

Title VI Report



Pima Association of Governments

August 1, 2011

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Introduction

Title VI of the 1964 Civil Rights Act and the 1994 Executive Order on Environmental Justice require that any federally funded planning, programming and project implementation activities be free of discrimination. Further guidance from the Federal Highway Administration and the Federal Transit Administration incorporates the American with Disabilities Act (ADA) regulations in addition to Title VI and Environmental Justice into regional transportation plans. Today, federal transportation legislation known as SAFETEA-LU (www.fhwa.dot.gov) recognizes these non-discrimination requirements as applying to both the planning, as well as to the individual project implementation phase. Additionally, Title VI compliance needs to include both data collection and analytic methods to assess impacts to protected groups and their level of public involvement.

This report summarizes Pima Association of Governments' (PAG) efforts to address Title VI requirements in its planning and programming activities. This report addresses recently completed or upcoming activities in its Transportation Planning, Regional Planning, Air Quality Planning, Rideshare and Travel Demand Management program areas. Existing policies and procedures, such as PAG's Title VI assurances and complaint procedures, are also addressed in this report.

Assurances

The Civil Rights Act of 1964 (Title 49, CFR Part 21) requires states to submit assurances to the federal government that no person will be discriminated against on the basis of race, color or national origin in programs and activities receiving federal assistance from the U.S. Department of Transportation. Each state requires these same assurances from subrecipients and contractors that receive federal funds, including funds from the Federal Highway Administration and the Federal Transit Administration. These assurances, like the one below, ensure that contractors and their employers know the terms of agreement between citizens and their government that protect the rights of the public.

General Assurance

Pima Association of Governments (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), the Civil Rights Restoration Act of 1987 (Public Law 100.259) and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964. (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, or national origin, or sex 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 the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) of the Regulations, a copy of which is attached.

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

1. That the Recipient agrees that each "program" and each "facility" as defined in 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 all nondiscriminatory requirements imposed by, or pursuant to, the Regulations and this agreement.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federal Aid Highway Program and, in adapted form in all proposals for negotiated agreements:

The (Name of 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, the Civil Rights Restoration Act of 1987 (Public Law 100.259). 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 insure that in any contract entered into pursuant to this

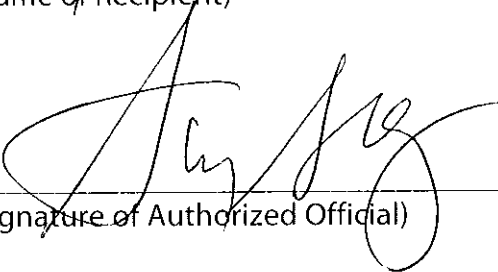
- advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.
3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to this Act and the Regulations.
 4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
 5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
 6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
 7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under Federal Aid Highway Program; and (b) for the construction or use of or access to space on, over, or under real property acquired, or improved under Federal Aid Highway 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 shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.

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

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

DATED: 8/8/11

Gary G. Hayes
(Name of Recipient)

by 
(Signature of Authorized Official)

Gary G. Hayes, Executive Director
Pima Association of Governments

MPO Organization and Program Administration

General Organization

Pima Association of Governments (PAG) is a nonprofit metropolitan planning organization with Transportation Planning, Environmental Planning, Energy Planning and Technical Services divisions. PAG, which was established in Pima County in 1972 as a 501(c)4 nonprofit association and became a designated MPO in 1973, embraces a vision which recognizes the independence of each PAG member jurisdiction and celebrates the region's diverse environmental and cultural influences. PAG's nine member jurisdictions include the Cities of South Tucson and Tucson, Pima County, the Towns of Marana, Oro Valley and Sahuarita, the Pascua Yaqui Tribe, the Tohono O'odham Nation. Federal regulations require that an MPO be designated to carry out a comprehensive, continuing and coordinated transportation planning process for urbanized areas with a population of 50,000 or more.

Program Administration

Transportation

While a number of local, state and federal agencies are responsible for planning, building and operating the transportation system in the Pima County region, PAG is responsible for determining the allocation of federal transportation dollars to its local member jurisdictions. The responsibility for building and operating the transportation infrastructure lies with PAG's member jurisdictions. Each jurisdiction has its own transportation department and/or staff associated with planning, building and operating the transportation system.

