertising and award of Right of Way consultant contracts. Includes demographics of applicant and awardee ownership, award amounts, etc.



Appendix 7: Sample FHWA Data Sources Assessment Form

Construction

Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Construction Contracts – Mitigation Commitments	[Contracts Specialist]	[Project Engineer]	Project log (dailies), change orders, EIS/EA, contract provisions	None.	Information used to assess whether mitigation commitments made during environmental phase that impact minority populations are carried through construction.
Construction Contracts – Traffic Control	[Contracts Specialist]	[Project Engineer]	Traffic Control Plan, Project Log (dailies), EA/EIS	U.S. Census – 5 Year ACS, 2010 Census	Data and information used to assess equity of vehicular access to project area for impacted persons compared to demographics of project area.
Construction Contracts – Pedestrian Accommodation	[Contracts Specialist]	[Project Engineer]	Traffic Control Plan, Project Log (dailies), EA/EIS	U.S. Census – 5 Year ACS, 2010 Census	Data and information used to assess equity of pedestrian access to project area for impacted persons compared to demographics of project area.



Appendix 8: Local Public Agency (LPA) Title VI Program Self- Assessment Form



Local Public Agency (LPA) Title VI Program Self- Assessment Form

This questionnaire is used to assess your organization’s compliance with Title VI regulations. State Highway Agencies (SHAs) are required to review those entities to which the SHA distributes federal funds (subrecipients)(23 C.F.R. §200.9(b)(7)). VDOT is required to conduct Title VI reviews of Local Public Agencies (LPAs) receiving federal-aid thru VDOT in order to monitor and ensure Title VI compliance. The review form assists VDOT in determining whether the LPA operates in a nondiscriminatory manner and is managing the federal-aid in compliance with Title VI Regulations

Reporting Period *(VDOT reviewer enter applicable assessment period here)*

Name of Local Public Agency	
Address of Local Public Agency	
Date of Assessment	
Name & Title of person completing this form	

Administration: Staff Composition and Title VI Program Administration

1. Provide breakdown of your staff that has responsibilities in the transportation component of your agency by identifying the following for each individual: name, position title, and race. Please attach an organizational chart.

NAME	POSITION TITLE	RACE

2. How many federally funded projects has your agency managed over the last two years?

What is the total dollar amount?

3. Has your agency designated a Title VI Coordinator who is responsible for the administration of the Title VI policies and procedures?

Yes No

If YES, please provide the following:

Name:

Position Title:



Appendix 8: Local Public Agency (LPA) Title VI Program Self- Assessment Form

<p>4. Does the Title VI Coordinator have direct access to the top official of your agency? Yes <input type="checkbox"/> No <input type="checkbox"/> Please list names of the official(s)</p>
<p>5. Does your Agency have a Title VI Policy and Title VI Implementation Plan in place? Please check all that apply and provide copies as indicated. Title VI Policy <input type="checkbox"/> Title VI Implementation Plan <input type="checkbox"/> Please attach a copy</p>
<p>6. If you indicated that your agency does have a Title VI Policy, has this policy been disseminated within the organization and to the public? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, please provide proof of dissemination.</p>
<p>7. Has the agency signed the Title VI Assurances (USDOT 1050.2A)? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, has the agency included the Title VI Assurances in the Title VI Implementation Plan? Yes <input type="checkbox"/> No <input type="checkbox"/></p>
Training
<p>1. Has your staff received any training (formal or informal) regarding Title VI? Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>2. Has the Title VI coordinator participated in any form of training with specific reference to Title VI? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, what type of Training? <i>(i.e. webinar, in-class training with instructor, internet modules)</i> Describe and provide date</p>
Public Involvement
<p>1. What efforts are made to notify the public of meetings, workshops, special sessions, etc.?</p>
<p>2. What efforts are made to ensure minorities, disabled, and persons with Limited English Proficiency (LEP) are aware of public meetings?</p>
<p>3. Are accommodations for special needs or interpreting / translation included in notices to the public? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, please attach samples of notices.</p>
<p>4. Does your agency include minority or non-English (other languages) media in all notification processes for public meetings or public review of agency documents? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, identify the media resources used (by name)</p>
<p>5. Where are public meetings held? _____</p>



Appendix 8: Local Public Agency (LPA) Title VI Program Self- Assessment Form

<p>Please describe the meeting locations, time, days of week. Is the atmosphere conducive for public involvement?</p>
<p>6. Are the meetings held where bus or rail service is provided? Yes <input type="checkbox"/> No <input type="checkbox"/> If NO, please explain.</p>
<p>7. Has your organization received any request for information in an alternative format such as Braille, Audio, or non-English? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, please discuss.</p>
<p>8. Are limited English proficient persons made aware that they can receive translation services at no cost to them? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, identify how</p>
<p>9. Does your agency monitor attendance broken down by race and ethnicity and by LEP and disabilities requiring accommodations? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, identify how it is monitored and attach any forms if applicable.</p>
<p>10. Has your agency established any advisory or citizen's group? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, describe any efforts or methods used to focus on increasing the participation of minority and non-English population in the transportation planning processes.</p>
<p>11. Are persons traditionally underrepresented by transportation systems, such as minority or LEP population, actively sought out for involvement in transportation planning processes? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, what methods are used?</p>
<p>12. Are contacts with minority or LEP groups or leaders used to identify information needs and planning/programming issues or concerns? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, identify those individuals contacted during the reporting period</p>
<p>13. How does your agency gather data when assessing transportation needs, projects, and impacts?</p> <p>How is the data utilized to examine and evaluate the equitable distribution of benefits and burdens of transportation investments?</p> <p>Note: The emphasis here is on collecting and utilizing data that reflects community boundaries, racial and ethnic makeup.</p>
<p>Contracting – consultants activities</p>
<ul style="list-style-type: none"> Did your organization award any consultant contracts during the reporting period? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, identify the following. Total dollar amount of contracts awarded: _____ Total dollar amount awarded to DBE* firms: _____ <p>*DBE = Disadvantaged Business Enterprises</p>
<ul style="list-style-type: none"> Please provide list of companies, the type of service and the award amount.



Appendix 8: Local Public Agency (LPA) Title VI Program Self- Assessment Form

<ul style="list-style-type: none">How does your organization solicit and award consultant contracts?
<ul style="list-style-type: none">Does your organization insert the Title VI/Nondiscrimination paragraph from the U.S. DOT Standard Title VI Assurances into all solicitations for bids and requests for proposals? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, describe how this verified.
<ul style="list-style-type: none">Do contracts with consulting firms include contract provisions for Title VI (Appendix A and Appendix E of USDOT 1050.2A) Yes <input type="checkbox"/> No <input type="checkbox"/> Provide an example.
Construction and Maintenance Activities
<ol style="list-style-type: none">Are minority contractors and subcontractors being informed about contracting opportunities with your agency? Yes <input type="checkbox"/> No <input type="checkbox"/> Provide an example.
<ol style="list-style-type: none">Are Title VI assurances being included in all contracts, subcontracts, and material supply agreements? Yes <input type="checkbox"/> No <input type="checkbox"/> Provide an example.
Right of Way Activities
<ol style="list-style-type: none">Is Title VI Language being incorporated in all acquisition, negotiation, property management communications, and contracts? Yes <input type="checkbox"/> No <input type="checkbox"/>
<ol style="list-style-type: none">Do deeds, permits, and leases contain Title VI compliance clauses? Yes <input type="checkbox"/> No <input type="checkbox"/>
<ol style="list-style-type: none">Are Title VI language and assurance statements being included in all surveys for property owners and tenants after the conclusion of all business? Yes <input type="checkbox"/> No <input type="checkbox"/>
<ol style="list-style-type: none">Is statistical data being gathered on race, color, national origin and limited English proficiency for all relocates? Yes <input type="checkbox"/> No <input type="checkbox"/>
Complaints Procedures
<ol style="list-style-type: none">Does your agency have written Complaint procedures which describe the process for responding, recording, and resolving Title VI complaints (external discrimination complaints) that conforms to the FHWA complaints procedures? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, please provide a copy of procedures.



Appendix 8: Local Public Agency (LPA) Title VI Program Self- Assessment Form

2. How are the complaint procedures communicated to the public? Explain.

3. Have any formal or informal complaints alleging violations of the Title VI of the Civil Rights Act of 1964 been lodged against your Agency during the past three years?

Yes No

If YES, please list them below and provide date(s), status and the outcome(s).

Other

1. Has your agency been reviewed recently by any governmental agencies (such as the Federal Transit Administration [FTA], Department of Justice, Federal Highway Administration [FHWA], etc.) for compliance with Title VI?

Yes No

If YES, please indicate the agency/agencies and provide a copy of the letter identifying the review finding(s). If the review was conducted by FTA, please attach a copy of the final report.

2. Identify any significant issues and/or changes that have occurred during the reporting period.

3. Identify all individuals by name and title that are anticipated to attend an on-site Title VI compliance review if one is needed.

Catalog of Title VI related data to be submitted for this assessment

- Professional Services Contracts - Bidding: Submit an advertisement/RFP applicable to the reporting period
- Professional Services Contracts - Provisions: Submit a contract agreement applicable to the reporting period
- Public Involvement – Submit public meetings records to include number of meetings, ads, meeting attendees’ demographic data (collected at the meeting, comments collected both formally and informally) applicable to the reporting period.

For Office Use Only:

Findings / Conclusions



Appendix 8: Local Public Agency (LPA) Title VI Program Self- Assessment Form

Compliance: _____ Non-compliance: _____

Review conducted by: _____

Approved by: _____ Date: ____ / ____ / ____



Appendix 9: Advertisement Nondiscrimination Provision

Nondiscrimination Provision Federally Funded Projects

Construction contractors and consultants agree to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e). Title VI of the Civil Rights Act of 1964 declares it to be the policy of the United States that discrimination on the grounds of race, color, or national origin shall not occur in connection with programs and activities receiving Federal financial assistance and authorizes and directs the appropriate Federal departments, agencies, and subrecipients to take action to carry out this policy. Title VII of the Civil Rights Act prohibits discrimination against any employee or applicant for employment on the basis of race, religion, color, sex or national origin for employers with 15 or more employees. The contractor/consultant further agrees to abide by Executive Order No. 11246 entitled "Equal Employment Opportunity," as amended by Executive Order No. 11375 and as supplemented in the Department of Labor Regulations (41 CFR Part 60), which prohibits discrimination on the basis of age and FHWA 1273 required contract provisions for federal-aid construction projects. 49 CFR Parts 21, 23, 26, and 27, and 23 CFR Parts 200, 230, and 633 are incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds. The contractor/consultant shall comply with the Americans with Disabilities Act (ADA), and with the provisions of the Virginians with Disabilities Act, Sections 51.5-40 through 51.5-46 of the Code of Virginia, as amended, the terms of which are incorporated herein by reference.



Appendix 10: VDOT DBE and SWaM Policy Statement

It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded contracts. A list of certified DBE firms is maintained on the Department of Small Business and Supplier Diversity's web site (www.sbsd.virginia.gov) under the DBE Directory of Certified Vendors. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider DBE firms as potential subconsultants. The consultant is encouraged to contact DBE firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a DBE firm whereby the DBE firm promises not to provide services to other consultants is prohibited.

