



City of Topeka

Nondiscrimination Agreement

Title VI Plan

Title VI Program Organization and Staffing

Pursuant to 23 CFR 200, the Recipient has designated a Title VI Coordinator who is responsible for creating and maintaining **Attachment A** to this Nondiscrimination Agreement, which describes the hierarchy for Recipient's Title VI Program, including an organizational chart illustrating the level and placement of Title VI responsibilities.

Assurances 49 CFR Part 21.7

The Recipient hereby gives assurances:

That no person shall on the grounds of race, color or national origin be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination under any program or activity conducted by the Recipient regardless of whether those programs and activities are federally-funded or not. Programs and activities that the Recipient hereby agrees to carry out in compliance with Title VI and related statutes include, but are not limited to, those described in this plan.

1. That Recipient will promptly take any measures necessary to effectuate this agreement.
 2. That each program, activity and facility (i.e., lands change to roadways, park and ride lots, etc.) as defined at 49 CFR 21.23(b) and (e) and the Civil Rights Restoration Act of 1987 will be (with regard to a program or activity) conducted, or will be (with regard to a facility) operated, in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this Agreement.
 3. That these assurances are given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Recipient by the Kansas Department of Transportation (KDOT) under the federally-funded program is binding on it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest and other participants. The person or persons whose signatures appear below are authorized to sign these assurances on behalf of the Recipient.
-



City of Topeka Nondiscrimination Agreement Title VI Plan

4. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all federally-funded programs and, in all proposals for negotiated agreements:

The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full 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.

5. That the Recipient shall insert the clauses of **Appendix 1** of this Nondiscrimination Agreement in every contract subject to the Act and the Regulations.

6. That the Recipient shall insert the clauses of **Appendix 2** of this Nondiscrimination Agreement, as a covenant running with the land, in any deed from the United States to effect a transfer of real property, structures or improvements thereon, or interest therein.

7. That the Recipient shall include the appropriate clauses set forth in **Appendix 3** of this Nondiscrimination Agreement, as a covenant running with the land, in any future deeds, leases, permits, licenses and similar agreements entered into by the Recipient with other parties:

A. for the subsequent transfer of real property acquired or improved under a federal aid program; and

B. for the construction or use of, or access to space on, over and under property acquired, or improved under a federal aid program.

8. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations and this Nondiscrimination Agreement.



City of Topeka

Nondiscrimination Agreement

Title VI Plan

Implementation Procedures

This Nondiscrimination Agreement shall serve as the Recipient's Title VI Plan pursuant to 23 CFR 200 and 49 CFR 21.

For the purpose of this Agreement, "Federal Assistance" shall include:

1. Grants and loans of federal funds.
2. The grant or donation of federal property, and interest in property.
3. The detail of federal personnel.
4. The sale and lease of, and the permission to use (on other than a casual or transient basis), federal property, or any interest in such property, without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the Recipient, or in recognition of the public interest to be served by such sale or lease to the Recipient.
5. Any federal agreement, arrangement, or other contract that has as one of its purposes, the provision of assistance.

The Recipient shall:

1. Issue a policy statement, signed by the City Manager, which expresses its commitment to the nondiscrimination provisions of Title VI. This policy statement shall be circulated throughout the Recipient's organization and to the general public. Such information shall be published, where appropriate, in languages other than English.
2. Take affirmative action to correct any deficiencies found by KDOT or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with this Agreement. The City Manager shall be held responsible for implementing Title VI requirements.
3. Designate a Title VI coordinator who has a responsible position in the organization and easy access to the City Manager.



City of Topeka

Nondiscrimination Agreement

Title VI Plan

4. The Title VI coordinator shall:
 - A. Adequately implement Title VI requirements.
 - B. Collect statistical data (race, color or national origin) of participants in, and beneficiaries of, the transportation programs and activities conducted by the Recipient.
 - C. Conduct Title VI reviews of the Recipient and sub-recipient contractor/consultant program areas and activities. Revise, where applicable, policies, procedures and directives to include Title VI requirements.
 - D. Attend training programs on Title VI (and related statutes) conducted by KDOT Office of Civil Rights Compliance.
 - E. Consult with the City Attorney, or his/her designee, related to processing any complaints of discrimination received, including any investigations of such complaints. The City Attorney, or his/her designee, shall record the date on which the complaint was filed; identify the nature of each complaint (race, color, national origin); record the date(s) on which the investigation was conducted and completed; and record the disposition of the complaint, as well as the date on which such disposition was made. A copy of the complaint, together with a copy of the Recipient's report of investigation, shall be forwarded to KDOT's Office of Civil Rights Compliance within ten (10) days of the date the complaint was received by the Recipient.

