

FTA

FEDERAL TRANSIT ADMINISTRATION

North Dakota Department of Transportation Title VI Compliance Review Report

FINAL REPORT

March 2016

Federal Transit Administration



U.S. Department of Transportation

Federal Transit Administration

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Table of Contents

Executive Summary.....	6
1. General Information	8
2. Jurisdiction and Authorities	9
3. Purpose and Objectives	10
3.1 Purpose	10
3.2 Objectives	10
4. Introduction to North Dakota Department of Transportation	11
4.1 Introduction to NDDOT and Organizational Structure	11
5. Scope and Methodology.....	14
5.1 Scope	14
5.2 Methodology.....	14
6. Findings and Advisory Comments	21
Findings of General Reporting Requirements and Guidelines	21
6.1 Inclusive Public Participation.....	21
6.2 Language Access to LEP Persons	23
6.3 Title VI Complaint Procedures.....	26
6.4 Record of Title VI Investigations, Complaints, and Lawsuits	27
6.5 Notice to Beneficiaries of Protection under Title VI.....	28
6.6 Annual Title VI Certification and Assurance	29
6.7 Monitoring Subrecipients	29
6.8 Minority Representation on Planning or Advisory Bodies	36
6.9 Determination of Site or Location of Facilities	37
6.10 Submit Title VI Program	37
Findings of the Program-Specific Requirements for States	40
6.11 Statewide Planning Activities.....	40
6.12 Program Administration	41
7. Summary of Findings/Corrective Actions.....	46
8. Attendees.....	51

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Executive Summary

Objective and Methodology – This report details the findings of a Compliance Review of North Dakota Department of Transportation’s (NDDOT) Title VI program implementation. The Compliance Review examined this agency’s Title VI program procedures, management structures, actions, and documentation. Documents and information were collected from the Federal Transit Administration (FTA) and NDDOT. In addition, the following entities were interviewed as part of this review: NDDOT officials from the State and Federal Transit Program Section and Civil Rights Division, three (3) NDDOT subrecipients: Benson County Transportation, James River Public Transit, and Trenton Indian Service Area and eighteen (18) community representatives and stakeholder groups: North Central Planning Council, Roosevelt-Custer Regional Council, Williston Economic Development, Vision West, Lake Agassiz Regional Council, USDA, Cavalier County Job Development Authority, Divide County Economic Development Corporation, Greigg-Steel Empowerment Zone, Fort Berthold Three Affiliated Tribes, Westhope Economic Development, Northern Plains Electric Cooperative, Prairie West Development Foundation, Renville County Job Development Authority, Stark Development Corporation, FORWARD Devils Lake Development Corporation, Hazen Community Development, and the Minority Business Development Agency.

The three-day review included interviews, assessments of data collection systems, and review of program and contract documents.

NDDOT’s Title VI Program includes the following positive program elements –

Positive Program Elements

- Completion of annual on-site compliance reviews for subrecipients.
- Templates provided to subrecipients: LEP plan, complaint form, complaint procedures, and Title VI notice.
- Subrecipient files included a documented history of compliance with Title VI.

The Program has the following administrative deficiencies –

Administrative Deficiencies

- NDDOT’s published complaint form and procedure does not specify requirements for filing a complaint related to FTA programs, or narrow the coverage of Title VI to race, color, and national origin, as required by FTA Circular 4702.1B-III-6 (6.3 Title VI Complaint Procedures).

The Program has the following substantive deficiencies –

Substantive Deficiencies

- The NDDOT Title VI Program does not include a detailed public participation plan specifying outreach to engage minority, low income, and LEP populations, as required by Circular 4702.1B -III-8 (6.1 Inclusive Public Participation).

