

Public Utilities Commission of Ohio

Title VI Program Compliance Plan

Policy Statement

This document shall serve as the official Title VI Compliance Plan (Plan) for the Public Utilities Commission of Ohio (PUCO or Commission). As such, the Commission affirms that it will comply with 49 CFR Part 21 and 49 CFR Part 303 and take all necessary steps to carry out those provisions.

The Title VI program coordinator for the Commission is designated by the director of human resources and has responsibility for the coordination and implementation of the Commission's Title VI program (Title VI program or program) as outlined in this Plan. The Title VI Program coordinator serves as the primary point of contact for questions, concerns, and/or complaints related to the program and has the full support and cooperation of all Commission departments and employees, especially those personnel responsible for interacting with members of the public, in order to effectively implement and administer the program.

In addition to the requirements enumerated in the Plan, other applicable provisions may be required by The United States Department of Transportation (DOT) Standard Title VI/Non-Discrimination Assurances, DOT Order No. 1050.2A (Attachment A), which is incorporated and becomes part of the Plan.

Asim Z. Hayje

Printed Name of Chairman



Signature of Chairman

7/31/17

Date

Federal-Aid Programs

The Commission participates in four grant programs with the Federal Motor Carrier Safety Administration (FMCSA). Below are brief summaries of each grant program and the activities performed therein:

- Commercial Vehicle Information Systems and Networks (CVISN) – Deploy, operate, and maintain elements of the state’s CVISN program including commercial vehicle, driver, and carrier specific information systems and networks involving company credentials, data exchange, enforcement, and roadside pre-screening.
- Motor Carrier Safety Assistance Program (MCSAP) Basic/Incentive Grants – Conduct driver/vehicle inspections, traffic enforcement, compliance reviews, education and outreach, data upload and quality control, and various administrative activities tied to the requirements of the grant.
- MCSAP High Priority Grants – Conduct driver/vehicle inspections, traffic enforcement, compliance reviews, education and outreach, data upload and quality control, and various administrative activities tied to the requirements of the grant.
- New Entrant Program - Conduct new entrant audits, education and outreach, data upload and quality control, and various administrative activities tied to the requirements of the grant. To the extent necessary conduct compliance reviews and driver/vehicle inspections pursuant to requirements of the grant and to ensure inspectors remain certified.

Notification to Beneficiaries/Participants

To ensure public knowledge of the Commission’s Title VI program, dissemination of programmatic information will occur primarily through the Commission’s dedicated web page that describes the Commission’s Title VI program. This page, contains a clear statement that reads: “The PUCO operates without regard to race, color, national origin, sex, age, disability, income-level or limited English proficiency (LEP)” Furthermore, the page also provides basic information about the Title VI program and the complaint process, including instructions on how to file a complaint, both electronically or by printing and mailing a paper form, if an individual believes a violation has occurred. Additionally, contact information for those wishing to obtain additional information about the Title VI program is provided

In addition to the Commission’s Title VI web page, a separate written brochure has been produced and is maintained for dissemination to the public. Like the Commission’s Title VI web page, the brochure describes the Commission’s Title VI program, and provides a statement that: “The PUCO operates without regard to race, color, national origin, sex, age, disability, income-level or limited English proficiency (LEP).” The brochure also provides basic information about the Title VI program and the complaint process, and includes instructions on how to file a complaint if an individual believes a violation has occurred. The brochure will be made available upon request, is available at the offices of the Commission, and will be used at events and meetings to inform the public about the Commission’s Title VI program.

Those seeking information about the program will first be directed to the Title VI web page. However, for those who do not have internet access, or prefer a paper copy, the Commission will provide a physical copy of its brochure at no cost.

Members of the public wishing to file a complaint shall be directed to the PUCO website where they can complete and submit an online complaint form. For those who do not have internet access, or prefer to file a complaint in written form, a paper copy of the PUCO's paper complaint form, along with instructions on how to complete and return it, will be provided free of charge to any individual making a request. A phone number to contact the PUCO to request a copy of the form is provided in the Title VI brochure, on the Title VI web page, and in outreach materials maintained by the PUCO for the Title VI program.

Sub-Recipient Compliance Reports

Pursuant to state law, there is only one eligible sub-grantee for Ohio and it is the Ohio State Highway Patrol (OSHP).