PAG's Transportation Planning Division develops many plans and programs, including the federally mandated long-range regional transportation plan (RTP) and short-range transportation improvement program (TIP). The current plans include the 2040 RTP and the 2012-2016 TIP. A congestion management process (CMP), in which PAG and its partners define and measure congestion and then develop appropriate strategies to reduce it, has been integrated into the development of these documents. PAG's Travel Demand Management program works with employers, employees and other commuters to reduce travel demand on the region's roadway network.

Regional Transportation Authority (RTA)

In 2006, Pima County voters approved the RTA's \$2.1 billion, 20-year regional transportation plan and half-cent sales tax to fund the plan. The RTA is the fiscal manager of the RTA plan, which includes roadway, safety, transit and environmental and economic vitality projects. More than 400 projects have been completed across the Pima County region in the past five years. The RTA is governed by a nine-member board, including representatives from the Cities of South Tucson and Tucson, Pima County, the Towns of Marana, Oro Valley and Sahuarita, the Pascua Yaqui Tribe, the Tohono O'odham Nation and the Arizona State Transportation Board.

Air Quality

PAG is the designated air quality planning agency for eastern Pima County. PAG's Air Quality Planning Program develops regional air quality plans, analyzes air quality conformity of transportation plans and ensures that air quality programs comply with federal, state and local air quality requirements.

Water Quality

PAG's Watershed Planning program focuses on ways to preserve or improve the water resources in Pima County's watersheds. As the Designated Planning Agency under Section 208 of the federal Clean Water Act, PAG plans for areawide wastewater treatment within Pima County.

Alternative Energy

PAG manages several energy-related efforts. The Energy Planning Division has two programs: the Tucson Regional Clean Cities program and the Southern Arizona Regional Solar Partnership. Both programs promote alternative energy use.

MPO Membership

PAG's member jurisdictions include the Cities of South Tucson and Tucson, Pima County, the Towns of Marana, Oro Valley and Sahuarita, the Pascua Yaqui Tribe, the Tohono O'odham Nation. All eight jurisdictions are located within the boundaries of Pima County, except for the Tohono O'odham which extends to Pinal and Maricopa counties in the United States and a small portion of Marana which extends into Pinal County. Pima County has a population of just under 1 million and contains 9,183 square miles of land. Part of the county is situated along the U.S. border with Mexico and the county seat is Tucson, where the majority of the population is located.

Member Agency Populations

The following table of population data broken down by jurisdiction is based on 2000 and 2010 census data.

Member Agency	2000 population	2010 population
City of Tucson	486,699	520,116
Pima County	843,742	980,263
Pascua Yaqui Tribe	3,315	*
Tohono O'odham Nation	9,545	*
Town of Oro Valley	29,700	41,011
Town of Marana	13,556	34,961
City of South Tucson	5,490	5,652
Town of Sahuarita	3,242	25,259

* Census information on Pascua Yaqui Tribe and Tohono O'odham Nation are not yet available.

PAG Committees

The nine-member Regional Council is the governing body of Pima Association of Governments and includes one member from each jurisdiction plus an Arizona State Transportation Board member for transportation issues only. The Regional Council takes action on policies, plans or reports that pertain to cross-jurisdictional issues on transportation, air quality, water quality, land use or human services.

Regional Council

	Race/ethnicity				
	Hispanic*	African American	Native American	Asian American	White
Number	2	0	2	0	5

Percent of Total	22%	0%	22%	0%	56%
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* "Hispanic" is an ethnicity and not a racial category; some committee members of Hispanic ethnicity preferred reporting a designation based on race rather than ethnicity.

The Management Committee is a policy advisory committee for Pima Association of Governments. The committee reviews and makes recommendations to the PAG executive director on information, reports and plans developed by PAG that address regional problems and needs. The committee assesses technical and policy implications and determines action needed from the PAG Regional Council.

Management Committee

	Race/ethnicity				
	Hispanic*	African American	Native American	Asian American	White
Number	1	0	2	0	6
Percent of Total	11%	0%	11%	0%	67%

* "Hispanic" is an ethnicity and not a racial category; some committee members of Hispanic ethnicity preferred reporting a designation based on race rather than ethnicity.