Substantive Deficiencies

- The four-factor analysis and LAP within NDDOT's Title VI Program does not include all the elements required by FTA Circular 4702.1B-III-9, such as frequency of contact data, information from community groups regarding importance, cost of available resources, and language assistance services provided by language. NDDOT has not implemented all the activities listed within its Language Assistance Plan. NDDOT does not have a formal methodology to identify vital documents for translation. NDDOT has not provided training to staff on LAP requirements (6.2 LEP Language Assistance Plan).
- NDDOT has not published a Title VI notice which meets FTA requirements or has been translated in accordance with NDDOT's Language Assistance Plan (6.5 Notice to Beneficiaries of Protection under Title VI).
- NDDOT is not monitoring all areas as required by FTA C. 4702.1B-III. NDDOT has not provided demographic data to assist subrecipients in conducting their four-factor analysis and LEP plan as required by the NDDOT SMP. Not all subrecipients are notifying the public of their rights under Title VI as outlined in FTA Circular 4702.1B-III-5(b). Not all subrecipients have made their Title VI complaint procedures and forms available to the public, as required by FTA Circular 4702.1B-III-6. NDDOT staff has not implemented a process to record and report subrecipient investigations, complaints, and lawsuits, as required by FTA Circular 4702.1B-III-7 (6.7 Monitoring Subrecipients).
- NDDOT's Title VI Program does not contain all the elements as required by FTA Circular 4702.1B such as a summary of public outreach and involvement activities, a list of subrecipients, demographic maps that overlay minority population data with funding distribution, and statewide transportation planning process and procedures (6.10 Submit Title VI Program).
- NDDOT does not have a defined schedule to collect Title VI programs from MPOs. NDDOT does not have a process for routinely collecting Title VI Programs from MPOs, and reviewing these Programs for compliance with FTA Circular 4702.1B-V-3 (6.11 Statewide Planning Activities).
- NDDOT did not document activities to ensure an equitable distribution of funds are provided to subrecipients that serve predominantly minority populations. NDDOT could not provide documentation that it passed-through FTA Section 5310 and 5311 funds without regard to race, color, or national origin and that minority and low-income populations were not being denied the benefits of or excluded from participation in the programs. NDDOT's competitive selection process does not include a description of how funding decisions were made as required by FTA Circular 4702.1B-V-4 (6.12 Program Administration).

I. General Information

This chapter provides basic information concerning this Compliance Review of NDDOT. Information on NDDOT, the review team, and the dates of the review are presented below.

Grant Recipient:	North Dakota Department of Transportation (NDDOT)
City/State:	Bismarck, North Dakota
Grantee Number:	1153
Executive Official:	Grant Levi, NDDOT Director
On-site Liaison:	Becky Hanson, Transit Program Manager
Report Prepared By:	Calyptus Consulting Group Inc.
Dates of On-site Visit:	October 27-29, 2015
Compliance Review Team Members:	George Harris Jameson Beekman Philippa Drew

2. Jurisdiction and Authorities

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of Transportation to conduct civil rights compliance reviews. NDDOT is a recipient of FTA funding assistance and is therefore subject to the Title VI compliance conditions associated with the use of these funds pursuant to the following:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d)
- Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.)
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.)
- Department of Justice regulation, 28 CFR part 42, Subpart F, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs” (December 1, 1976, unless otherwise noted)
- DOT regulation, 49 CFR part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964”
- FTA Circular 4702.1B “Title VI Requirements and Guidelines for Federal Transit Administration Recipients”
- FTA Circular 4703.1 “Environmental Justice Policy Guidance for Federal Transit Administration Recipients”
- DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons (December 14, 2005)
- [Executive Order 13166](#): “Improving Access to Services for Persons with Limited English Proficiency”
- Section 12 of FTA’s Master Agreement 18 (October 1, 2011)

3. Purpose and Objectives

3.1 Purpose

The Federal Transit Administration (FTA) Office of Civil Rights periodically conducts discretionary reviews of grant recipients and subrecipients to determine whether they are honoring their commitments, as represented by certification, to comply with the requirements of 49 U.S.C. 5332. In keeping with its regulations and guidelines, FTA determined that a Compliance Review of NDDOT's Title VI Program was necessary.