- The DBE contract goal for this procurement is ____ %

[Include the following wording on federally funded projects with DBE goals:] [Include the following wording on federally funded projects without DBE goals:]

- DBE contract goals have not been established on this contract; however, contractors/consultants are still encouraged to employ reasonable means to obtain DBE participation.

VDOT is also required to capture DBE and SWaM payment information on all contracts. The successful prime consultant will be required to complete C-63 form for both state and federally funded projects on a quarterly basis.

Any DBE or SWaM firm must become certified (with the Department of Small Business and Supplier Diversity) prior to your response being submitted. If DBE or SWaM firm is the prime contractor, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE or SWaM subconsultants. DBE or SWaM prime consultants are encouraged to make the same outreach efforts as other consultants. DBE or SWaM credit will be awarded only for work actually being performed by them. When a DBE or SWaM prime consultant subcontracts work to another firm, the work counts toward DBE or SWaM goals only if the other firm is itself a DBE or SWaM. A DBE or SWaM prime consultant must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own force.

DBE or SWaM certification entitles consultants to participate in VDOT's DBE and SWaM programs. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular work.



Appendix 11: DBE Special Provisions for Construction and Professional Services Contracts

Any contractor, Sub-contractor, supplier, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the US DOT DBE Program in accordance with Title 49 Code of Regulations (CFR) Part 26, the US DOT DBE Program regulations, VDOT's Road and Bridge Specifications, and the VDOT DBE Program rules and regulations. Special Provision for Section 107.15 of the Specifications (Appendix B) is to be physically included in every supply or work/service subcontract and/or purchase order that it makes or executes with a Sub-contractor having work for which it intends to claim credit.

Any Consultant, sub-consultant, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the United States Department of Transportation (US DOT) DBE Program as the terms appear in Part 26 of the Code of Federal Regulations (49 CFR as amended), the US DOT DBE Program regulations, and the Virginia Department of Transportation's (VDOT or the Department) DBE Program rules and regulations in accordance with this Special Provision.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

VIRGINIA DEPARTMENT OF TRANSPORTATION SPECIAL PROVISION FOR DBE REQUIREMENTS

August 18, 2017

SECTION 107 – LEGAL RESPONSIBILITIES of the Specifications is revised as follows:

Section 107.15 – Use of Small, Women-Owned, and Minority-Owned Business is renamed Use of Disadvantaged Business Enterprises (DBEs) and replaced with the following:

(a) Disadvantaged Business Enterprise (DBE) Program Requirements

Any Contractor, subcontractor, supplier, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the United States Department of Transportation (US DOT) DBE Program as the terms appear in Part 26 of the Code of Federal Regulations (49 CFR as amended), the US DOT DBE Program regulations; and the Virginia Department of Transportation's (VDOT or the Department) Road and Bridge Specifications and DBE Program rules and regulations.

For the purposes of this provision, Contractor is defined as the Prime Contractor of the Contract; and sub-contractor is defined as any DBE supplier, manufacturer, or subcontractor performing work or furnishing material, supplies or services to the Contract. The Contractor shall physically include this same contract provision in every supply or work/service subcontract that it makes or executes with a subcontractor having work for which it intends to claim credit.

In accordance with 49 CFR Part 26 and VDOT's DBE Program requirements, the Contractor, for itself and for its subcontractors and suppliers, whether certified DBE firms or not, shall commit to complying fully with the auditing, record keeping, confidentiality, cooperation, and anti-intimidation or retaliation provisions contained in those federal and state DBE Program regulations. By bidding on this contract, and by accepting and executing this contract, the Contractor agrees to assume these contractual obligations and to bind the Contractor's subcontractors contractually to the same at the Contractor's expense.

The Contractor or subcontractor shall not discriminate on the basis of race, color, sex, sexual orientation, gender identity, or national origin in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award, administration, and performance of this contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which will result in the termination of this contract or other such remedy, as VDOT deems appropriate.

All administrative remedies noted in this provision are automatic unless the Contractor exercises the right of appeal within the required timeframe(s) specified herein. Appeal requirements,



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

processes, and procedures shall be in accordance with guidelines stated herein and current at the time of the proceedings. Where applicable, the Department will notify the Contractor of any changes to the appeal requirements, processes, and procedures after receiving notification of the Contractor's desire to appeal.

All time frames referenced in this provision are expressed in business days unless otherwise indicated. Should the expiration of any deadline fall on a weekend or holiday, such deadline will automatically be extended to the next normal business day.

(b) DBE Certification

The only DBE firms eligible to perform work on a federal-aid contract for DBE contract goal credit are firms certified as Disadvantaged Business Enterprises by the Virginia Department of Small Business and Supplier Diversity (DSBSD) or the Metropolitan Washington Airports Authority (MWAA) in accordance with federal and VDOT guidelines. DBE firms must be certified in the specific work listed for DBE contract goal credit. A directory listing of certified DBE firms can be obtained from the Virginia Department of [Small Business and Supplier Diversity website: www.sbsd.virginia.gov](http://www.sbsd.virginia.gov).

Bank Services

The Contractor and each subcontractor are encouraged to use the services of banks owned and controlled by socially and economically disadvantaged individuals. Such banking services and the fees charged for services typically will not be eligible for DBE Program contract goal credit. Such information is available from the VDOT's Internet Civil Rights Division website:

http://www.virginiadot.org/business/resources/Civil_Rights/VDOT_DB_E_Program_Plan.pdf

DBE Program-Related Certifications Made by Bidders\Contractors

By submitting a bid and by entering into any contract on the basis of that bid, the bidder/ Contractor certifies to each of the following DBE Program-related conditions and assurances:

1. That the management and bidding officers of its firm agree to comply with the bidding and project construction and administration obligations of the US DOT DBE Program requirements and regulations of 49 CFR Part 26 as amended, and VDOT's Road and Bridge Specifications and DBE Program requirements and regulations.
2. Under penalty of perjury and other applicable penal law that it has complied with the DBE Program requirements in submitting the bid, and shall comply fully with these requirements in the bidding, award, and execution of the Contract.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

3. To ensure that DBE firms have been given full and fair opportunity to participate in the performance of the Contract. The bidder certifies that all reasonable steps were, and will be, taken to ensure that DBE firms had, and will have, an opportunity to compete for and perform work on the Contract. The bidder further certifies that the bidder shall not discriminate on the basis of race, color, age, sex, sexual orientation, gender identity, or national origin in the performance of the Contract or in the award of any subcontract. Any agreement between a bidder and a DBE whereby the DBE promises not to provide quotations for performance of work to other bidders is prohibited.
4. As a bidder, good faith efforts were made to obtain DBE participation in the proposed contract at or above the goal for DBE participation established by VDOT. It has submitted as a part of its bid true, accurate, complete, and detailed documentation of the good faith efforts it performed to meet the Contract goal for DBE participation. The bidder, by signing and submitting its bid, certifies the DBE participation information submitted within the stated time thereafter is true, correct, and complete, and that the information provided includes the names of all DBE firms that will participate in the Contract, the specific line item(s) that each listed DBE firm will perform, and the creditable dollar amounts of the participation of each listed DBE. The specific line item must reference the VDOT line number and item number contained in the proposal.
5. The bidder further certifies, by signing its bid, it has committed to use each DBE firm listed for the specific work item shown to meet the Contract goal for DBE participation. Award of the Contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part

26.53 and the contract documents. By signing the bid, the bidder certifies on work that it proposes to sublet; it has made good faith efforts to seek out and consider DBEs as potential subcontractors. The bidder shall contact DBEs to solicit their interest, capability, and prices insufficient time to allow them to respond effectively, and shall retain on file proper documentation to substantiate its good faith efforts. Award of the Contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part 26.53 and the contract documents.

6. Once awarded the Contract, the Contractor shall make good faith efforts to utilize DBE firms to perform work designated to be performed by DBEs at or above the amount or percentage of the dollar value specified in the bidding documents. Further, the Contractor understands it shall not unilaterally terminate, substitute for, or replace any DBE firm that was designated in the executed contract in whole or in part with another DBE, any non-DBE firm, or with the Contractor's own forces or those of an affiliate of the Contractor without the prior written consent of VDOT as set out within the requirements of this provision.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

7. Once awarded the contract, the Contractor shall designate and make known to the Department a liaison officer who is assigned the responsibility of administering and promoting an active and inclusive DBE program as required by 49 CFR Part 26 for DBEs. The designation and identity of this officer need be submitted only once by the Contractor during any twelve (12) month period at the preconstruction conference for the first contract the Contractor has been awarded during that reporting period. The Department will post such information for informational and administrative purposes at VDOT's Internet Civil Rights Division website.
8. Once awarded the Contract, the Contractor shall comply fully with all regulatory and contractual requirements of the US DOT DBE Program, and that each DBE firm participating in the Contract shall fully perform the designated work items with the DBE's own forces and equipment under the DBE's direct supervision, control, and management. Where a contract exists and where the Contractor, DBE firm, or any other firm retained by the Contractor has failed to comply with federal or VDOT DBE Program regulations and/or their requirements on that contract, VDOT has the authority and discretion to determine the extent to which the DBE contract regulations and/or requirements have not been met, and will assess against the Contractor any remedies available at law or provided in the Contract in the event of such a contract breach.
9. In the event a bond surety assumes the completion of work, if for any reason VDOT has terminated the prime Contractor, the surety shall be obligated to meet the same DBE contract terms and requirements as were required of the original prime Contractor in accordance with the requirements of this specification.

(c) Disqualification of Bidder

Bidders may be disqualified from bidding for failure to comply with the requirements of this Special Provision, the Contract specifications, and VDOT Road and Bridge Specifications.

(d) Bidding Procedures

The following bidding procedures shall apply to the Contract for DBE Program compliance purposes:

1. **Contract Goal, Good Faith Efforts Specified:** All bidders evidencing the attainment of DBE goal commitment equal to or greater than the required DBE goal established for the project must submit completed Form C-111, Minimum DBE Requirements, and Form C-48, Subcontractor/Supplier Solicitation and Utilization, as a part of the bid documents.

Form C-111 may be submitted electronically or may be faxed to the Department, but in no case shall the bidder's Form C-111 be received later than 10:00 a.m. the next business



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

day after the time stated in the bid proposal for the receipt of bids. Form C-48 must be received within ten (10) business days after the bid opening.

If, at the time of submitting its bid, the bidder knowingly cannot meet or exceed the required DBE contract goal, it shall submit Form C-111 exhibiting the DBE participation it commits to attain as a part of its bid documents. The bidder shall then submit Form C-49, DBE Good Faith Efforts Documentation, within two (2) business days after the bid opening.

The lowest responsive and responsible bidder must submit its properly executed Form C-112, Certification of Binding Agreement, within three (3) business days after the bids are received. DBEs bidding as prime contractors are not required to submit Form C-112 unless they are utilizing other DBEs as subcontractors.

If, after review of the apparent lowest bid, VDOT determines the DBE requirements have not been met, the apparent lowest successful bidder must submit Form C-49, DBE Good Faith Efforts Documentation, which must be received by the Contract Engineer within two (2) business days after official notification of such failure to meet the aforementioned DBE requirements.

