

# Texas Department of Transportation<sup>®</sup>

DEWITT C. GREER STATE HIGHWAY BLDG. • 125 E. 11TH STREET • AUSTIN, TEXAS 78701-2483 • (512) 463-8585

November 11, 2013

Mr. Mike Eastland, Executive Director  
North Central Texas Council of Governments  
616 Six Flags Drive  
Arlington, Texas 76005

Dear Mr. Eastland:

The Texas Department of Transportation's (TxDOT) Office of Civil Rights (OCR) recently conducted a review of the North Central Texas Council of Governments' Title VI policies and practices. During the review, your organization's good faith efforts were evaluated with respect to ten Title VI requirements and as a result, our office provided recommendations to enhance your efforts to prevent discrimination.

Based on the documentation submitted in response to our recommendations, we have concluded that your organization is in compliance with the Title VI requirements. Enclosed please find the follow-up report which summarizes our findings. Though this letter officially closes the review, we encourage you to continue your efforts to prevent discrimination. We also encourage you to self-monitor both your efforts and results to ensure adherence to the requirements outlined in TxDOT's *Title VI Technical Assistance Guide for Local Public Agencies*.

The OCR sincerely appreciates the cooperation of your staff during the review. If you have any questions, please contact Diana Miranda at (512) 416-4757 or [TitleVI@txdot.gov](mailto:TitleVI@txdot.gov).

Sincerely,

Ron Wilson  
Director  
Office of Civil Rights

Enclosure: Title VI Review Follow-up Report

cc: Bill Hale, P.E., TxDOT Dallas District Engineer

OUR GOALS

MAINTAIN A SAFE SYSTEM • ADDRESS CONGESTION • CONNECT TEXAS COMMUNITIES • BEST IN CLASS STATE AGENCY

*An Equal Opportunity Employer*

**Title VI Review Follow-up Report**  
**North Central Texas Council of Governments**  
**November 11, 2013**

The Texas Department of Transportation's (TxDOT) Office of Civil Rights conducted a review of the North Central Texas Council of Governments' (NCTCOG) Title VI policies and practices. As a result of the review, one recommendation was provided to assist NCTCOG in identifying potential strategies for program improvement.

**Title VI Requirement #4**

***Procedures for Processing External Discrimination Complaints***

Local public agencies that receive federal financial assistance must have procedures for processing external discrimination complaints.

*Recommendation*

NCTCOG should modify its procedures for processing external discrimination complaints. Transportation related discrimination complaints filed under Title VI with NCTCOG in which NCTCOG or its subrecipients are named as the respondent should be forwarded to TxDOT for investigation within 10 calendar days.

NCTCOG should ensure their method to identify each complainant includes:

- Race, color, sex, or national origin
- Recipient
- Nature of the complaint
- Dates the complaint was filed and the investigation completed
- Disposition
- Date of the disposition
- Other pertinent information

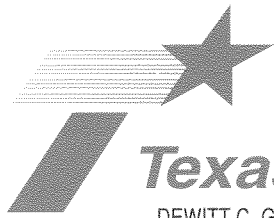
NCTCOG must submit its procedures and documentation within ninety (90) calendar days from the date of this report.

### *Follow-up*

NCTCOG had previously provided a copy of its complaint form, which captured the required demographic data for each complainant. However, NCTCOG subsequently provided a copy of its revised procedures for processing external discrimination complaints, which includes the required elements.

### **Conclusion**

Based on the documentation provided, it is determined that the NCTCOG has demonstrated good faith efforts in meeting the requirements of the Title VI review.



# Texas Department of Transportation<sup>®</sup>

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June 20, 2013

**CERTIFIED MAIL NO: 7000 1670 0009 8439 8697**  
**RETURN RECEIPT REQUESTED**

Mr. Mike Eastland, Executive Director  
North Central Texas Council of Governments  
616 Six Flags Drive  
Arlington, Texas 76005

Dear Mr. Eastland:

The desk audit portion of our Title VI Review of the North Central Texas Council of Governments has been completed. The review covered your organization's compliance with Title VI of the Civil Rights Act of 1964, Executive Order 12898, Executive Order 13166, and related regulations.

Enclosed please find a summary of our findings and recommendations for future action. The recommendations highlighted in the report should be implemented within ninety (90) calendar days of your receipt of this letter. Once these recommendations are implemented, submit them to our office for approval.

The Office of Civil Rights sincerely appreciated the cooperation of your staff during the review. If you have any questions, please contact Diana Miranda at (512) 416-4757 or [TitleVI@txdot.gov](mailto:TitleVI@txdot.gov).

Sincerely,

Ron Wilson  
Director  
Office of Civil Rights

Enclosure: Title VI Review Report

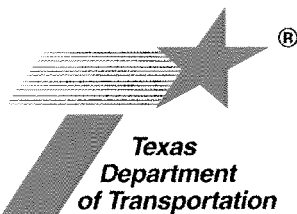
cc: Bill Hale, P.E., TxDOT Dallas District Engineer

*Texas Department of Transportation*

Title VI Review

of the

North Central Texas Council of Governments



**Authored By:**

Texas Department of Transportation, Office of Civil Rights

June 20, 2013

## **Overview**

A Title VI compliance review of the North Central Texas Council of Governments (NCTCOG) was conducted by the Texas Department of Transportation's (TxDOT) Office of Civil Rights Contract Compliance Section.