The Office of Civil Rights authorized Calyptus Consulting Group, Inc. to conduct the Title VI Compliance Review of NDDOT. The primary purpose of this Compliance Review was to determine the extent to which NDDOT has met its General Reporting and Program-Specific Requirements and Guidelines, in accordance with FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients." Members of the Compliance review team also discussed with NDDOT the requirements of the DOT Guidance on Special Language Services to Limited English Proficient (LEP) Beneficiaries that is contained in Circular 4702.1B. The Compliance Review had a further purpose to provide technical assistance and to make recommendations regarding corrective actions, as deemed necessary and appropriate. The Compliance Review was not an investigation to determine the merit of any specific discrimination complaints filed against NDDOT.

3.2 Objectives

The objectives of FTA's Title VI Program, as set forth in FTA Circular 4702.1B, dated October 1, 2012, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients" are to:

- Ensure that the level and quality of public transportation service is provided in a nondiscriminatory manner;
- Promote full and fair participation in public transportation decision-making without regard to race, color, or national origin;
- Ensure meaningful access to transit-related programs and activities by persons with limited English proficiency.

4. Introduction to North Dakota Department of Transportation

NDDOT oversees the development of surface transportation within North Dakota and has been designated by the Governor of North Dakota to administer federal transit programs in the state. There are 34 transit providers statewide, including rural, urban, and intercity services. At the time of the review NDDOT supported 29 rural agencies, 3 urban transit agencies, and 2 intercity agencies providing service to the general public, elderly, and people with a disability in all 53 counties within North Dakota. North Dakota public transit providers, both rural and urban, provided over 3.0 million rides in 2014. Collectively, these systems operate approximately 316 buses and vans.

North Dakota covers 69,000 square miles and is a mostly rural state. There are three urban areas that have the largest concentration of the population: Bismarck, Fargo, and Grand Forks. The population of North Dakota, as of the 2010 Census, was 672,591 people.

4.1 Introduction to NDDOT and Organizational Structure

The North Dakota State Highway Department was created in March 1917 and became NDDOT on January 1, 1990. NDDOT is led by a Director appointed by the Governor. The department also has three Deputy Directors: Business Support; Engineering; and Driver and Vehicle Services. The Central Office is in Bismarck, with eight (8) district offices: Bismarck, Devils Lake, Dickinson, Fargo, Grand Forks, Minot, Valley City and Williston.

The Local Government Division of the Office of Transportation Program Services within NDDOT administers FTA programs. This Office reports to the Deputy Director of Engineering. Within the Local Government Division, the State and Federal Transit Program section (Transit Section) is responsible for the administration of FTA and State funded programs. As part of this responsibility, the Transit Section coordinates the administration of the FTA Title VI Program, Plan and Assurances. The Transit Section consists of four (4) full-time employees and one (1) part time position, all of whom assist in monitoring subrecipient Title VI compliance. Staff provide templates and guidance to subrecipients relating to Title VI requirements. Transit Provider meetings are held four (4) times a year, and each federally funded subrecipient receives an annual onsite compliance review.

Responsibility for oversight of Metropolitan Planning Agencies (MPOs) rests with the Urban/MPO Team within the Local Government Division. The three (3) MPOs within North Dakota are:

- Bismarck/Mandan MPO
- Fargo/Moorhead Metro COG
- Grand Forks/East Grand Forks MPO

The NDDOT Civil Rights Division is responsible for Civil Rights compliance across all NDDOT. The Civil Rights Division Director is listed as the NDDOT Title VI Liaison Officer. The Civil Rights team includes a Title VI Program Administrator who reports to the Division Director. The Civil Rights Division is part of the Office of Operations, which reports to the Deputy Director of Engineering.

Of NDDOT's FTA funded subrecipients, 28 provide demand response services in rural areas, one (1) provides fixed route service in a rural area, three (3) provide fixed route and paratransit

services in urban areas, and two (2) provide intercity service. North Dakota's three (3) urbanized areas of Bismarck-Mandan, Fargo-West Fargo, and Grand Forks receive funding through the Section 5307 Urbanized Area Formula Program and provide fixed route/paratransit services. These agencies are urban systems and were not subject to this review. Subrecipients providing demand response services receive Section 5310, 5311, and 5339 funding. In addition, the Transit Section oversees four (4) demand response transit agencies that receive only State funding.