Forms C-48, C-49, C-111, and C-112 can be obtained from the VDOT website at: <http://vdotforms.vdot.virginia.gov/>

Instructions for submitting Form C-111 can be obtained from the VDOT website at: http://www.virginiadot.org/business/resources/const/Exp_DBE_Commitments.pdf

2. **Bid Rejection:** The failure of a bidder to submit the required documentation within the timeframes specified in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision may be cause for rejection of that bidder's bid.

If the lowest bidder is rejected for failure to submit the required documentation in the specified time frames, the Department may award the work to the next lowest bidder, or re-advertise the proposed work at a later date or proceed otherwise as determined by the Commonwealth.

3. **Good Faith Efforts Described:** In order to award a contract to a bidder that has failed to meet DBE contract goal requirements, VDOT will determine if the bidder's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the DBE requirements. Efforts to obtain DBE participation are not good faith efforts if they could not reasonably be expected to produce a level of DBE participation sufficient to meet the DBE Program and contract goal requirements.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

Good faith efforts may be determined through use of the following list of the types of actions the bidder may make to obtain DBE participation. This is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts of similar intent may be relevant in appropriate cases:

- a. Soliciting through reasonable and available means, such as but not limited to, attendance at pre-bid meetings, advertising, and written notices to DBEs who have the capability to perform the work of the Contract. Examples include: advertising in at least one daily/weekly/monthly newspaper of general circulation, as applicable; phone contact with a completely documented telephone log, including the date and time called, contact person, or voice mail status; and internet contacts with supporting documentation, including dates advertised. The bidder shall solicit this interest no less than five (5) business days before the bids are due so that the solicited DBEs have enough time to reasonably respond to the solicitation. The bidder shall determine with certainty if the DBEs are interested by taking reasonable steps to follow up initial solicitations as evidenced by documenting such efforts as requested on Form C-49, DBE Good Faith Efforts Documentation.
- b. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Contractor might otherwise prefer to completely perform all portions of this work in its entirety or use its own forces;
- c. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the Contract in a timely manner, which will assist the DBEs in responding to a solicitation;
- d. Negotiating for participation in good faith with interested DBEs;
 - (1) Evidence of such negotiation shall include the names, addresses, and telephone numbers of DBEs that were considered; dates DBEs were contacted; a description of the information provided regarding the plans, specifications, and requirements of the Contract for the work selected for subcontracting; and, if insufficient DBE participation seems likely, evidence as to why additional agreements could not be reached for DBEs to perform the work;
 - (2) A bidder using good business judgment should consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and should take a firm's price, qualifications, and capabilities, as well as contract goals, into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not sufficient reason for a bidder's failure to meet the Contract goal for DBE participation, as long as such costs are reasonable and



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

comparable to costs customarily appropriate to the type of work under consideration. Also, the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make diligent good faith efforts. Bidders are not, however, required to accept higher quotes from DBEs if the price difference can be shown by the bidder to be excessive, unreasonable, or greater than would normally be expected by industry standards;

- e. A bidder cannot reject a DBE as being unqualified without sound reasons based on a thorough investigation of the DBE's capabilities. The DBE's standing within its industry, membership in specific groups, organizations, associations, and political or social affiliations, and union vs. non-union employee status are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal for DBE participation;
- f. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by VDOT or by the bidder/Contractor;
- g. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services subject to the restrictions contained in these provisions;
- h. Effectively using the services of appropriate personnel from VDOT and from DMBE; available minority/women community or minority organizations; contractors' groups; local, state, and Federal minority/ women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and utilization of qualified DBEs.

(e) Documentation and Administrative Reconsideration of Good Faith Efforts

During Bidding: As described in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision, the bidder must provide Form C-49, DBE Good Faith Efforts Documentation, of its efforts made to meet the DBE contract goal as proposed by VDOT within the time frame specified in this provision. The means of transmittal and the risk for timely receipt of this information shall be the responsibility of the bidder. The bidder shall attach additional pages to the certification, if necessary, in order to fully detail specific good faith efforts made to obtain the DBE firms participation in the proposed contract work.

However, regardless of the DBE contract goal participation level proposed by the bidder or the extent of good faith efforts shown, all bidders shall timely and separately file their completed and executed forms C-111, C-112, C-48, and C-49, as aforementioned, or face potential bid rejection.

If a bidder does not submit its completed and executed forms C-111, or C-112, when required by this Special Provision, the bidder's bid will be considered non-responsive and may be rejected.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

Where the Department upon initial review of the bid results determines the apparent low bidder has failed or appears to have failed to meet the requirements of the Contract Goal, Good Faith Efforts Specified section of this Special Provision and has failed to adequately document that it made a good faith effort to achieve sufficient DBE participation as specified in the bid proposal, that firm upon notification of the Department's initial determination will be offered the opportunity for administrative reconsideration before VDOT rejects that bid as non-responsive. The bidder shall address such request for reconsideration in writing to the Contract Engineer within five (5) business days of receipt of notification by the Department and shall be given the opportunity to discuss the issue and present its evidence in person to the Administrative Reconsideration Panel. The Administrative Reconsideration Panel will be made up of VDOT Division Administrators or their designees, none of who took part in the initial determination that the bidder failed to make the goal or make adequate good faith efforts to do so. After reconsideration, VDOT shall notify the bidder in writing of its decision and explain the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

If, after reconsideration, the Department determines the bidder has failed to meet the requirements of the Contract goal and has failed to make adequate good faith efforts to achieve the level of DBE participation as specified in the bid proposal, the bidder's bid will be rejected.

If sufficient documented evidence is presented to demonstrate that the apparent low bidder made reasonable good faith efforts, the Department will award the Contract and reduce the DBE requirement to the actual commitment identified by the lowest successful bidder at the time of its bid. The Contractor is still encouraged to seek additional DBE participation during the life of the Contract.

However, such action will not relieve the Contractor of its responsibility for complying with the reduced DBE requirement during the life of the Contract or any administrative sanctions as may be appropriate.

During the Contract: If a DBE, through no fault of the Contractor, is unable or unwilling to fulfill his agreement with the Contractor, the Contractor shall immediately notify the Department and provide all relevant facts. If a Contractor relieves a DBE subcontractor of the responsibility to perform work under their subcontract, the Contractor is encouraged to take the appropriate steps to obtain a DBE to perform an equal dollar value of the remaining subcontracted work. In such instances, the Contractor is expected to seek DBE participation towards meeting the goal during the performance of the Contract.

If the Contractor fails to conform to the schedule of DBE participation as shown on the progress schedule, or at any point at which it is clearly evident that the remaining dollar value of allowable credit for performing work is insufficient to obtain the scheduled



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

participation, and the Contractor has not taken the preceding actions, the Contractor and any aforementioned affiliates may be subject to disallowance of DBE credit until such time as conformance with the schedule of DBE participation is achieved.

Project Completion: If the Contractor fails upon completion of the project to meet the required participation, the Contractor and any prime contractual affiliates, as in the case of a joint venture, may be enjoined from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects for a period of 90 days.

Prior to enjoinder from bidding or denial to participate as a subcontractor for failure to comply with participation requirements, as provided hereinbefore, the Contractor may submit documentation to the State Construction Engineer to substantiate that failure was due solely to quantitative underrun(s), elimination of items subcontracted to DBEs, or to circumstances beyond their control, and that all feasible means have been used to obtain the required participation. The State Construction Engineer upon verification of such documentation shall make a determination whether or not the Contractor has met the requirements of the Contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Contractor may request an appearance before the Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The decision of the Administrative Reconsideration Panel shall be administratively final. If the decision is made to enjoin the Contractor from bidding on other VDOT work as described herein, the enjoinder period will begin upon the Contractor's failure to request a hearing within the designated time frame or upon the Administrative Reconsideration Panel's decision to enjoin, as applicable.

(f) DBE Participation for Contract Goal Credit

1. Cost-plus subcontracts will not be considered to be in accordance with normal industry practice and will not normally be allowed for credit.
2. The applicable percentage of the total dollar value of the Contract or Subcontract awarded to the DBE will be counted toward meeting the Contract goal for DBE participation in accordance with the **DBE Program-Related Certifications Made by Bidders\Contractors** section of this Special Provision for the value of the work, goods, or services that are actually performed or provided by the DBE firm itself or subcontracted by the DBE to other DBE firms.
3. When a DBE performs work as a participant in a joint venture with a non-DBE firm, the Contractor may count toward the DBE goal only that portion of the total dollar value of the Contract equal to the distinctly defined portion of the Contract work that the DBE has performed with the DBE's own forces or in accordance with the provisions of this Section.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

The Department shall be contacted in advance regarding any joint venture involving both a DBE firm and a non-DBE firm to coordinate Department review and approval of the joint venture's organizational structure and proposed operation where the Contractor seeks to claim the DBE's credit toward the DBE contract goal.

4. When a DBE subcontracts part of the work of the Contract to another firm, the value of that subcontracted work may be counted toward the DBE contract goal only if the DBE's subcontractor at a lower tier is a certified DBE. Work that a DBE subcontracts to either a non-DBE firm or to a non-certified DBE firm will not count toward the DBE contract goal. The cost of supplies and equipment a DBE subcontractor purchases or leases from the prime Contractor or the prime's affiliated firms will not count toward the Contract goal for DBE participation.
5. The Contractor may count expenditures to a DBE subcontractor toward the DBE contract goal only if the DBE performs a Commercially Useful Function (CUF) on that contract.
6. A Contractor may not count the participation of a DBE subcontractor toward the Contractor's final compliance with the DBE contract goal obligations until the amount being counted has actually been paid to the DBE. A Contractor may count sixty (60) percent of its expenditures actually paid for materials and supplies obtained from a DBE certified as a regular dealer, and one hundred (100) percent of such expenditures actually paid for materials and supplies obtained from a certified DBE manufacturer.
 - a. For the purposes of this Special Provision, a regular dealer is defined as a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment required and used under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the DBE firm shall be an established business that regularly engages, as its principal business and under its own name, in the purchase and sale or lease of the products or equipment in question. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions will not be considered regular dealers.
 - b. A DBE firm may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business where it keeps such items in stock if the DBE both owns and operates distribution equipment for the products it sells and provides for the Contract work. Any supplementation of a regular dealer's own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis to be eligible for credit to meet the DBE contract goal.
 - c. If a DBE regular dealer is used for DBE contract goal credit, no additional credit will be given for hauling or delivery to the project site goods or materials sold by that DBE regular dealer.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

Those delivery costs shall be deemed included in the price charged for the goods or materials by the DBE regular dealer, who shall be responsible for their distribution.