The Transportation Planning Committee (TPC) provides direction and technical expertise for a variety of regional transportation planning studies, plans and programs, including the five-year Transportation Improvement Program and the long-range Regional Transportation Plan. Numerous other transportation subcommittees, task forces and working groups report their recommendations to, and receive direction from, the TPC. The TPC directly supports PAG's role as the federally designated Metropolitan Planning Organization (MPO), charged with maintaining a continuous, cooperative and comprehensive, multi-modal regional transportation planning process. All PAG member jurisdictions are represented on the TPC.

Transportation Planning Committee

	Race/ethnicity				
	Hispanic*	African American	Native American	Asian American	White
Number	5	0	1	0	7
Percent of Total	38%	0%	8%	0%	54%

* "Hispanic" is an ethnicity and not a racial category; some committee members of Hispanic ethnicity preferred reporting a designation based on race rather than ethnicity.

Complaint Process

Any person who believes that he or she, either individually, as a member of any specific class of persons, or in connection with any minority contractor, has been subjected to discrimination prohibited by Title VI of Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 may file a complaint. The complaint must be unequal treatment because of race, color, national origin, gender, age and/or disability, or noncompliance with Title VI rules or guidelines adopted there under.

The Arizona Department of Transportation (DOT) has the principal responsibility for processing, investigating and resolving any complaint arising as a result of operations its subrecipients such as PAG. The PAG will be responsible for processing, investigating and resolving complaints of discrimination by its member agencies. The PAG contact information is as follows:

John Liosatos
 PAG's Title VI Liaison
 Pima Association of Governments
 177 N Church Ave, Suite 405
 Tucson, AZ 85701
 Telephone (520) 792-1093, FAX (520) 620-6981

The complaint process will follow the ADOT procedures. Complaints must be filed in writing to:

ADOT Civil Rights Office
 1135 N. 22nd Avenue, 2nd floor mail drop 154A
 Phoenix, AZ 85009
 (602) 712-7716

A formal complaint must be filed within 180 calendar days of the alleged act of discrimination or the date when the alleged discrimination became known to the complainant(s), or where there has been a continuing course of conduct, the date on which the conduct was discontinued or the latest instance of the conduct. This timeframe is prescribed by 49 CFR 21.11(b).

The complaint must meet the following requirements:

- a. Complaint shall be in writing and signed by the complainant(s) and must include complainant(s)' name, address and phone number. PAG's Title VI liaison, John Liosatos, will assist the complainant with documenting the issues if necessary.
- b. Present date of the alleged act of discrimination; date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct.
- c. Present a detailed description of the issues including names and job titles of those individuals perceived as parties in the complained-of-incident.
- d. Allegations received by fax or e-mail will be acknowledged and processed, once the identity(ies) of the complainant(s) and the intent to proceed with the complaint have been established. For this, the complainant is required to mail a signed, original copy of the fax or e-mail transmittal for the CRO to be able to process it.
- e. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. A complaint form will be forwarded to the complainant for him/her to complete, sign and return to the CRO for processing.
- f. Within 45 calendar days of the acceptance of the complaint, the ADOT investigator will prepare a draft investigative report for the review of the ADOT CRO Deputy Administrator. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.
- g. ADOT's final investigative report with the preliminary findings and a copy of the complaint will be forwarded by certified mail to either FHWA (Arizona Division office Civil Rights Specialist), FTA or FAA, or NHTSA within 60 calendar days of the acceptance of the complaint, per 23 CFR 200.9(b)(3).

Program Areas

Transportation Planning

PAG has developed maps showing the concentration distribution of “protected” classes (as defined by federal regulation) within the region. These maps, along with official population statistics, current estimates and projections, and other household data in the PAG region, assist in analyzing the potential disparate impacts of the Transportation Improvement Programs (TIP) on these groups.

The types of projects that appear in the TIP may include roadway improvements, bridge improvements, transit improvements, transportation enhancements, transportation planning studies, bicycle and pedestrian programs, RideShare, Travel Reduction, Clean Cities, alternate mode programs and airport improvements.