Additionally, Section 5303 and Section 5304 planning funds are rolled into the Consolidated Planning Grant and distributed to the three (3) North Dakota MPOs. Additional FTA funding is provided from Minnesota relating to the Fargo-West Fargo and Grand Forks/East Grand Forks urbanized areas that are located at the Minnesota state line.

Demographic Description of the State

The table on the following page represents a demographic profile of North Dakota using data from the 2000 and 2010 Census. The table shows the 2000 and 2010 population by racial/ethnic group, the increase (or decrease) in population from 2000 to 2010, and the percentage of the racial/ethnic group population in both 2000 and 2010. The table also shows the 2000 and 2010 population of individuals below the poverty level (Low-income) and individuals who speak English less than "very well" (Limited English).

From 2000 to 2010, the total population of the state increased 4.73%. During this period, the White population increased 2.07%, the Black population increased 103.27%, the American Indian/Alaska Native population increased 16.80%, the Asian population increased 91.60%, The Native Hawaiian/Pacific Islander population increased 39.13%, and the Hispanic/Latino population increased 72.96%.

In 2010, 90.00% of the total population was White, 1.20% was Black, 5.40% was American Indian/Alaska Native, 1.00% was Asian, 0.00% was Native Hawaiian/Pacific Islander, and 2.00% was Hispanic/Latino.

According to the 2010 Census, 12.3% of the population had income below the poverty level and 1.50% of the population had Limited English Proficiency (LEP) as shown in the table on the following page.

Racial/Ethnic Group	North Dakota 2000 ¹		North Dakota 2010 ²		Change in the State of North Dakota		
	Number	Percent	Number	Percent	Number	Percent change ethnic group	Percent change total population
White	593,181	92.40%	605,449	90.00%	12,268	2.07%	-2.40%
Black	3,916	0.60%	7,960	1.20%	4,4044	103.27%	0.60%
American Indian/Alaska Native	31,329	4.90%	36,591	5.40%	5,262	16.80%	0.50%
Asian	3,606	0.60%	6,909	1.00%	3,303	91.60%	0.40%
Native Hawaiian/Pacific Islander	230	0.00%	320	0.00%	90	39.13%	0.00%
Other Race	2,540	0.40%	3,509	0.50%	969	38.15%	0.10%
Two or More Races	7,398	1.20%	11,853	1.80%	4,455	60.22%	0.60%
Hispanic or Latino	7,786	1.20%	13,467	2.00%	5,681	72.96%	0.80%
Total	642,200	100%	672,591	100%	30,391		4.73%

	North Dakota 2000		North Dakota 2010	
	Number	Percent	Number	Percent
Limited English ^{3,4}	11,003	1.80%	9,151	1.50%
People below poverty level ^{5,6}		11.90%		12.3%

¹ Source: US Census Bureau, Profile of General Demographic Characteristics: 2000, North Dakota. Race data reflect individuals reporting "one race". Total excludes individuals reporting Hispanic or Latino; Hispanic or Latino refers to individuals reporting of any race.

² Source: U.S. Census Bureau, Profile of General Population and Housing Characteristics: 2010, North Dakota. Race data reflect individuals reporting "one race". Total excludes individuals reporting Hispanic or Latino; Hispanic or Latino refers to individuals reporting of any race.

³ Source: U.S. Census Bureau, Profile of Selected Social Characteristics: 2000, North Dakota. Data reflect individuals speaking "language other than English" at home, and Speak English less than "very well".

⁴ 2010 Source: U.S. Census Bureau, 2006-2010 American Community Survey

⁵ 2000 Source: U.S. Census Bureau, Profile of Selected Economic Characteristics: 2000. Data reflect poverty status in 1999.

⁶ 2010 Source: U.S. Census Bureau, 2006-2010 American Community Survey. Data reflect income in past 12 months.