The OSHP is already required to have a Title VI program for other federal grants and, as such, is required to adhere to the same requirements outlined in this Plan. The Commission will request that the OSHP annually provide a copy of its plan highlighting any changes and/or updates and make available information and data tied to filed complaints, responses, and/or corrective actions that have been implemented. The OSHP will be responsible for all activities related to the implementation and enforcement of its Title VI plan including but not limited to complaint tracking, investigations, notifications, training and follow-up actions.

The Commission will conduct an annual Title VI program review of the sub-recipient and request documentation related to requirements under the Title VI program from the prior year. A checklist of documents that must be provided as a part of the review will be used to track and document the components needed to ensure compliance. At a minimum, the list of required documents will include: a signed Title VI Program Assurance, a copy of its current Title VI program plan; a report containing a list of all complaints filed; the status and result of each complaint; and any discipline/corrective action/programmatic changes that have occurred. Based upon this list, if corrective actions were required, the sub-grantee will be asked to document any plans to ensure future compliance.

Training

All Commission staff whose official work duties carryout the four grant programs with the FMCSA and receive reimbursement for their work from FMCSA will receive annual Title VI compliance training by the human resources department, legal department, or other appropriate staff. At a minimum, such training consists of the provision of a copy of the PUCO Title VI Program Compliance Plan and signed Standard Title VI Nondiscrimination Assurance document.

Access to Records

All records relating to the Commission's Title VI program will be available to the FMCSA for review upon written request sent to the Title VI program coordinator. Such a request will include documents required for compliance reviews and/or complaint investigations conducted by the FMCSA.

Complaint Disposition Process

The following steps will constitute the Commission's Title VI Program Complaint Process: All complaints must be provided in writing either through an online or paper complaint form. The Commission only has jurisdiction to receive complaints or investigate Title VI Program matters involving staff involved in the operations of the four grant programs with the FMCSA who receive reimbursement for their work from FMCSA, and is not responsible for the Title VI Program complaints of sub recipients, subcontractors, or other individuals not directly employed by the Commission.

1. When received, complaints will be date/time stamped, assigned an identification number, and a file will be created;
2. Information regarding each complaint will be maintained separately and tracked via an electronic complaint log (Excel spreadsheet) by the Title VI program coordinator;
3. Complaints will be monitored by the Title VI program coordinator;
4. The Title VI program coordinator will assign a person to conduct an investigation;
5. The investigation will be held and a report detailing the nature of the complaint, findings, and recommendations will be produced and provided to the Title VI program coordinator;
6. Attached to the investigation will be supporting documents and materials that have been developed as a part of the investigation;
7. The report and associated materials will be reviewed by the Title VI program coordinator who, based on the report and associated materials, will make a recommendation for any necessary action, to the human resources director;
8. The human resources director, in consultation with the chief-of-staff, legal department director, and the director of the department from which the allegation of a violation originates will determine follow-up action, including, but not limited to, the following:
 - a. Discipline
 - b. Training
 - c. Dismissal
 - d. Referral for further prosecution
 - e. No Further Action
9. If necessary, based upon the final determination of a complaint and any associated recommendations, a monitoring plan will be developed by the Title VI program coordinator to ensure follow-up action is completed in a timely, effective manner.
10. If disciplinary actions are warranted, based upon a final determination of a complaint, the Title VI program coordinator, human resources director, and director of the department involved will work with the chief of staff, legal department director, and appropriate supervisors to carry out the recommended discipline.
11. If future prosecution is determined to be necessary, based upon the final determination of a complaint, the Title VI program coordinator will work with the legal department director, Ohio Attorney General's Office, chief-of-staff, department director(s) whose department(s) are involved, and the appropriate supervisors to follow the proper steps to refer the complaint to the correct legal authority, and provide all relevant documentation and files associated with the complaint.

12. Depending upon the result of the complaint, the Title VI program coordinator will track each of the actions taken throughout the pendency of the complaint in the tracking spreadsheet. Once a complaint has been resolved, the Title VI program coordinator will notify the complainant of all actions taken and that the complaint has been closed. Such notice will also inform the complainant of any appeal rights afforded to him or her.

The PUCO maintains a Title VI Program Complaint Log that includes at a minimum the following information: name of complainant, identification by demography (i.e., race, color, national origin, etc.), allegation(s), complaint date, date of Report of Investigation, determination made and date. The PUCO will make the complaint log available to the FMCSA upon request.