Public Involvement

PAG’s public involvement plans provide full and fair participation for all potentially affected communities. Identifying these communities requires close coordination between the development and implementation of the public involvement effort and the data collection and analysis phases of the planning process, all of which are subject to Title VI and Environmental Justice provisions. The data collection phase provides information on the protected populations, which are often synonymous with the underserved/under-represented populations and, therefore, may need particular attention in the public involvement effort. The analysis phase provides information on the potential level of impact to the various populations which will need to be integrated into those public involvement efforts seeking input on alternative development, alternative preferences, and/or mitigation.

PAG addresses Title VI requirements both quantitatively and qualitatively with extensive public involvement and data analysis techniques. Federal regulations define specific groups as “protected populations.”

To foster public participation, staff in each program ensure that information is readily accessible and ensure that the people likely to be affected by and/or interested in a program are identified and made aware of opportunities to participate. The following sections address each of these practices in detail.

Access to PAG Information

PAG’s documents, data and information, with few exceptions, are a matter of public record. As such, any request from a member of the public for a PAG document is responded to in a timely manner. At a minimum, a written response is provided within one week of the receipt of a public information request.

Stakeholder Analysis

PAG staff analyze who will be affected and/or interested in the planning issue or policy being developed. This involves identifying both internal and external stakeholders. Internal stakeholders typically include PAG member jurisdictions and tribal nations, PAG staff involved in related activities, and other governmental agencies with jurisdiction or interest in the activity. External stakeholders typically include those non-governmental parties who may be affected by the activities and/or have an interest in them. This includes Title VI and Environmental Justice populations.

Many of PAG's program areas have compiled their own lists of external stakeholders. For each new activity, or over the course of longer activities, these lists are reviewed to ensure they are up to date and reflect the broadest range of stakeholders reasonably possible. A common method for identifying additional stakeholders is to interview existing stakeholders to determine who else needs to be involved.

PAG's public involvement staff maintains a large database of stakeholders and members of the general public identified through a variety of public involvement initiatives over the years. This database includes civic and community organizations serving Title VI and Environmental Justice populations, neighborhood and homeowner associations, environmental and business groups, elected officials, PAG member jurisdiction staff at various levels, and other public groups. Public involvement staff are available to assist other agency staff in conducting stakeholder analyses and in accessing the public participation database upon request.

Public Notification of PAG Activities and Services

Promotion of inclusive and accessible public involvement includes regular efforts within each PAG program area to notify a wide range of stakeholders and the general public regarding the information, data, funding, policy and planning issues being addressed.

Public information is presented in formats that are accessible to the intended audiences. Public involvement program staff are available for consultation in determining what information is appropriate to publicize and in what form.

For reaching the general public, the Web site and media outreach (e.g., press releases) are encouraged. For reaching stakeholder groups, distribution of public information documents such as reports and newsletters via direct mail also may be an effective communication method. The use of other methods is considered to promote equal access to information for targeted audiences. In particular, efforts to overcome barriers to accessing information among underserved populations, youth, and other individuals who may not have Internet access or read newspapers are undertaken.

For example, public service radio announcements on Latino radio outlets are one method for reaching Hispanic populations, particularly non-English speaking Latinos. Additionally, underserved populations are more likely to read information distributed through trusted and familiar communications channels. E-mail is used to distribute notices to school and community-based newsletters for publication. Placement of English / Spanish information in libraries, community centers, or other public places is also used.

Spanish Translations

Public information documents written in English, including meeting notices, include a tagline affirming that PAG will make reasonable accommodations to translate any materials in Spanish.

Spanish translations are used for activities specifically targeted to the general public even without a request. Examples of materials to be translated include meeting notifications (e.g., flier or Web posting). Additional information that is translated upon request includes any public meeting handouts, such as fact sheets, newsletters, and executive summaries of planning documents under review.

As a rule, Spanish-speaking staff are on hand at public meetings intended for gathering input.

Task Force Composition

Efforts are made to assess the composition of PAG's task forces to ensure that invited members represent a cross section of key stakeholder groups.