The report contains the Title VI program findings for this assessment. It also includes recommendations to assist NCTCOG in identifying potential strategies for program improvement.

The TxDOT Title VI Technical Assistance Guide consisting of 10 requirements and examples of suggested actions to comply with the requirements was utilized to identify these observations and recommendations of the Title VI program.

## **Selected Nondiscrimination Laws and Executive Orders**

TxDOT's Title VI practices and reviews are governed by a wide range of requirements, including federal laws, regulations, and executive orders. Title VI requirements include, but are not limited to:

- Title VI of the Civil Rights Act of 1964
- The 1970 Uniform Act
- Section 162(a) of the Federal-Aid Highway Act of 1973
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- The Civil Rights Restoration Act of 1987, P.L. 100-209
- 23 Code of Federal Regulations Part 200
- 49 Code of Federal Regulations Part 21
- Executive Order 12898
- Executive Order 13166

## **Title VI Requirement #1**

### ***Title VI Assurances***

Subrecipients of federal financial assistance through the U.S. DOT must have a signed U.S. DOT Standard Title VI Assurance on file with TxDOT to establish full and affirmative compliance with Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities.

### ***Findings***

NCTCOG provided a signed copy of its signed U.S. DOT Standard Title VI Assurances as required by the Federal Highway Administration.

## **Title VI Requirement #2**

### ***Title VI Policy Statement***

Subrecipients of federal financial assistance must develop a Title VI Nondiscrimination Policy Statement assuring nondiscrimination in its programs and activities to the effect that no person shall on the grounds of race, color, national origin, sex, age, disability, or income status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any federally or non-federally funded program or activity administered by the subrecipient and/or its contractors. The policy statement must be signed by the head of the agency and be circulated internally and to the general public.

### ***Findings***

NCTCOG provided a copy of its Title VI Nondiscrimination Policy Statement signed by the Executive Director. NCTCOG has also made this information available online, in English and Spanish.



### **Title VI Requirement #3**

#### ***Title VI Coordinator***

Subrecipients of federal financial assistance should designate a Title VI Coordinator who has a responsible position in the organization and has easy access to the head of the agency. The Title VI Coordinator should be responsible for monitoring Title VI activities.

#### ***Findings***

NCTCOG provided a copy of its organizational chart that outlines coordination of its Title VI program. While NCTCOG does not have an appointed Title VI Coordinator, the MPO's Senior Program Manager, the Principal Transportation Planner, and the Transportation Planner in the Transportation Planning office are the Title VI primary contacts. Their Title VI responsibilities include: monitor and comply with Title VI-related legislation; coordinate quarterly Environmental Justice Liaison meetings; collect and analyze demographic data to more effectively plan for low-income and minority groups; conduct Title VI and environmental justice staff trainings; coordinate with the Public Involvement team to ensure that environmental justice populations are included in the transportation planning process; and ensure principles of Title VI and environmental justice are incorporated into transportation plans, policies, and programs.

## **Title VI Requirement #4**

### ***Procedures for Processing External Discrimination Complaints***

Local public agencies that receive federal financial assistance must have procedures for processing external discrimination complaints.

#### ***Findings***

NCTCOG provided a copy of its Title VI discrimination complaint procedures and a copy of its external discrimination complaint form in English and Spanish. Both documents are made available on its Web site. The MPO's procedures state that a copy of the complaint form, the initial written notice and response, and the final determination will be forwarded to TxDOT for informational purposes only. However, NCTCOG is required to forward transportation related external discrimination complaints to TxDOT for investigation within 10 calendar days. Additionally, the MPO's procedures address that a log is kept on all complaints received that includes basic information such as when it was filed, who filed it, and who it was against; a description of the alleged discriminatory action; and findings of the investigation. However, NCTCOG should ensure it captures the required demographic data for identifying the complainant.

#### ***Recommendations***

NCTCOG should modify its procedures for processing external discrimination complaints. Transportation related discrimination complaints filed under Title VI with NCTCOG in which NCTCOG or its subrecipients are named as the respondent should be forwarded to TxDOT for investigation within 10 calendar days.

NCTCOG should ensure their method to identify each complainant includes:

- Race, color, sex, or national origin
- Recipient
- Nature of the complaint
- Dates the complaint was filed and the investigation completed
- Disposition
- Date of the disposition
- Other pertinent information

NCTCOG must submit its procedures and documentation within ninety (90) calendar days from the date of this report.

## **Title VI Requirement #5**

### ***List of External Discrimination Complaints and Lawsuits***

Local public agencies should maintain a log of Title VI external discrimination complaints that includes the following information: identification of each complaint by race, color, sex, or national origin; the recipient; the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition; the date of the disposition; and other pertinent information such as age or disability.

### ***Findings***

NCTCOG stated it has not had any external discrimination complaints or lawsuits in the past three (3) years. Implementation of the recommendations in Requirement #4 will ensure that the MPO's method for tracking Title VI external discrimination complaints meets this requirement.