- d. For the purposes of this Special Provision, a manufacturer will be defined as a firm that operates or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the project specifications. A manufacturer shall include firms that produce finished goods or products from raw or unfinished material, or purchase and substantially alter goods and materials to make them suitable for construction use before reselling them.
- e. A Contractor may count toward the DBE contract goal the following expenditures to DBE firms that are not regular dealers or manufacturers for DBE program purposes:
 - (1) The entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of the federal-aid contract, if the fee is reasonable and not excessive or greater than would normally be expected by industry standards for the same or similar services.
 - (2) The entire amount of that portion of the construction contract that is performed by the DBE's own forces and equipment under the DBE's supervision. This includes the cost of supplies and materials ordered and paid for by the DBE for contract work, including supplies purchased or equipment leased by the DBE, except supplies and equipment a DBE subcontractor purchases or leases from the prime Contractor or its affiliates.
- f. A Contractor may count toward the DBE contract goal one hundred (100) percent of the fees paid to a DBE trucker or hauler for the delivery of material and supplies required on the project job site, but not for the cost of those materials or supplies themselves, provided that the trucking or hauling fee is determined by VDOT to be reasonable, as compared with fees customarily charged by non-DBE firms for similar services. A Contractor shall not count costs for the removal or relocation of excess material from or on the job site when the DBE trucking company is not the manufacturer of or a regular dealer in those materials and supplies. The DBE trucking firm shall also perform a Commercially Useful Function (CUF) on the project and not operate merely as a pass through for the purposes of gaining credit toward the DBE contract goal. Prior to submitting a bid, the Contractor shall determine, or contact the VDOT Civil Rights Division or its district Offices for assistance in determining, whether a DBE trucking firm will meet the criteria for performing a CUF on the project. See section on **Miscellaneous DBE Program Requirements; Factors used to Determine if a DBE Trucking Firm is Performing a CUF.**



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

- g. The Contractor will receive DBE contract goal credit for the fees or commissions charged by and paid to a DBE broker who arranges or expedites sales, leases, or other project work or service arrangements provided that those fees are determined by VDOT to be reasonable and not excessive as compared with fees customarily charged by non-DBE firms for similar services. For the purposes of this Special Provision, a broker is defined as a person or firm that regularly engages in arranging for delivery of material, supplies, and equipment, or regularly arranges for the providing of project services as a course of routine business but does not own or operate the delivery equipment necessary to transport materials, supplies, or equipment to or from a job site.

(g) Performing a Commercially Useful Function (CUF)

No credit toward the DBE contract goal will be allowed for contract payments or expenditures to a DBE firm if that DBE firm does not perform a CUF on that contract. A DBE performs a CUF when the DBE is solely responsible for execution of a distinct element of the Contract work and the DBE actually performs, manages, and supervises the work involved with the firm's own forces or in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. To perform a CUF the DBE alone shall be responsible and bear the risk for the material and supplies used on the Contract, selecting a supplier or dealer from those available, negotiating price, determining quality and quantity, ordering the material and supplies, installing those materials with the DBE's own forces and equipment, and paying for those materials and supplies. The amount the DBE firm is to be paid under the Contract shall be commensurate with the work the DBE actually performs and the DBE credit claimed for the DBE's performance.

Monitoring CUF Performance: It shall be the Contractor's responsibility to ensure that all DBE firms selected for subcontract work on the Contract, for which he seeks to claim credit toward the Contract goal, perform a CUF. Further, the Contractor is responsible for and shall ensure that each DBE firm fully performs the DBE's designated tasks with the DBE's own forces and equipment under the DBE's own direct supervision and management or in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. For the purposes of this provision the DBE's equipment will mean either equipment directly owned by the DBE as evidenced by title, bill of sale or other such documentation, or leased by the DBE, and over which the DBE has control as evidenced by the leasing agreement from a firm not owned in whole or part by the prime Contractor or an affiliate of the Contractor under this contract.

VDOT will monitor the Contractor's DBE involvement during the performance of the Contract. However, VDOT is under no obligation to warn the Contractor that a DBE's participation will not count toward the goal.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

DBEs Must Perform a Useful and Necessary Role in Contract Completion: A DBE does not perform a commercially useful function if the DBE's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

DBEs Must Perform The Contract Work With Their Own Workforces: If a DBE does not perform and exercise responsibility for at least thirty (30) percent of the total cost of the DBE's contract with the DBE's own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involve, VDOT will presume that the DBE is not performing a CUF and such participation will not be counted toward the Contract goal.

VDOT Makes Final Determination On Whether a CUF Is Performed: VDOT has the final authority to determine whether a DBE firm has performed a CUF on a federal-aid contract. To determine whether a DBE is performing or has performed a CUF, VDOT will evaluate the amount of work subcontracted by that DBE firm or performed by other firms and the extent of the involvement of other firms' forces and equipment. Any DBE work performed by the Contractor or by employees or equipment of the Contractor shall be subject to disallowance under the DBE Program, unless the independent validity and need for such an arrangement and work is demonstrated.

(h) Verification of DBE Participation and Imposed Damages

Within fourteen days after contract execution, the Contractor shall submit to the Responsible Engineer, with a copy to the District Civil Rights Office (DCRO), a fully executed subcontract agreement for each DBE used to claim credit in accordance with the requirements stated on Form C-112. The subcontract agreement shall be executed by both parties stating the work to be performed, the details or specifics concerning such work, and the price which will be paid to the DBE subcontractor. Because of the commercial damage that the Contractor and its DBE subcontractor could suffer if their subcontract pricing, terms, and conditions were known to competitors, the Department staff will treat subcontract agreements as proprietary Contractor trade secrets with regard to Freedom of Information Act requests. In lieu of subcontract agreements, purchase orders may be submitted for haulers, suppliers, and manufacturers. These too, will be treated confidentially and protected. Such purchase orders must contain, as a minimum, the following information: authorized signatures of both parties; description of the scope of work to include contract item numbers, quantities, and prices; and required federal contract provisions.

The Contractor shall also furnish, and shall require each subcontractor to furnish, information relative to all DBE involvement on the project for each quarter during the life of the Contract in which participation occurs and verification is available. The information shall be indicated



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

on Form C-63, DBE and SWAM Payment Compliance Report. The department reserves the right to request proof of payment via copies of cancelled checks with appropriate identifying notations. Failure to provide Form C-63 to the District Civil Rights Office (DCRO) within five (5) business days after the reporting period may result in delay of approval of the Contractor's monthly progress estimate for payment. The names and certification numbers of DBE firms provided by the Contractor on the various forms indicated in this Special Provision shall be exactly as shown on the DMBE's or MWAA's latest list of certified DBEs. Signatures on all forms indicated herein shall be those of authorized representatives of the Contractor as shown on the Prequalification Application, Form C- 32 or the Prequalification/Certification Renewal Application, Form C-32A, or authorized by letter from the Contractor. If DBE firms are used which have not been previously documented with the Contractor's bid and for which the Contractor now desires to claim credit toward the project goal, the Contractor shall be responsible for submitting necessary documentation in accordance with the procedures stipulated in this Special Provision to cover such work prior to the DBE beginning work.

Form C-63 can be obtained from the VDOT website at: <http://vdotforms.vdot.virginia.gov/>

The Contractor shall submit to the Responsible Engineer its progress schedule with a copy to the DCRO, as required by Section 108.03 of the Specifications or other such specific contract scheduling specification that may include contractual milestones, i.e., monthly or VDOT requested updates. The Contractor shall include a narrative of applicable DBE activities relative to work activities of the Contractor's progress schedule, including the approximate start times and durations of all DBE participation to be claimed for credit that shall result in full achievement of the DBE goal required in the Contract.

On contracts awarded on the basis of good faith efforts, narratives or other agreeable format of schedule information requirements and subsequent progress determination shall be based on the commitment information shown on the latest Form C-111 as compared with the appropriate Form C-63.

Prior to beginning any major component or quarter of the work, as applicable, in which DBE work is to be performed, the Contractor shall furnish a revised Form C-111 showing the name(s) and certification number(s) of any current DBEs not previously submitted who will perform the work during that major component or quarter for which the Contractor seeks to claim credit toward the Contract DBE goal. The Contractor shall obtain the prior approval of the Department for any assistance it may provide to the DBE beyond its existing resources in executing its commitment to the work in accordance with the requirements listed in the **Good Faith Efforts Described** section of this Special Provision. If the Contractor is aware of any assistance beyond a DBE's existing resources that the Contractor, or another subcontractor, may be contemplating or may deem necessary and that have not been previously approved, the Contractor shall submit a new or revised narrative statement for VDOT's approval prior to assistance being rendered.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

If the Contractor fails to comply with correctly completing and submitting any of the required documentation requested by this provision within the specified time frames, the Department will withhold payment of the monthly progress estimate until such time as the required submissions are received VDOT. Where such failures to provide required submittals or documentation are repeated the Department will move to enjoin the Contractor and any prime contractual affiliates, as in the case of a joint venture, from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects until such submissions are received.

(i) Documentation Required for Semi-final Payment

On those projects nearing completion, the Contractor must submit Form C-63 marked "Semi-Final" within twenty (20) days after the submission of the last regular monthly progress estimate to the DCRO. The form must include each DBE used on the Contract work and the work performed by each DBE. The form shall include the actual dollar amount paid to each DBE for the accepted creditable work on the Contract. The form shall be certified under penalty of perjury, or other applicable law, to be accurate and complete. VDOT will use this certification and other information available to determine applicable DBE credit allowed to date by VDOT and the extent to which the DBEs were fully paid for that work. The Contractor shall acknowledge by the act of filing the form that the information is supplied to obtain payment regarding a federal participation contract. A letter of certification, signed by both the prime Contractor and appropriate DBEs, will accompany the form, indicating the amount, including any retainage, if present, that remains to be paid to the DBE(s).

(j) Documentation Required for Final Payment

On those projects that are complete, the Contractor shall submit a final Form C-63 marked "Final" to the DCRO, within thirty (30) days of the final estimate. The form must include each DBE used on the Contract and the work performed by each DBE. The form shall include the actual dollar amount paid to each DBE for the creditable work on the Contract. VDOT will use this form and other information available to determine if the Contractor and DBEs have satisfied the DBE contract goal percentage specified in the Contract and the extent to which credit was allowed. The Contractor shall acknowledge by the act of signing and filing the form that the information is supplied to obtain payment regarding a federal participation contract.

(k) Prompt Payment Requirements

The Contractor shall make prompt and full payment to the subcontractor(s) of any retainage held by the prime Contractor after the subcontractor's work is satisfactorily completed.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

For purposes of this Special Provision, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted as required by the contract documents by VDOT. When VDOT has made partial acceptance of a portion of the prime contract, the Department will consider the work of any subcontractor covered by that partial acceptance to be satisfactorily completed. Payment will be made in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

Upon VDOT's payment of the subcontractor's portion of the work as shown on the monthly progress estimate and the receipt of payment by the Contractor for such work, the Contractor shall make compensation in full to the subcontractor for that portion of the work satisfactorily completed and accepted by the Department. For the purposes of this Special Provision, payment of the subcontractor's portion of the work shall mean the Contractor has issued payment in full, less agreed upon retainage, if any, to the subcontractor for that portion of the subcontractor's work that VDOT paid to the Contractor on the monthly progress estimate.

The Contractor shall make payment of the subcontractor's portion of the work within seven (7) days of the receipt of payment from VDOT in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

If the Contractor fails to make payment for the subcontractor's portion of the work within the time frame specified herein, the subcontractor shall contact the Responsible Engineer and the Contractor's bonding company in writing. The bonding company and VDOT will investigate the cause for non-payment and, barring mitigating circumstances that would make the subcontractor ineligible for payment, ensure payment in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

By bidding on this contract, and by accepting and executing this contract, the Contractor agrees to assume these contractual obligations, and to bind the Contractor's subcontractors contractually to those prompt payment requirements.