Geographic Analysis of Underserved Populations

Staff within each PAG program area periodically perform a basic visual assessment to identify the location of protected Title VI and Environmental Justice populations in relationship to the provision of information and planning products and services. PAG's online regional data provide program staff with maps showing the location of protected Title VI and Environmental Justice populations for any specific geographic areas. ZIP Code maps are used to show locations of people in databases. The maps of protected populations and mailing list ZIP Codes are compiled as one way to demonstrate that protected populations are being notified and/or involved. This documentation is important for demonstrating compliance with Title VI and Environmental Justice provisions.

Meeting Scheduling, Location and Access

Public meetings are scheduled to increase the opportunity for attendance by stakeholders and the general public. This may require scheduling meetings during non-traditional business hours, holding more than one meeting at different times of

the day or on different days, and checking other community activities to avoid conflicts.

When a public meeting or public hearing is focused on a planning study or program related to a specific geographic area or jurisdiction within the PAG region, the meeting or hearing is held within that geographic area or jurisdiction. Appropriate elected officials as identified in the stakeholder analysis are consulted and/or informed of relevant outreach activities within their jurisdictions.

Public meetings are held in locations accessible to people with disabilities and are located near a transit route when possible.

Disadvantaged Business Enterprise

It is PAG's policy, as a federally assisted agency, to encourage small and minority businesses and women's business enterprises to submit proposals. The following DBE language will be included in all PAG solicitations for work or material made in connection with ADOT and federal funds.

The issuing agency, 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, the Civil Rights Restoration Act of 1987 (Public Law 100.259). Code of Federal Regulations, Department of Transportation, Subtitle A, Office 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 insure that in any contract entered into pursuant to this solicitation, minority business enterprises 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.

In all subsequent agreements between PAG and a sub-consultant or contractor, PAG will include the following statements:

(1) As required by 49 CFR 26.13, the MPO shall not discriminate on the basis of race, color, national origin, religion, gender, age or disability in the award and performance of any USDOT assisted contract or in the administration of its DBE program or the requirements of 49 CFR 26. The MPO shall take all necessary and reasonable steps under 49 CFR 26 to ensure nondiscrimination in the award and administration of USDOT assisted contracts. The MPO's DBE program, as required by 49 CFR 26 and as approved by USDOT, is incorporated by reference in the Planning Funds Agreement between the MPO and ADOT.

(2) Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of the Agreement. Upon notification to the MPO of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 49 CFR 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Lawsuits Alleging Discrimination

There have been no Title VI lawsuits or complaints filed against PAG.

Title VI Contract Language – Appendix A, B and C

The wording of all PAG contracts will reflect the language required by ADOT and the federal government. Appendix A, B and C include the Title VI language that will be included in: A) contracts, B) deeds effecting or recording transfer of real property, structures and their improvements, and C) deeds, licenses, leases, permits or similar instruments entered into by PAG.

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 shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") 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 subcontractors, including procurements 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 Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The contractor shall provide all information and reports required by this 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 (Recipient) or the *Arizona Department of Transportation or the Federal Highway Administration* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the (Recipient), or the *Arizona Department of Transportation or the Federal Highway Administration* as appropriate, and shall set forth what efforts it has made to obtain the information

(5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with nondiscrimination provisions of this contract, the (Recipient) shall impose contract sanctions as it or the *Arizona Department of Transportation or the Federal Highway Administration* 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 (6) in every subcontract, including procurements 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 subcontract or procurement as the (Recipient) or the *Arizona Department of Transportation or the Federal Highway Administration* 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 subcontractor or supplier as a result of such direction, the contractor may request the (Recipient) to enter into such litigation to protect the interests of the (Recipient), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Appendix B

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

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the (Name of Recipient) will accept title to the lands and maintain the project constructed thereon, in accordance with *Arizona Department of Transportation or the Federal Highway Administration*, the Regulations for the Administration of *Federal Aid Highway Projects* and the policies and procedures prescribed by *Federal Highway Administration* of the Department 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, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Name of Recipient) all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

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

The (Name of Recipient), 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 subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and]* (2) that the (Name of Recipient) shall 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, 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 1954, and as said Regulations may be amended, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and

facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.*

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

Appendix C

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by (Name of Recipient) pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for herself/himself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in case of deeds, and leases add "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 the furnishing services there on, no person on the grounds of race, color, or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, lessee, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.

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