Status of Corrective Actions

No Federal Agency has conducted a Title VI Program compliance review of the PUCO to date. If a Title VI Program compliance review is conducted by the government of the United States and, as a result, the Commission is directed to address deficiencies, all necessary corrective actions to ensure compliance will be undertaken. The Commission will cooperate with the FMCSA Office of Civil Rights (OCR), or any other applicable federal agency responsible for the review, and communicate on a regular basis with the FMCSA OCR, or other applicable federal agency, regarding the progress on any corrective actions. Such communications will provide timelines for completion of work as well as any problems that may negatively impact such efforts.

Community Participation Process

This section of the Plan is not applicable to the PUCO as it does not provide motorist licensure/motor vehicle registration-related services/activities (including knowledge tests, skills tests, etc.).

Contractors

In the case where the PUCO sub-contracts work to another entity, the Commission will ensure that any request for proposal/solicitation for bid, contract, or agreement with a contractor contain the necessary provisions required in Appendix A and E attached to this plan. Any contractor hired to perform work on behalf of the commission will be responsible for all activities related to the implementation and enforcement of a Title VI compliant plan including but not limited to complaint tracking, investigations, notifications, training, and follow-up actions. Any agreement entered into between the PUCO and a contractor will contain specific language requiring the contractor to ensure that any sub-contractor used to perform work under the provisions of the agreement with the Commission shall do so only if they comply with the same terms, conditions, obligations, and requirements contained in the agreement between the PUCO and the Contractor related to the Title VI Program.

APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP 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 as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
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 FMCSA 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 FMCSA, 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 nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FMCSA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FMCSA 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.

**CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY
APPENDIX B**

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

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the ***(Title of Recipient)*** 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 **Federal Motor Carrier Safety Administration (FMCSA) Program**, and the policies and procedures prescribed by the **FMCSA** of the Department of Transportation in accordance and in compliance with all requirements imposed by 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 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 ***(Title 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 ***(Title 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 will be binding on the ***(Title of Recipient)***, its successors and assigns.

The ***(Title 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 will on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP 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 ***(Title of Recipient)*** 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, 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 and Acts may be amended, and (3) that in the event of breach of any of the above-mentioned nondiscrimination 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 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 purpose of Title VI.)

April 21, 2015

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

APPENDIX C

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the **(Title of Recipient)** 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 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, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above nondiscrimination covenants, **(Title of Recipient)** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above nondiscrimination covenants, the **(Title of Recipient)** 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 **(Title of Recipient)** and its assigns.*

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

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

APPENDIX D

The following clauses will be included in deeds, licenses, permits, or similar instruments/ agreements entered into by **(Title of Recipient)** 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, national origin, sex, age, disability, income-level, or LEP 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, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above nondiscrimination covenants, **(Title of Recipient)** 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 nondiscrimination covenants, **(Title of Recipient)** will there upon revert to and vest in and become the absolute property of **(Title of Recipient)** and its assigns.*

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

APPENDIX E

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

- 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), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. § 303;
- 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, (102 Stat. 28.), ("*...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.*");
- 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 Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's nondiscrimination 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 nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq), as implemented by 49 C.F.R. § 25.1 et seq.

Attachment A

The United States Department of Transportation

Standard Title VI/ Nondiscrimination Assurances

DOT Order No. 1050.2A

The Public Utilities Commission of Ohio (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the **Federal Motor Carrier Safety Administration (FMCSA)**, 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);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 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*);
- 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
- 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
- 49 C.F.R. Part 303 (FMCSA's Title VI/Nondiscrimination Regulation);
- 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
- 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.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities.

Executive Order 12898, 3 C.F.R. 859 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice:

[http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm](http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm;);

Additionally, Executive Order 13166, 3 C.F.R. 289 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “*application of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*” When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT’s “*Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,*” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

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, national origin, sex, age, disability, low-income, or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from DOT, including the FMCSA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

Specific Assurances

More specifically, and without limiting the above General Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FMCSA Program**:

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

"The [Public Utilities Commission of Ohio], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, age, disability, income-level, or LEP 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;
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, [Name of the recipient] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **FMCSA** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FMCSA**. You must keep records, reports, and submit the material for review upon request to **FMCSA**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Public Utilities Commission of Ohio gives this Assurance in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the Department of Transportation under the **FMCSA Program**. This Assurance is binding on [insert State], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FMCSA Program**. The person (s) signing below is authorized to sign this Assurance on behalf of the Recipient.

Public Utilities Commission of Ohio
(Name of Recipient)

by 

(Signature of Authorized Official)

7/31/17

Date