Nothing contained herein shall preclude the Contractor from withholding payment to the subcontractor in accordance with the terms of the subcontract in order to protect the Contractor from loss or cost of damage due to a breach of agreement by the subcontractor.

(I) Miscellaneous DBE Program Requirements

1. **Loss of DBE Eligibility:** When a DBE firm has been removed from eligibility as a certified DBE firm, the following actions will be taken:



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

- a. When a Bidder/Contractor has made a commitment to use a DBE firm that is not currently certified, thereby making the Contractor ineligible to receive DBE participation credit for work performed, and a subcontract has not been executed, the ineligible DBE firm does not count toward either the Contract goal or overall goal. The Contractor shall meet the Contract goal with a DBE firm that is eligible to receive DBE credit for work performed, or must demonstrate to the Contract Engineer that it has made good faith efforts to do so.
 - b. When a Bidder/Contractor has executed a subcontract with a certified DBE firm prior to official notification of the DBE firm's loss of eligibility, the Contractor may continue to use the firm on the Contract and shall continue to receive DBE credit toward its DBE goal for the subcontractor's work.
 - c. When VDOT has executed a prime contract with a DBE firm that is certified at the time of contract execution but that is later ruled ineligible, the portion of the ineligible firm's performance on the Contract before VDOT has issued the notice of its ineligibility shall count toward the Contract goal.
2. **Termination of DBE:** If a certified DBE subcontractor is terminated, or fails, refuses, or is unable to complete the work on the Contract for any reason, the Contractor must promptly request approval to substitute or replace that firm in accordance with this section of this Special Provision.

The Contractor, as aforementioned **DBE Program-Related Certifications Made by Bidders/Contractors**, shall notify VDOT in writing before terminating and/or replacing the DBE that was committed as a condition of contract award or that is otherwise being used or represented to fulfill DBE contract obligations during the Contract performance period. Written consent from the Department for terminating the performance of any DBE shall be granted only when the Contractor can demonstrate that the DBE is unable, unwilling, or ineligible to perform its obligations for which the Contractor sought credit toward the Contract DBE goal. Such written consent by the Department to terminate any DBE shall concurrently constitute written consent to substitute or replace the terminated DBE with another DBE. Consent to terminate a DBE shall not be based on the Contractor's ability to negotiate a more advantageous contract with another subcontractor whether that subcontractor is, or is not, a certified DBE.

- a. All Contractor requests to terminate, substitute, or replace a certified DBE shall be in writing, and shall include the following information:
 - (1) The date the Contractor determined the DBE to be unwilling, unable, or ineligible to perform.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

- (2) The projected date that the Contractor shall require a substitution or replacement DBE to commence work if consent is granted to the request.
 - (3) A brief statement of facts describing and citing specific actions or inaction by the DBE giving rise to the Contractor's assertion that the DBE is unwilling, unable, or ineligible to perform;
 - (4) A brief statement of the affected DBE's capacity and ability to perform the work as determined by the Contractor;
 - (5) A brief statement of facts regarding actions taken by the Contractor which are believed to constitute good faith efforts toward enabling the DBE to perform;
 - (6) The current percentage of work completed on each bid item by the DBE;
 - (7) The total dollar amount currently paid per bid item for work performed by the DBE;
 - (8) The total dollar amount per bid item remaining to be paid to the DBE for work completed, but for which the DBE has not received payment, and with which the Contractor has no dispute;
 - (9) The total dollar amount per bid item remaining to be paid to the DBE for work completed, but for which the DBE has not received payment, and over which the Contractor and/or the DBE have a dispute.
- b. Contractor's Written Notice to DBE of Pending Request to Terminate and Substitute with another DBE.

The Contractor shall send a copy of the "request to terminate and substitute" letter to the affected committed DBE firm, in conjunction with submitting the request to the DCRO. The affected DBE firm may submit a response letter to the Department within two (2) business days of receiving the notice to terminate from the Contractor. The affected DBE firm shall explain its position concerning performance on the committed work. The Department will consider both the Contractor's request and the DBE's response and explanation before approving the Contractor's termination and substitution request, or determining if any action should be taken against the Contractor.

If, after making its best efforts to deliver a copy of the "request to terminate and substitute" letter, the Contractor is unsuccessful in notifying the affected DBE firm, the Department will verify that the affected, committed DBE firm is unable or unwilling to continue the Contract. The Department will immediately approve the Contractor's request for a substitution.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

c. Proposed Substitution of Another Certified DBE

Upon termination of a DBE, the Contractor shall use reasonable good faith efforts to replace the terminated DBE. The termination of such DBE shall not relieve the Contractor of its obligations pursuant to this section, and the unpaid portion of the terminated DBE's contract will not be counted toward the Contract goal.

When a DBE substitution is necessary, the Contractor shall submit an amended Form C- 111 with the name of another DBE firm, the proposed work to be performed by that firm, and the dollar amount of the work to replace the unfulfilled portion of the work of the originally committed DBE firm. The Contractor shall furnish all pertinent information including the Contract I.D. number, project number, bid item, item description, bid unit and bid quantity, unit price, and total price. In addition, the Contractor shall submit documentation for the requested substitute DBE as described in this section of this Special Provision.

Should the Contractor be unable to commit the remaining required dollar value to the substitute DBE, the Contractor shall provide written evidence of good faith efforts made to obtain the substitute value requirement. The Department will review the quality, thoroughness, and intensity of those efforts. Efforts that are viewed by VDOT as merely superficial or pro-forma will not be considered good faith efforts to meet the Contract goal for DBE participation. The Contractor must document the steps taken that demonstrated its good faith efforts to obtain participation as set forth in the **Good Faith Efforts Described** section of this Special Provision.

3. Factors Used to determine if a DBE Trucking Firm is performing a CUF:

The following factors will be used to determine whether a DBE trucking company is performing a CUF:

- a. To perform a CUF the DBE trucking firm shall be completely responsible for the management and supervision of the entire trucking operation for which the DBE is responsible by subcontract on a particular contract. There shall not be a contrived arrangement, including, but not limited to, any arrangement that would not customarily and legally exist under regular construction project subcontracting practices for the purpose of meeting the DBE contract goal;
- b. The DBE must own and operate at least one fully licensed, insured, and operational truck used in the performance of the Contract work. This does not include a supervisor's pickup truck or a similar vehicle that is not suitable for and customarily used in hauling the necessary materials or supplies;



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

- c. The DBE receives full contract goal credit for the total reasonable amount the DBE is paid for the transportation services provided on the Contract using trucks the DBE owns, insures, and operates using drivers that the DBE employs and manages;
- d. The DBE may lease trucks from another certified DBE firm, including from an owner-operator who is certified as a DBE. The DBE firm that leases trucks from another DBE will receive credit for the total fair market value actually paid for transportation services the lessee DBE firm provides on the Contract;
- e. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of the transportation services provided by non-DBE lessees, *not to exceed the value of transportation services provided by DBE-owned trucks on the Contract*. For additional participation by non-DBE lessees, the DBE will only receive credit for the fee or commission it receives as a result of the lease arrangement.

EXAMPLE

DBE Firm X uses two (2) of its own trucks on a contract. The firm leases two (2) trucks from DBE Firm Y and six (6) trucks from non-DBE Firm Z.

Firm X		Value of Trans. Serv. (For Illustrative Purposes Only)
Truck 1	Owned by DBE	\$100 per day
Truck 2	Owned by DBE	\$100 per day
Firm Y		
Truck 1	Leased from DBE	\$110 per day
Truck 2	Leased from DBE	\$110 per day
Firm Z		
Truck 1	Leased from Non DBE	\$125 per day
Truck 2	Leased from Non DBE	\$125 per day
Truck 3	Leased from Non DBE	\$125 per day
Truck 4	Leased from Non DBE	\$125 per day
Truck 5	Leased from Non DBE*	\$125 per day
Truck 6	Leased from Non DBE*	\$125 per day



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

DBE credit would be awarded for the total transportation services provided by DBE Firm X and DBE Firm Y, and may also be awarded for the total value of transportation services by four (4) of the six (6) trucks provided by non-DBE Firm Z (not to exceed the value of transportation services provided by DBE- owned trucks).

Credit = 8 Trucks

Total Value of Transportation Services = \$820

In all, full DBE credit would be allowed for the participation of eight (8) trucks (twice the number of DBE trucks owned and leased) and the dollar value attributable to the Value of Transportation Services provided by the 8 trucks.

* With respect to the other two trucks provided by non-DBE Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks that DBE Firm X receives as a result of the lease with non-DBE Firm Z.

- f. For purposes of this section, the lease must indicate that the DBE firm leasing the truck has exclusive use of and control over the truck. This will not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, provided the lease gives the DBE absolute priority for and control over the use of the leased truck. Leased trucks must display the name and identification number of the DBE firm that has leased the truck at all times during the life of the lease.
4. **Data Collection:** In accordance with 49CFR Section 26.11, all firms bidding on prime contracts and bidding or quoting subcontracts on federal-aid projects shall provide the following information to the Contract Engineer annually.
- Firm name
 - Firm address
 - Firm's status as a DBE or non-DBE
 - The age of the firm and
 - The annual gross receipts of the firm

The means of transmittal and the risk for timely receipt of this information shall be the responsibility of the bidder. However, the above information can be submitted by means of the Annual Gross Receipts Survey as required in the Prequalification/ Certification application.

All bidders, including DBE prime Contractor bidders, shall complete and submit to the Contract Engineer the Subcontractor/Supplier Solicitation and Utilization Form C-48 for each bid submitted; to be received within ten (10) business days after the



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

bid opening. Failure of bidders to submit this form in the time frame specified may be cause for disqualification of the bidder and rejection of their bid in accordance with the requirements of this Special Provision, the Contract specifications, and VDOT Road and Bridge specifications.

Suspect Evidence of Criminal Behavior

Failure of a bidder, Contractor, or subcontractor to comply with the Virginia Department of Transportation Road and Bridge Specifications and these Special Provisions wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted, prosecution.

Suspected DBE Fraud

In appropriate cases, VDOT will bring to the attention of the U. S. Department of Transportation (US DOT) any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that US DOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the US DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules provided in 49CFR Part 31.

Summary of Remedies for Non-Compliance with DBE Program Requirements

Failure of any bidder\Contractor to comply with the requirements of this Special Provision for Section 107.15 of the Virginia Road and Bridge Specifications, which is deemed to be a condition of bidding, or where a contract exists, is deemed to constitute a breach of contract shall be remedied in accordance with the following:

1. Disadvantaged Business Enterprise (DBE) Program Requirements

The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award, administration, and performance of this contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which will result in the termination of this contract or other such remedy, as VDOT deems appropriate.

All administrative remedies noted in this provision are automatic unless the Contractor exercises the right of appeal within the required timeframe(s) specified herein.