Discrimination Complaint Procedure

1. Any person who believes that he or she, 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, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the Recipient. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the Recipient's Title VI Coordinator for initial review and any subsequent action.

2. In order to have the complaint considered under the procedure outlined in this Title VI Plan, the complainant must file the complaint no later than 180 days after:



City of Topeka Nondiscrimination Agreement Title VI Plan

- A. The date of the alleged act of discrimination; or
- B. Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the Recipient or his or her designee may extend the time for filing or waive the time limit in the interest of justice, specifying, in writing, the reason for so doing.

3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. A person may also make a verbal complaint of discrimination to an officer or employee of the Recipient. In such event, the Title VI Coordinator shall refer the person to the City Attorney, or his/her designee, for an interview. If necessary, assistance will be provided to the person in reducing the complaint to writing, after which the written version of the complaint will be submitted to the person for signature. The complaint shall then be handled in accordance with the investigative procedures established by the Recipient.

4. Within ten (10) days of receipt of the complaint, the Title VI Coordinator will acknowledge receipt of the complaint, inform the complainant of action taken or proposed action to process the allegation and advise the complainant of other avenues of redress available, such as KDOT or USDOT.

5. The Recipient will advise KDOT within ten (10) days of its receipt of a complaint. Generally, the following information will be included in each notification:

- A. Name, address, and phone number of the complainant.
- B. Name(s) and address(es) of alleged discriminating official(s).
- C. Basis of complaint (i.e., race, color, national origin)
- D. Date of alleged discriminatory act(s).
- E. Date complaint received by the Recipient.
- F. Statement of complaint.



City of Topeka Nondiscrimination Agreement Title VI Plan

Sanctions

In the event the Recipient fails or refuses to comply with the terms of this Agreement, KDOT may take any or all of the following actions:

1. Cancel, terminate or suspend this Agreement, in whole or in part.
2. Refrain from extending any further assistance to the Recipient under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Recipient.
3. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the Recipient.
4. Refer the case to the Department of Justice for appropriate legal proceedings.



City of Topeka

Nondiscrimination Agreement

Title VI Plan

Appendix 1

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

- 1. Compliance With Regulations** - The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- 2. Nondiscrimination** - The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color or national origin in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment** - In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.
- 4. Information and Reports** - The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities, as may be determined by the contracting agency or the appropriate federal agency to be pertinent, to ascertain compliance with such Regulations, orders and instructions. Where any information required of the contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to KDOT or the USDOT, as appropriate, and shall set forth what efforts it has made to obtain the information.



City of Topeka Nondiscrimination Agreement Title VI Plan

5. **Sanctions for Noncompliance** - In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the contracting agency shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to:

- A. Withholding of payments to the contractor under the contract until the contractor complies, and/or;
- B. Cancellation, termination, or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions** - The contractor shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the contracting agency or USDOT may direct as a means of enforcing such provisions including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request KDOT enter into such litigation to protect the interests of the state and, in addition, the contractor may request the USDOT enter into such litigation to protect the interests of the United States.



City of Topeka Nondiscrimination Agreement Title VI Plan

Appendix 2

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

GRANTING CLAUSE

NOW THEREFORE, Department of Transportation, as authorized by law, and upon the condition that the state of Kansas will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the United States of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, the Department of Transportation KDOT (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252: 42 USC 2000d to 2000d - 4) does hereby remise, release, quitclaim and convey unto the state of Kansas all the right, title and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

HABENDUM CLAUSE

TO HAVE AND TO HOLD said lands and interests therein unto the state of Kansas, 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 the federal financial assistance is extended or for another purpose involving the provisions of similar services or benefits and shall be binding on the state of Kansas, its successors and assigns.

The state of Kansas, 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 shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of or be otherwise subject to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed (,)(and)* (2) that the state of Kansas, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination of



City of Topeka Nondiscrimination Agreement Title VI Plan

Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the department shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.



City of Topeka Nondiscrimination Agreement Title VI Plan

Appendix 3

The following clauses shall be included in all transportation related deeds, licenses, leases, permits, or similar instruments entered into by (Recipient) pursuant to the provisions of Assurance 8.

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on said property described in this lease, for a purpose of which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21.

Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease has never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Kansas Department of Transportation pursuant to the provisions of Assurance 8.

The LESSEE, or himself or herself, his or her personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, or national origin, shall be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and furnishing of services thereon, no person on the grounds of race, color, and national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted



City of Topeka

Nondiscrimination Agreement

Title VI Plan

Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.