5. Scope and Methodology

5.1 Scope

The Title VI Compliance Review of NDDOT examined the following requirements and guidelines as specified in FTA Circular 4702.1B:

1. General Reporting Requirements and Guidelines – All applicants, recipients and subrecipients shall maintain and submit the following:
 - a) Annual Title VI Certification and Assurance
 - b) Title VI Complaint Procedures
 - c) Record of Title VI Investigations, Complaints, and Lawsuits
 - d) Language Access to LEP Persons
 - e) Notice to Beneficiaries of Protection under Title VI
 - f) Monitoring subrecipients
 - g) Submit Title VI Program
 - h) Determination of Site or Facilities Location
 - i) Minority Representation on Planning or Advisory Bodies
 - j) Inclusive Public Participation
2. Requirements for States:
 - a) Planning
 - b) Program Administration

5.2 Methodology

Initial interviews were conducted with the FTA Headquarters Civil Rights staff to discuss specific Title VI issues and concerns regarding NDDOT. An agenda letter covering the Compliance Review was sent to NDDOT advising it of the site visit and indicating additional information that would be needed and issues that would be discussed. The review team focused on the General Reporting Requirements and Guidelines that are contained in FTA Title VI Circular 4702.1B that became effective on October 12, 2012. The General Reporting Requirements and Guidelines included implementation of the Limited English Proficiency (LEP) Executive Orders.

NDDOT was requested to provide the following documents in advance of the site visit:

- Current Title VI Program which would include NDDOT's organizational chart.
- Description of NDDOT's public transit service area, including general population and other demographic information using the most recent Census data and demographic maps.
- Current description of NDDOT's public transit service, including system maps, public timetables, transit service brochures, etc.
- Roster of NDDOT's current revenue fleet, to include acquisition date, fuel type, seating configurations, vehicle assignment, and other amenities.
- Description of transit amenities maintained by NDDOT for its service area. Amenities include stations, shelters, benches, restrooms, telephones, passenger information systems, etc.

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- Copy of NDDOT's Notice to Beneficiaries of Protections under Title VI.
 - Documentation of efforts made by NDDOT to notify members of the public of the protections against discrimination afforded to them by Title VI.
 - A narrative that describes the individuals and resources dedicated to implementing the Title VI requirements, handling any Title VI inquiries, and educating the agency's staff on Title VI.
 - Any conducted service and fare equity analyses over the past three (3) years.
 - A list of any siting, locating, and/or constructing of facilities, and any associated Title VI equity analyses within the last three (3) years.
 - Current Title VI complaint/lawsuit or investigation list.
 - NDDOT's procedures for identifying and tracking Title VI complaints and documentation that the procedures for filing complaints are available to members of the public upon request.
 - Summary of public outreach efforts/events since the last Title VI Program submission, including any language efforts/activities to ensure limited English persons are able to participate and contribute during the held public outreach efforts/events.
 - Copy of the NDDOT four-factor analysis of the needs of persons with Limited English Proficiency.
 - Copy of NDDOT's Language Assistance Plan for persons with Limited English Proficiency.
 - List of any monitoring or technical assistance provided to subrecipient(s).
 - Summary of subrecipient(s) and their respective Title VI Program status.
 - Names, titles, telephone numbers, and email addresses of interested parties (external organizations) with which NDDOT has interacted on Title VI issues.
 - A description of the statewide transportation planning process that identifies the transportation needs of minority populations.
 - A description of the procedures NDDOT uses to pass through FTA financial assistance to subrecipients in a nondiscriminatory manner.
 - A summary of funding requests received from private non-profit organizations, State or local government authorities, and Indian tribes. The summary must identify those applicants that would use grant program funds to provide assistance to predominantly minority populations, and shall indicate which applications were rejected and accepted for funding.
 - A description of how the agency develops its competitive selection process or annual program of projects submitted to FTA as part of its grant applications.
 - A list naming all the entities NDDOT has a supplemental agreement with.
 - Other pertinent information determined by NDDOT staff to be pertinent and demonstrative of its Title VI compliance efforts.

NDDOT assembled the documents prior to the site visit and provided them to the review team for advance review. A detailed schedule for the three-day site visit was developed. The review team conducted telephone interviews with three (3) subrecipients in advance of the on-site visit.