2. DBE Program-Related Certifications Made by Bidders\Contractors

Once awarded the contract, the Contractor shall comply fully with all regulatory and contractual requirements of the US DOT DBE Program, and that each certified DBE firm



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

participating in the Contract shall fully perform the designated work items with the DBE's own forces and equipment under the DBE's direct supervision, control, and management. Where a contract exists and where the Contractor, DBE firm, or any other firm retained by the Contractor has failed to comply with federal or VDOT DBE Program regulations and/or their requirements on that contract, VDOT has the authority and discretion to determine the extent to which the DBE contract requirements have not been met, and will assess against the Contractor any remedies available at law or provided in the Contract in the event of such a contract breach.

3. Disqualification of Bidder

Bidders may be disqualified from bidding for failure to comply with the requirements of this Special Provision, the Contract specifications, and VDOT Road and Bridge Specifications.

4. Bidding Procedures

The failure of a bidder to submit the required documentation within the timeframes specified in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision may be cause for rejection of that bidder's bid. If the lowest bidder is rejected for failure to submit required documentation in the specified time frames, the Department may either award the work to the next lowest bidder, or re-advertise and construct the work under contract or otherwise as determined by the Commonwealth. In order to award a contract to a bidder that has failed to meet DBE contract goal requirements, VDOT will determine if the bidder's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were to the extent a bidder actively and aggressively seeking to meet the requirements would make. Regardless of the DBE contract goal participation level proposed by the bidder or the extent of good faith efforts shown, all bidders shall timely and separately file their completed and executed Forms C-111, C-112, C-48, and Form C-49, as aforementioned, or face potential bid rejection. If a bidder does not submit its completed and executed C-111, or C-112, when required by this Special Provision, the bidder's bid will be considered non-responsive and may be rejected. If, after reconsideration, the Department determines the bidder has failed to meet the requirements of the Contract goal and has failed to make adequate good faith efforts to achieve the level of DBE participation as specified in the bid proposal, the bidder's bid will be rejected. If sufficient documented evidence is presented to demonstrate that the apparent low bidder made reasonable good faith efforts, the Department will award the Contract and reduce the DBE requirement to the actual commitment identified by the lowest successful bidder at the time of its bid. The Contractor is encouraged to seek additional participation during the life of the Contract.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

If the Contractor fails to conform to the schedule of DBE participation as shown on the progress schedule, or at any point at which it is clearly evident that the remaining dollar value of allowable credit for performing work is insufficient to obtain the scheduled participation, the Contractor and any aforementioned affiliates may be enjoined from bidding for 60 days or until such time as conformance with the schedule of DBE participation is achieved. In such instances, the Contractor is expected to seek DBE participation towards meeting the goal during the prosecution of the Contract.

If the Contractor fails upon completion of the project to meet the required participation, the Contractor and any prime contractual affiliates, as in the case of a joint venture, may be enjoined from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects for a period of 90 days.

Prior to enjoinder from bidding or denial to participate as a subcontractor for failure to comply with participation requirements, as provided hereinbefore, the Contractor may submit documentation to the State Construction Engineer to substantiate that failure was due solely to quantitative underrun(s) or elimination of items subcontracted to DBEs, and that all feasible means have been used to obtain the required participation. The State Construction Engineer upon verification of such documentation shall make a determination whether or not the Contractor has met the requirements of the Contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Contractor may request an appearance before the Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The decision of the Administrative Reconsideration Panel shall be administratively final. The enjoinder period will begin upon the Contractor's failure to request a hearing within the designated time frame or upon the Administrative Reconsideration Panel's decision to enjoin, as applicable.

5. Verification of DBE Participation and Imposed Damages

If the Contractor fails to comply with correctly completing and submitting any of the required documentation requested by this provision within the specified time frames, the Department will withhold payment of the monthly progress estimate until such time as the required submissions are received by VDOT. Where such failures to provide required submittals or documentation are repeated the Department will move to enjoin the Contractor and any prime contractual affiliates, as in the case of a joint venture, from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects until such submissions are received.



Appendix 12: Section 107.15 – Special Provisions and Use of DBEs

Suspect Evidence of Criminal Behavior

In addition to the remedies described heretofore in this provision VDOT also exercises its rights with respect to the following remedies:

- Failure of a bidder, Contractor, or subcontractor to comply with the Virginia Department of Transportation Road and Bridge Specifications and these Special Provisions wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted prosecution.
 - In appropriate cases, VDOT will bring to the attention of the U. S. Department of Transportation (US DOT) any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that US DOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the US DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules provided in 49CFR Part 31.



Appendix 13: Section 107.13 – Prevailing Wage Rates

SECTION 107 – LEGAL RESPONSIBILITIES of the Specifications is amended as follows:

Section 107.13 – Labor and Wages is amended as follows:

Section 107.13(a) Predetermined Minimum Wages is replaced with the following:

- (a) **Prevailing Wage Rates:** The provisions of federal and state laws requiring the payment of a prevailing minimum wage rate are incorporated in and expressly made a part of this Contract. The Contractor and the Contractor's subcontractors shall promptly comply with all such applicable provisions, as well as the following.
1. If the Contractor needs a job classification not listed in the wage determination to submit a bid or comply with this provision, the Contractor shall submit to the Department a completed Additional Classification and Wage Rate Request using Form C-51. If other or additional classifications are used, omission of classifications shall not be cause for additional compensation to the Contractor. The Contractor shall be responsible for determining local practices with regard to the application of the various labor classifications.
 2. Upon the award of the Contract, the Contractor shall certify, under oath, to the Commissioner of the Virginia Department of Labor and Industry (VDOLI) the pay scale for each craft or trade employed on the project to be used by the Contractor and any of the Contractor's subcontractors for work to be performed under the Contract. This certification shall, for each craft or trade employed on the project, specify the total hourly amount to be paid to employees, including wages and applicable fringe benefits, provide an itemization of the amount paid in wages and each applicable benefit, and list the names and addresses of any third party fund, plan or program to which benefit payments will be made on behalf of employees. The certification form available at: www.doli.virginia.gov/wp-content/uploads/2021/04/DOLI-Pay-Scale-Certification-for-Public-Works-Projects.pdf. The form may be emailed to prevailingwage@doli.virginia.gov, faxed to 804- 371-6524, or mailed to Virginia Department of Labor and Industry, 600 East Main St., Suite 207, Richmond, VA, 23219, Attn: Prevailing Wage.
 3. The Contractor and the Contractor's subcontractors performing work on this Contract shall post the general prevailing wage rate for each craft and classification involved in prominent and easily accessible places accessible to all employees at the site of the work or at any such places as are used by the Contractor or subcontractors to pay workers their wages. Within 10 days of such posting, the Contractor or subcontractors shall certify to the Commissioner of VDOLI their compliance with this requirement. The certification form available at: www.doli.virginia.gov/wp-content/uploads/2021/04/PW_Posting_Compliance_Form.pdf. The form may be emailed to prevailingwage@doli.virginia.gov, faxed to 804-371-6524, or mailed to Virginia Department of Labor and Industry, 600 East Main St., Suite 207, Richmond, VA, 23219, Attn: Prevailing Wage.



Appendix 13: Section 107.13 – Prevailing Wage Rates

4. The Contractor and the Contractor's subcontractors shall keep, maintain and preserve (i) records relating to the wages paid to and hours worked by each individual performing the work of any mechanic, laborer, or worker and (ii) a schedule of the occupation or work classification at which each individual performing the work of any mechanic, laborer, or worker on the public works project is employed during each work day and week. The employer shall preserve these records for a minimum of six years and make such records available to the Department of Labor and Industry within 10 days of a request and shall certify that records reflect the actual hours worked and the amount paid to its workers for whatever time period they request.
5. The Contractor shall insert this Special Provision into any subcontracts let to subcontractors for performance of services in connection with the Contract. Failure of a bidder, Contractor, or subcontractor to comply with the Virginia Department of Transportation Road and Bridge Specifications and these Special Provisions wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted prosecution. In appropriate cases, VDOT will bring to the attention of the U. S. Department of Transportation (US DOT) any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that US DOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the US DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules provided in 49CFR Part 31.



Appendix 14: Form C-48 PSC – Subconsultant Solicitation Form

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION SUBCONSULTANT SOLICITATION FORM

(Project Specific Consultant Contracts)

RFP NO. _____

The Offeror certifies this form accurately represents its solicitation of the firms listed below for inclusion in the proposal for this contract.

OFFEROR _____ SIGNATURE _____

TITLE _____

SUBCONSULTANT SOLICITATION AND UTILIZATION (ALL)

VENDOR NUMBER	NAME OF SUBCONSULTANT	PHONE NUMBER	DBE OR NON-DBE	UTILIZED (Y/N)

NOTE: ATTACH ADDITIONAL PAGES, IF NECESSARY.

OFFEROR MUST SIGN EACH ADDITIONAL SHEET TO CERTIFY ITS CONTENT AND COMPLETION OF FORM.



Appendix 15: Form C-49 PSC – DBE Good Faith Efforts Documentation

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION DBE GOOD FAITH EFFORTS DOCUMENTATION

(Project Specific Consultant Contracts)

CONTRACT I.D. NUMBER _____

PROJECT NUMBER _____

FHWA NUMBER _____

DISTRICT _____

DATE RFP SUBMITTED _____

OFFEROR'S NAME _____

SIGNATURE _____

TITLE _____

VENDOR NUMBER _____

DBE GOAL FROM RFP _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ SIGNATURE _____

TITLE _____

NAMES OF CERTIFIED DBEs AND THE DATES ON WHICH THEY WERE SOLICITED TO QUOTE ON THIS PROJECT INCLUDE THE ITEMS OF WORK OFFERED AND THE DATES AND METHODS USED FOR FOLLOWING UP INITIAL SOLICITATIONS TO DETERMINE WHETHER OR NOT DBEs WERE INTERESTED.

NAMES AND VENDOR NUMBERS OF DBEs SOLICITED	DATE OF INITIAL SOLICITATION	ITEM(S) OF WORK	FOLLOW-UP METHODS AND DATES

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY

ATTACH COPIES OF SOLICITATIONS, TELEPHONE RECORDS, FAX CONFIRMATIONS, ELECTRONIC INFORMATION, ETC.



Appendix 15: Form C-49 PSC – DBE Good Faith Efforts Documentation

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ SIGNATURE _____

TITLE _____

TELEPHONE LOG

DBE(s) CALLED	TELEPHONE NUMBER	DATE CALLED	TIME CALLED	CONTACT PERSON OR VOICE MAIL STATUS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY



Appendix 15: Form C-49 PSC – DBE Good Faith Efforts Documentation

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ SIGNATURE _____

TITLE _____

ITEM(S) OF WORK THAT THE OFFEROR MADE AVAILABLE TO DBE FIRMS

IDENTIFY THOSE ITEM(S) OF WORK THAT THE OFFEROR MADE AVAILABLE TO DBE FIRMS OR THOSE ITEM(S) THE OFFEROR IDENTIFIED AND DETERMINED TO SUBDIVIDE INTO ECONOMICALLY FEASIBLE UNITS TO FACILITATE DBE PARTICIPATION. FOR EACH ITEM LISTED, SHOW THE DOLLAR VALUE AND PERCENTAGE OF THE TOTAL CONTRACT AMOUNT. IT IS THE OFFEROR’S RESPONSIBILITY TO DEMONSTRATE THAT SUFFICIENT WORK TO MEET THE GOAL WAS MADE AVAILABLE TO DBE FIRMS.