## **Title VI Requirement #6**

### ***Accommodations for Limited English Proficient Persons***

Executive Order 13166 requires that recipients of federal financial assistance take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP).

#### *Findings*

NCTCOG provided its Public Participation Plan, which includes its Language Assistance Plan as an Appendix. The MPO's Language Assistance Plan uses the Four Factor Analysis to identify LEP persons that need language assistance, outlines how language assistance is available, and describes how staff considers the needs of LEP persons.

NCTCOG public meeting notices include a disclaimer in Spanish indicating that translation services are available if a request is made at least 72 hours before the meeting. Other efforts to ensure nondiscrimination on the basis of national origin include surveying staff about the frequency of interactions with LEP persons. NCTCOG provided the survey results, conducted from July 2011 through December 2011, which estimates the number of LEP individuals that transportation staff encounters; Spanish was the language staff interacted with the most.

Additionally, in accordance with the Safe Harbor Provision, NCTCOG has analyzed which language groups exceed the 1,000 persons or five percent threshold. Since there are 24 languages that meet the Safe Harbor threshold, it is not feasible to translate vital documents into all of these languages. Therefore, NCTCOG focuses translation efforts on Spanish, which is the largest language group in the region other than English.

## **Title VI Requirement #7**

### ***Public Participation***

Subrecipients of federal financial assistance must provide an opportunity for public involvement and full access to the transportation decision making process in each stage of the planning and development of a transportation project. It is essential that all segments of the population be afforded the opportunity to understand and articulate concerns with any project that affects them and their way of life.

### ***Findings***

NCTCOG provided a copy of its Public Participation Plan (PPP), in English and Spanish, which is also made available on its Web site. The plan includes implementation strategies to ensure all residents have access to information and opportunities to be involved in the transportation planning process.

The MPO holds public meetings and outreach events in diverse locations throughout the region and staff proactively seeks opportunities to reach new audiences and communities which include, but are not limited to, protected classes. NCTCOG provided a map that compares the locations of public meetings and outreach events for Fiscal Years 2011 and 2012 with the locations of low-income and minority populations.

The MPO's current public involvement efforts to incorporate Title VI principles include an analysis of contacts that receive public meeting notices in comparison to locations of low-income and minority populations. This analysis helps inform where future outreach efforts should be targeted. The MPO's evaluation of the public involvement process is ongoing, and the PPP is regularly reviewed and updated.

## **Title VI Requirement #8**

### ***Data Collection***

Subrecipients of federal financial assistance must collect and analyze statistical data (race, color, national origin) of participants and beneficiaries of their programs and activities.

### ***Findings***

NCTCOG regularly collects and analyzes demographic information to help plan for a more accessible regional transportation system. In accordance with federal legislation, NCTCOG analyzes environmental justice populations, which are defined as low-income and minority groups. The Environmental Justice Index (EJI) was developed to map concentrations of low-income and minority groups in the region. NCTCOG provided a copy of its 2010 EJI and its EJI User's Guide. The EJI tool is used by department staff members and is distributed to local governments by request. An EJI User's Guide has been created to explain the development and ensure correct usage. The EJI is updated as new Census data is released.

## **Title VI Requirement #9**

### ***Title VI Contract Provisions***

Subrecipients should ensure that the clauses of Appendix A of the U.S. DOT Standard Title VI Assurances are inserted in every contract subject to the Act and the Regulations and that the Form FHWA-1273 be physically attached to all federal-aid construction contracts of \$10,000 or more.

### ***Findings***

NCTCOG provided a copy of a recently executed consultant contract which includes the clauses of Appendix A of the U.S. DOT Standard Title VI Assurances. NCTCOG states that it is not currently implementing any construction related projects utilizing federal funds.

## **Title VI Requirement #10**

### ***Affirmative Action Program***

Subrecipients, contractors, and subcontractors of federal financial assistance may not discriminate in the award of contracts in connection with projects receiving federal financial assistance.

### ***Findings***

NCTCOG has demonstrated good faith effort with this requirement by establishing its own Disadvantaged Business Enterprises (DBE) program goal of 25 percent of its total annual contract expenditures for participation on the part of socially and economically disadvantaged individuals in MPO-assisted projects. NCTCOG also establishes individual DBE goals for each Request for Proposal (RFP), dependent upon the type of services being provided. Proposals submitted are reviewed for compliance with the MPO's DBE goals.

Additionally, NCTCOG ensures contracts with subrecipients, subcontractors, and subgrantees include provisions prohibiting discrimination on the basis of disability, race, religion, color, sex, age, and national origin. Contractors are required to include these provisions in any subcontractor agreements. Standard contracts are used to ensure uniform application of these requirements. Contractors are required to certify their compliance for nondiscrimination provisions and other requirements as part of submitting a proposal in response to the RFP.

### **Conclusion**

As a result of the review, we identified practices and policies of NCTCOG that are notable. The report includes recommendations that we believe will enhance the MPO's efforts to prevent discrimination in its programs. NCTCOG should continue to have a Title VI program to prevent and eliminate discrimination in the programs it administers.