The site visit to NDDOT occurred on October 27-29, 2015. The individuals participating in the Compliance Review are listed in Section 8 of this report. An Entrance Conference was conducted at the beginning of the Compliance Review with NDDOT senior management, NDDOT staff, FTA Headquarters and Regional staff, and the contractor review team. Also, during the Entrance Conference, the review team explained the goals of the Compliance Review and the needed cooperation of staff members. A detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the review team met with the Transit Program Manager, Transpiration Management Officers, Urban Engineer and MPO Coordinator, and other staff responsible for Title VI Compliance. During this meeting, discussions focused on a detailed examination of documents submitted in advance of the site visit and documents provided at the site visit by NDDOT staff. The review team then met with the Civil Rights Director to discuss how NDDOT incorporated FTA Title VI requirements into its public transportation program. During the site visit, the review team visited the NDDOT administrative offices at 608 East Boulevard Avenue, Bismarck, ND.

At the end of the site visit, an Exit Conference was held with NDDOT staff, Headquarters and Regional FTA staff, and the contractor review team. At the Exit Conference, initial findings and corrective actions were discussed with NDDOT. See Section 8 for a list of attendees of both the entrance and exit conferences.

A draft report was provided for review on January 6, 2016 and comments were received from NDDOT on January 14, 2016. A copy of NDDOT's comments is included as attachment 1 to this report.

5.3 Stakeholder Interviews

The review team interviewed the following eighteen (18) community representatives and stakeholder groups: North Central Planning Council, Roosevelt-Custer Regional Council, Williston Economic Development, Vision West, Lake Agassiz Regional Council, USDA, Cavalier County Job Development Authority, Divide County Economic Development Corporation, Greigg-Steel Empowerment Zone, Fort Berthold Three Affiliated Tribes, Westhope Economic Development, Northern Plains Electric Cooperative, Prairie West Development Foundation, Renville County Job Development Authority, Stark Development Corporation, FORWARD Devils Lake Development Corporation, Hazen Community Development, and the Minority Business Development Agency.

The review team also interviewed three (3) subrecipients: Benson County Transportation, James River Public Transit, and Trenton Indian Services Area.

Community Representatives and Stakeholder Groups

The interviews with community representatives and stakeholder groups included questions on the services the organization provides to minority and low-income populations, the organization's familiarity with NDDOT's Title VI Program, the level of participation during the development of NDDOT's Title VI Program, public participation activities conducted by NDDOT, outreach efforts conducted by NDDOT, areas with limited English proficiency, known complaints about NDDOT's Title VI Program, issues of discrimination within the organization's geographic area of focus, suggestions for improving NDDOT's Title VI Program, and contact with local transit operators regarding their Title VI Programs.

Services the Organization Provides to Minority and Low-Income Populations

The community representatives and stakeholder groups interviewed provide a number of different services to their communities including economic development, regional planning, power and electricity, low income housing, and technical assistance to small businesses.

Familiarity with NDDOT's Title VI Program

Three (3) of the eighteen (18) community representatives and stakeholder groups interviewed were aware that NDDOT had a Title VI Program. Of these, none indicated they had read the complete NDDOT Title VI Program or were familiar with its contents.

Level of Participation during the Development of NDDOT's Title VI Program

None of the community representatives and stakeholder groups interviewed were involved in the development of NDDOT's Title VI Program. One agency noted that they were contacted by mail regarding the NDDOT Highway Title VI Program but had not been contacted by staff in the Transit Division of NDDOT.

Public Participation Activities Conducted by NDDOT

Three (3) of the community representatives and stakeholder groups interviewed stated they had some knowledge of public participation activities conducted by NDDOT. One agency stated that they are made aware of NDDOT's public participation activities through email, the newspaper, and other organizations they are members of. Another agency stated they would likely be made aware of anything happening in the local area but have not heard of any public participation activities conducted by NDDOT. One agency noted that NDDOT has participated in networking and business development events in the past but have not been involved in these activities recently. The remaining fifteen (15) community representatives and stakeholder groups stated they are not made aware of public participation activities conducted by NDDOT. One agency stated that being involved in the Title VI development process would be helpful.