ITEM(S) OF WORK MADE AVAILABLE	OFFEROR NORMALLY PERFORMS ITEM(S) (Y/N)	ITEM(S) BROKEN DOWN TO FACILITATE PARTICIPATION (Y/N)	AMOUNT IN DOLLARS	PERCENTAGE OF CONTRACT

NOTE: INFORMATION REQUIRED FOR THIS SECTION CONTINUED ON SHEET 5 ATTACH ADDITIONAL PAGES IF NECESSARY



Appendix 15: Form C-49 PSC – DBE Good Faith Efforts Documentation

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ SIGNATURE _____

TITLE _____

ADDITIONAL INFORMATION REGARDING ITEM(S) OF WORK THAT THE OFFEROR MADE AVAILABLE TO DBE FIRMS

(Continued From Sheet 4)

ITEM(S) OF WORK MADE AVAILABLE, NAMES OF SELECTED FIRMS AND DBE STATUS, DBEs THAT PROVIDED QUOTES, PRICE QUOTE FOR EACH FIRM, AND THE PRICE DIFFERENCE FOR EACH DBE IF THE SELECTED FIRM IS NOT A DBE.

ITEM(S) OF WORK MADE AVAILABLE (CONT.)	NAME OF SELECTED FIRM AND VENDOR NUMBER	DBE OR NON-DBE	NAME OF REJECTED FIRM(S)	QUOTE IN DOLLARS	PRICE DIFFERENCE IN DOLLARS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY

IF THE FIRM SELECTED FOR THE ITEM IS NOT A DBE, PROVIDE THE REASON(S) FOR THE SELECTION ON A SEPARATE PAGE AND ATTACH. PROVIDE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND EMAIL ADDRESSES FOR THE FIRMS LISTED ABOVE.



Appendix 15: Form C-49 PSC – DBE Good Faith Efforts Documentation

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ SIGNATURE _____

TITLE _____

ADVERTISEMENTS OR PROOFS OF PUBLICATION

NAMES AND DATES OF EACH PUBLICATION IN WHICH A REQUEST FOR DBE PARTICIPATION FOR THE PROJECT WAS PLACED BY THE OFFEROR. ATTACH COPIES OF PUBLISHED ADVERTISEMENTS OR PROOFS OF PUBLICATION.

PUBLICATIONS	DATES OF ADVERTISEMENT

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY



Appendix 15: Form C-49 PSC – DBE Good Faith Efforts Documentation

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ SIGNATURE _____

TITLE _____

NAMES OF AGENCIES CONTACTED TO PROVIDE ASSISTANCE

NAMES OF AGENCIES (SEE SPECIAL PROVISION FOR 107.15) AND THE DATES THESE AGENCIES WERE CONTACTED TO PROVIDE ASSISTANCE IN CONTACTING, RECRUITING, AND USING DBE FIRMS. IF THE AGENCIES WERE CONTACTED IN WRITING, ATTACH COPIES OF SUPPORTING DOCUMENTS.

NAME OF AGENCY	METHOD AND DATE OF CONTACT	RESULTS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY



Appendix 15: Form C-49 PSC – DBE Good Faith Efforts Documentation

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ SIGNATURE _____

TITLE _____

TECHNICAL ASSISTANCE AND INFORMATION PROVIDED TO DBEs

EFFORTS MADE TO PROVIDE INTERESTED DBEs WITH ADEQUATE INFORMATION ABOUT THE PLANS, SPECIFICATIONS, AND REQUIREMENTS OF THE BID DOCUMENTS TO ASSIST THE DBEs IN RESPONDING TO A SOLICITATION.

IDENTIFY THE DBEs ASSISTED, THE INFORMATION PROVIDED, AND THE DATE OF CONTACT. ATTACH COPIES OF SUPPORTING DOCUMENTS.

DBEs ASSISTED	INFORMATION PROVIDED	DATE OF CONTACT

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY



Appendix 15: Form C-49 PSC – DBE Good Faith Efforts Documentation

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ SIGNATURE _____

TITLE _____

ADDITIONAL DATA TO SUPPORT DEMONSTRATION OF GOOD FAITH EFFORTS

NOTE: ATTACH ADDITIONAL PAGES, IF NECESSARY

ADDITIONAL DATA TO SUPPORT DEMONSTRATION OF GOOD FAITH EFFORTS



Appendix 16: Form C-111 PSC Minimum DBE and SWaM requirements for consultant contracts

MINIMUM DBE & SWAM REQUIREMENTS FOR PROJECT SPECIFIC CONSULTANT CONTRACTS

PROJECT NO. _____

FHWA NO. _____

INSTRUCTIONS

This form shall be used by the Consultant to submit the names of DBE firms to be used on the contract. The Consultant shall indicate the scope of work that each DBE will perform and the allowable credit.

DBE REQUIREMENT _____ % PERCENT ATTAINED BY PROPOSER _____ %

Name(s) of DBE(s)	Certification #	Scope of Work	\$ Amount of Allowable Credit To Be Used
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TOTAL \$ _____

Total Contract Value \$ _____ x Required DBE _____ % = \$ _____

I/We certify that the DBE(s) listed will be used on this contract as stated hereon and assure that during the life of the contract I/We will meet or exceed the participation established hereon.

BY _____ Offeror _____
Signature

BY _____ Title _____



Appendix 17: Form C-112A PSC Certification of Binding Agreement with DBE Firms

Project No.: _____

Federal Project No.: _____

This form is to be submitted in accordance with the Department's Special Provision DBE participation on profession service Project Specific Consultant Contracts.

It is hereby certified by the below signed Consultants that there exists a written quote, acceptable to the parties involved preliminary to a binding subcontract agreement stating the details concerning the work to be performed and the price which will be paid for the aforementioned work. This document is not intended to, nor should it be construed to, contain the entire text of the agreement between the contracting parties. This document does not take the place of, nor may it be substituted for, an official subcontracting agreement in those situations that may require such an agreement. A copy of the fully executed subconsultant agreement shall be submitted to the Department within fourteen (14) business days after contract execution.

It is further certified that the aforementioned fully executed subconsultant agreement represent the entire agreement between the parties involved and that no conversations, verbal agreements, or other forms of non-written representations shall serve to add to, delete, or modify the terms as stated.

The prime Consultant further represents that the aforementioned fully executed subcontract agreement shall remain on file for a period of not less than one year following completion of the prime's contract with the Department or for such longer period as provisions of governing Federal or State law or regulations may require. For purposes of this form, the term Prime Consultant shall refer to any Consultant utilizing a DBE subconsultant, in which they are claiming DBE credit toward the contract goal.

Consultants further jointly and severally represent that said binding agreement is for the performance of a "commercially useful function" as that term is employed in 49 C.F.R. Part 26.55 (c), (d).

TO BE SIGNED BY THE PRIME CONSULTANT AND THE SUBCONSULTANTS

Scope of Work to be Performed:

Amount of Subconsultant Agreement to be executed: \$ _____

Prime Consultant: _____

Signature: _____ Title _____

Date: _____

Subconsultant: _____

Signature: _____ Title _____

Date: _____



Appendix 18: Title VI Consultant Evaluation Form

City of Fairfax



CONSULTANT TITLE VI EVALUATION FORM

Introduction

The City of Fairfax is a recipient of federal financial assistance. As a recipient, the city is required to comply with Title VI of the Civil Rights Act of 1964, as amended, and other non-discrimination laws and authorities. Title VI of the Civil Rights Act of 1964, and other directives prohibit agencies and sub-recipients receiving federal assistance from discriminating against anyone or any group in the United States on the grounds of race, color, national origin, sex, age, disability, or low-income. The United States Department of Transportation (US DOT) 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 the city'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 displaces
- **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 non-discrimination 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

In brief, 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."

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

The city 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 city. The Evaluation Form should be submitted within ten (10) days of receipt, to the Title VI Coordinator, project manager in the contracting division, and the procurement manager that is negotiating the contract.

Once the Title VI Evaluation Report is provided to the city, the Title VI Coordinator reviews the information and



Appendix 18: Title VI Consultant Evaluation Form

issues a pre-award letter within 10 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 or virtual compliance reviews.

If the Title VI Evaluation is approved, a letter is sent out with an expiration date for two years from the date of the approval letter. Typically, the letter remains current and on file with the city for a period of two years. The Title VI Evaluation Form and support documents required for renewals are submitted thirty business days prior to expiration. An updated Title VI Affidavit of No Change (ANOC) is required annually for contractors who continue to perform under a contract with city. It should be noted that if the city conducts an on-site compliance review the consultant/contractor can still be found to be out of compliance during the one-year period. If found non-compliant, the city Title VI Coordinator and procurement manager may seek resolution with the consultant firm.

Failure to comply with the non-discrimination 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 the city's Title VI Program or the evaluation form, contact Walter English at (703) 273-6269 or at TitleVI@fairfaxva.gov.



Appendix 18: Title VI Consultant Evaluation Form

CITY OF FAIRFAX TITLE VI EVALUATION FORM - CONSULTANTS		
<p>This Title VI Evaluation Form is used as a Pre-award Review and Post-award Review.</p> <p>The City of Fairfax ("city") is required to conduct routine assessments prior to releasing funds to ensure Title VI compliance. A pre-award review assists the city 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.</p> <p>Post-Award Reviews are generally conducted after a contractor begins the scope of work. However, to minimize the burden on the city's contractors, the city has developed a form that serves as both a pre-award and post-award compliance tool.</p> <p>The city may also conduct on-site and/or virtual 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 non-discrimination by their subconsultants/subcontractors.</p>		
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"/> Supplier <input type="checkbox"/> Government Agency <input type="checkbox"/> Other		
Workforce for Virginia Location(s)		
Total:	% Minority:	% Female:
Business Ownership/Control		
<input type="checkbox"/> Minority <input type="checkbox"/> Female <input type="checkbox"/> DBE Certified <input type="checkbox"/> SWaM Certified		
Does your organization currently have contracts or subcontracts with the City of Fairfax? <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 non-discrimination in your City of Fairfax scope of work and your programs and services?		



Appendix 18: Title VI Consultant Evaluation Form

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.																
Job Categories	Number of Employees (Report employees in only one category)															
	Race/Ethnicity															
	Hispanic or Latino		Not Hispanic or Latino													Total Col A-N
	Male	Female	Male						Female							
			White	Black or African American	Asian	Native Hawaiian Or Other Pacific Islander	American Indian or Alaska Native	Two or more races	White	Black or African American	Asian	Native Hawaiian Or Other Pacific Islander	American Indian or Alaska Native	Two or more races		
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Executive/Sir. Level Officials & Managers (1.1)																
First/Mid-Level Officials & Managers (1.2)																
Professionals (2)																
Technicians (3)																
Sales Workers (4)																
Administrative Support Workers (5)																
Craft Workers (6)																
Operatives (7)																
Laborers & Helpers (8)																
Service Workers (9)																
TOTAL (10)																
Previous Year Total (11)																



Appendix 18: Title VI Consultant Evaluation Form

Organization, Staffing, & Training

1. What type of services will your organization provide the City of Fairfax?

2. 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.