Outreach Efforts Conducted by NDDOT

None of the community representatives and stakeholder groups interviewed stated they have participated in public outreach efforts organized by NDDOT in the past. Twelve (12) stakeholder groups noted that there are local outreach efforts taking place that NDDOT could participate in such as public meetings to discuss upcoming grants and associated projects, public forums, and roundtable discussions on community issues. Eight (8) of these groups indicated they are involved in these types of public outreach efforts and could assist NDDOT in making connections with the local community on transit services provided to minorities and low-income individuals.

Areas with Limited English Proficiency

Two (2) of the community representatives and stakeholder groups interviewed stated they were located in areas with a limited English Proficiency population (LEP). The remaining stakeholder groups stated that they were not aware of a sizeable LEP population in their area. Two agencies stated there is growing concern in their area on how to meet the needs of the LEP population. None of the stakeholder groups interviewed provided information on how the LEP population is represented in their area.

Known Complaints about NDDOT's Title VI Program

None of the community representatives and stakeholder groups interviewed were aware of specific complaints about NDDOT's Title VI Program. Two (2) of the community representatives and stakeholder groups interviewed stated that there is some concern about an overall lack of services in certain areas. One agency stated there have been concerns related to local bus service for schools in the area while another agency stated there is a lack of resources available to provide service to minority and low-income populations in the Southwest portion of the state.

Issues of Discrimination within the Organization's Geographic Area of Focus

Three (3) of the community representatives and stakeholder groups interviewed stated there may be some areas for further investigation for potential discrimination. One agency stated local school transit service may be an area where minority and low-income populations are discriminated against while another noted there may be areas where Native American Tribes are underserved as the application process for transit projects may not ensure participation by this population. One agency stated there is an overall lack of transit services that may impact minority and low-income populations and suggested that additional funding may help alleviate this issue.

Suggestions for Improving NDDOT's Title VI Program

Seven (7) of the community representatives and stakeholder groups interviewed stated there are opportunities for improvement in the overall NDDOT Title VI Program. One (1) agency stated that a transit portion could be added to their public meeting process and they could coordinate meetings with local commissioners. Another community representative noted there is a need to evaluate the transit needs in areas where projects are not being funded. Three (3) stakeholder groups indicated NDDOT could help facilitate the inclusion of transit issues for minority and low-income populations in the community by increasing advocacy for Native American community needs, conducting more outreach to local communities, and assisting local agencies in determining whether public transit could be more viable in their area and to understand what funding is available. One (1) community representative group indicated the local Housing Authority and Social Services groups would be good points of contact for NDDOT to gather input on their Title VI Program.

Contact with Local Transit Operators Regarding Their Title VI Programs

None of the community representatives and stakeholder groups interviewed were contacted by local transit operators regarding their Title VI programs.

Subrecipients

The interviews with NDDOT subrecipients included questions on the funding received, if they had their own Title VI Program, the actions taken to implement the program, the monitoring undertaken by NDDOT, the technical assistance provided by NDDOT, and the Title VI complaint process.

Funding

All three (3) subrecipients delivered demand response services and received 5311 funding for operating expenses from the State. One (1) subrecipient received GSA funding for their vehicles, while the other two (2) subrecipients interviewed had in the past received 5310 and 5309 funding through NDDOT for vehicles. None of the subrecipients received direct funding from FTA.

Title VI Program

All three (3) subrecipients stated that they had implemented the elements of NDDOT's Title VI program that were requested after governing Board approval, by using the templates provided on the NDDOT website. Although subrecipients know that the Title VI Program comprised of the Title VI policy statement, they were not aware of all the elements that comprised the NDDOT Title VI Program. The subrecipients described how they submit Title VI information to NDDOT when requested, after Board approval of any required changes and during the annual compliance review.

Two (2) subrecipients stated they posted the Title VI notice in vehicles and passenger brochures. One (1) of these subrecipients reported that no materials had been translated as there were few residents with limited English proficiency, and they had received no prior requests for accommodation in other languages. One (1) subrecipient posted Title VI notices in their office, but not in their transit vehicles. This same subrecipient has a staff member that can provide Spanish translation, and they are considering translating public materials into Spanish due to an increasing population of Spanish-speakers.