Title VI/Nondiscrimination

1. Is your Title VI Coordinator, project managers, and other staff made aware of Title VI compliance and regulations relative to non-discrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21 and the Federal Highway Administration'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 non-discrimination in the selection and retention of subcontractors including procurements of materials and leases of equipment? *Please note N/A is not an acceptable response; please provide a complete answer.*

3. How does your organization notify your subcontractors and suppliers of their obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, national origin, sex, age, disability and low income populations? *Please note N/A is not an acceptable response; please provide a complete answer.*

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. *Please note N/A is not an acceptable response; please provide a complete answer.*

6. How are limited English proficient persons made aware that they can receive translation services for access to services? *Please note N/A is not an acceptable response; please provide a complete answer*

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.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

- I. General
 - II. Nondiscrimination
 - III. Non-segregated Facilities
 - IV. Davis-Bacon and Related Act Provisions
 - V. Contract Work Hours and Safety Standards Act Provisions
 - VI. Subletting or Assigning the Contract
 - VII. Safety: Accident Prevention
 - VIII. False Statements Concerning Highway Projects
 - IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
 - X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
 - XI. Certification Regarding Use of Contract Funds for Lobbying
 - XII. Use of United States-Flag Vessels: ATTACHMENTS
- A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design- build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).
3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.
4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60- 1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR

Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

- a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

- b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
 - a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.
 - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
 - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.
 - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.
 - a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

- b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal non-discrimination provisions.
 - c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.
5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:
 - a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
 - b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
 - c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
 - d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.
6. Training and Promotion:
 - a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

should be aimed at developing full journey level status employees in the type of trade or job classification involved.

- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).
 - c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
 - d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.
7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:
- a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.
 - b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.
 - c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.
 - d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.
9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure non-discrimination in the administration of this contract.
 - a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.
 - b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.
10. Assurances Required:
 - a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.
 - b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

- (1) Withholding monthly progress payments;
 - (2) Assessing sanctions;
 - (3) Liquidated damages; and/or
 - (4) Disqualifying the contractor from future bidding as non-responsible.
- c. The Title VI and non-discrimination provisions of US DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.
11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.
- a. The records kept by the contractor shall document the following:
 - (1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
 - (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.
 - b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color,



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101.

Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA – 1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)
 - a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (ii) The classification is utilized in the area by the construction industry; and
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

- c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding (29 CFR 5.5)

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally- assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records (29 CFR 5.5)

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (i) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;
- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

- c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

4. Apprentices and trainees (29 CFR 5.5)

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination.

Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the US DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.
6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis- Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.
9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
10. Certification of eligibility (29 CFR 5.5)
 - a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).
3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.
4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).
 - a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)
 - (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
 - (2) the prime contractor remains responsible for the quality of the work of the leased employees;
 - (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
 - (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.
 - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish
 - (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).
5. The 30-percent self-performance requirement of paragraph
 - (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII.FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented; Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov>). 2 CFR 180.300, 180.320, and 180.325.

- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:
- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.
 - (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and
 - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

- (5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (US DOT Order 4200.6 implementing appropriations act requirements); and
 - (6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (US DOT Order 4200.6 implementing appropriations act requirements).
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—
Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:
 - (a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;
 - (b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (US DOT Order 4200.6 implementing appropriations act requirements); and
 - (c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (US DOT Order 4200.6 implementing appropriations act requirements)
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.



Appendix 19: FORM-FHWA 1273, Required Contract Provisions for Federal-Aid Construction Contract

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.



Appendix 20: Form C-63 DBE Payment Compliance Report

COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION D/MBE ACTIVITY REPORT

Order No. _____ Date of Execution _____

Contractor/Subcontractor _____

Route No. _____ Project No. _____ Contract Id. No. _____

FHWA No _____ District _____

D/MBE Firm Name, Certification No.	Allowable Credit of Contract or Agreement	Allowable Credit		Total Cost To Date	Disallowed Credit		(Indicate Item Nos. Involved) Type of Work
		This Month	To Date		This Month	To Date	
Grand Total or Total This Page	Minority-Owned						
	Female-Owned						

All "amounts paid" to certified D/MBEs, which are to be claimed as participation credit, are to be reported. One copy of this report is to be submitted by the Contractor's estimate date. See reverse side for instructions.

I/WE certify that the information shown is accurate and complete to the best of my/our Knowledge.

Signed _____ Date _____

Title _____



Appendix 20: Form C-63 DBE Payment Compliance Report

INSTRUCTIONS

All "amounts paid" to certified D/MBEs, which are to be claimed as participation credit, are to be reported. "Amount paid" includes, but is not necessarily limited to, payment for subcontracting, furnishing materials, supplies, or services; and equipment leasing. The Prime Contractor's Form C-63 should show "Page 1 of " with all attachments numbered sequentially and submitted as a single package. All forms C-63 and C-63A for a particular reporting period and project shall be transmitted together and submitted by the Contractor's estimate date.

Data should be reported as follows:

Date of Execution: Date of execution of the contract by VDOT

Allowable Credit of Contract or Agreement: Dollar value of contract or agreement or, if open contract or agreement, show estimated dollar value of work to be performed by the D/MBE during the contract or agreement which is allowable for participation credit.

Allowable Credit This Month: Portion of the dollar amount that can be credited to D/MBE participation this month.

Total Cost To Date: Total dollar amount of payments made to D/MBE for work performed since work commenced.

Disallowed Credit This Month: Portion of the dollar amount that can NOT be credited to DBE/WBE participation this month.

Disallowed Credit To Date: Portion of the dollar amount paid to D/MBE that is NOT allowable for participation credit.

Type of Work: Subcontractor, Materials Supplier, Services (such as hauling, equipment leasing, consultant), and Other (specify). A brief description should be included (example: subcontractor misc. concrete, landscaping)

Minority-owned Firms: All minority –owned firms, whether DBE or MBE.

Female-owned Firms: All female-owned firms whether DBE or MBE, except for minority female-owned firms where credit is being claimed under the minority owned designation.



Appendix 21: Compliance Matrix

The City of Fairfax receives federal funding from the Federal Highway Administration (FHWA) through the Virginia Department of Transportation (VDOT). As a subrecipient to VDOT, the city is required to comply with Title VI of the 1964 Civil Rights Act. The city has a transit system, the city-University Energysaver Bus System (CUE), in partnership with George Mason University. Currently, the CUE is funded by state and local funds. The city is not a current recipient of federal funding from the Federal Transit Administration (FTA), but if they apply directly or receive funding through a recipient, proper processes and procedures must be in place to meet FTA Title VI Requirements.

The following matrix identifies where requirements are met in the Title VI Plan.

FHWA Requirements	FTA Requirements	Section
	Board/Council Resolution/Approval	Page iii
Title VI Implementation Plan/Approval	Title VI Implementation Plan/Approval	Page iii
Organization Chart, Program Administration <i>(including Title VI Coordinator)</i>	Organization Chart, Program Administration <i>(including Title VI Coordinator)</i>	Section 3
Title VI Policy Statement	Title VI Policy Statement	Section 1
Signed Title VI Assurances	Signed Title VI Assurances	Appendix 1
Public Dissemination/ Notification of Title VI Rights	Public Dissemination/ Notification of Title VI Rights	Section 1
Public Participation Plan <i>(including engagement of minority populations for inclusive engagement)</i>	Public Participation Plan <i>(including engagement of minority populations for inclusive engagement)</i>	Section 4 Appendix 6
Language Access Plan for LEP populations	Language Access Plan for LEP populations	Section 4
Data Collection & Analysis Procedures	Data Collection & Analysis Procedures	Section 5
Complaint Procedures & Form	Complaint Procedures & Form	Section 2 Appendix 2
Recording & Reporting of Title VI complaints, investigations, and lawsuits	Recording & Reporting of Title VI complaints, investigations, and lawsuits	Appendix 3
Demographics of advisory boards, advisory councils/committees, non-elected boards	Demographics of Advisory boards, advisory councils/committees, non-elected boards	Appendix 4
Training	Training	Section 3
Contract Monitoring	Contract Monitoring	Section 5
	Develop Service Standards Policy <i>(fixed route service providers, only)</i>	Not necessary at this time. To be included in a future update of the Title VI Program
	Quantitative Service Standards <i>(fixed route service providers, only)</i>	Not necessary at this time. To be included in a future update of the Title VI Program
	Site or Facility Location Equity Analysis	Not necessary at this time. To be included in a future update of the Title VI Program



Appendix 22: Glossary of Terms

Acronyms

E.O. – Executive Order

EIS - Environmental Impact Study

FHWA – Federal Highway Administration

LEP – Limited English Proficiency

LPA - Local Public Agency

OEO – Office of Equal Opportunity

OHD – Office of Highway Development

PIS – Public Involvement Section

SHA – State Highway Administration

STA – State Transportation Agency

US DOL – United States Department of Labor

US DOJ – United States Department of Justice

US DOT – United States Department of Transportation

VDOT – Virginia Department of Transportation

VDOT DCRO – VDOT District Civil Rights Office

Definitions

Affirmative action – A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.

Beneficiary – Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocatees, impacted citizens, communities, etc.

Compliance – That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.



Appendix 22: Glossary of Terms

Consultants/Contractors - the Prime Contractor of the Contract; and sub-contractor is defined as any DBE supplier, manufacturer, or subcontractor performing work or furnishing material, supplies or services to the Contract. The Contractor shall physically include this same contract provision in every supply or work/service subcontract that it makes or executes with a subcontractor having work for which it intends to claim credit.

Deficiency Status – The interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI Program guidelines, but has not been declared in noncompliance by the Secretary of Transportation.

Discrimination – That act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex, or national origin, has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Federal Highway Administration under title 23 U.S.C.

Facility – Includes all, or any part of, structures, equipment or other real or personal property, or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alternation or acquisition of facilities.

Federal Assistance – includes:

- Grants and loans of federal funds
- The grant of donation of federal property and interests in property
- The detail of federal personnel
- The sale and lease of, and the permissions to use (on other than a casual or transient basis), federal property or any interest in such property without consideration of at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the Recipient
- Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

Local Public Agency (LPA) – A Local Public Agency is a recipient of federal funds and they are responsible for ensuring non-discrimination in the administration of projects and must adhere to all Civil Rights requirements.

Minority – Blacks, not of Hispanic origin; Hispanics; Asians or Pacific Islanders; American Indians or Alaskan Natives.

Noncompliance – A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all of the Title VI requirements.



Appendix 22: Glossary of Terms

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”, “American Indian or Alaskan Native.” Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

Program – includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the Recipient of federal financial assistance or provided by other through contracts or other arrangements with the Recipient.

Program Area – Divisions identified within the State Highway Administration to have a potential for Title VI impact.

Public Participation – An open process in which the rights of the community (community member, member of the public) to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals

Recipient – any State, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentally thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, 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. The term Recipient does not include any ultimate beneficiary under any such program.

State highway agency – That department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term State would be considered equivalent to State highway agency if the context so implies.

Subrecipient – a secondary recipient that indirectly receives federal financial assistance through a primary recipient.

Title VI Program – The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI requirements and regulations shall not be limited to only Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, sex, or national origin in programs receiving Federal financial assistance of the type subject to Title VI itself.