Technical assistance

The interviewed subrecipients noted several areas of technical assistance provided by NDDOT including: providing templates of key documents on the website, holding quarterly communication meetings, communicating changes in requirements, and conducting annual compliance reviews. Two (2) subrecipients described the annual compliance review process provided as a useful opportunity to discuss requirements and to ask questions. Subrecipients also indicated that submitting applications helped awareness of Title VI requirements as they had to complete a subrecipient checklist and submit key documents. One subrecipient's Community Health Representative Director reported that she tries to attend NDDOT's quarterly meetings, but this is not always possible due to multiple program responsibilities and travel time to Bismarck. None of the three (3) subrecipients interviewed desired additional technical assistance from NDDOT.

Monitoring

The interviewed subrecipients described the annual compliance site visit, where staff from NDDOT spend half a day reviewing all aspects of their program including checking for published notices and reviewing other Title VI material. Documentation is submitted to NDDOT both during the annual compliance review and during the grant application process.

Complaints

None of the three (3) subrecipients were aware of any Title VI complaints, investigations of lawsuits in the past three (3) years. One (1) subrecipient did not have a formal complaint process, or complaint form. The on-site file review activities by the review team confirmed that NDDOT had noted that the procedures and form had not been made available to the public and the corrective action had not been closed. Two (2) subrecipients indicated they publicized the complaint process, used a standardized form, and would notify NDDOT if a complaint was received.

6. Findings and Advisory Comments

The Title VI Compliance Review focused on NDDOT's compliance with the General Reporting Requirements and Guidelines and the Program-Specific Requirements and Guidelines for States and Other Administering Agencies. This section describes the requirements and findings at the time of the Compliance Review site visit. Twelve (12) areas required by FTA Circular 4702.1B for State DOTs were reviewed:

- Inclusive Public Participation
- Language Access to LEP Persons
- Title VI Complaint Procedures
- Record of Title VI Investigations
- Notice to Beneficiaries of Protection Under Title VI
- Annual Title I Certification and Assurance
- Monitoring Subrecipients
- Minority Representation on Planning or Advisory Bodies
- Determination of Site or Location of Facilities
- Submit Title VI Program
- Statewide Planning Activities
- Program Administration

Deficiencies were identified in eight (8) of the twelve (12) areas:

- Inclusive Public Participation
- Language Access to LEP Persons
- Title VI Complaint Procedures
- Notice to Beneficiaries of Protection Under Title VI
- Monitoring Subrecipients
- Submit Title VI Program
- Statewide Planning Activities
- Program Administration

Findings of General Reporting Requirements and Guidelines

6.1 Inclusive Public Participation

Requirement

FTA recipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency's public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.

Discussion

NDDOT did not provide sufficient documentation to demonstrate that its public participation practices satisfied the requirements of FTA Circular 4702.1B-III-8. The NDDOT Title VI Program does not include a detailed public participation plan specifying outreach to engage minority and limited English proficient populations.

The Title VI Program describes how NDDOT will publish the Title VI Program and Draft STIP for public review and that the public comments will be collected relating to the Draft STIP. The Title VI Program indicates that announcement of hearings, meetings and other activities will be published in minority media and local newspapers. The Program lists ways that information will be disseminated, but does not comprise a strategy for offering early and continuous opportunities for public involvement in transportation activities. No specific outreach efforts to involve minority, low-income, and LEP populations in the public participation activities are described. The Program does not state that outreach activities will be determined based on demographic analysis of the affected populations, four-factor analysis, and NDDOT's Language Assistance Plan (LAP).

NDDOT's Title VI Program does not include a summary of outreach efforts made since the last Title VI Program submission, as required by FTA Circular 4702.1B-III-4a(4). NDDOT staff indicated that no public outreach activities had occurred for the last Title VI Program submission in March 2015. The Transit Section does not hold any public meetings, but relies on the subrecipients to undertake outreach activities at the local level. NDDOT did not provide any documentation of past public outreach, evaluation of activities that had occurred, or current activity.

Finding

During this Title VI Compliance Review of NDDOT, **deficiencies** were found regarding NDDOT's compliance with FTA guidance for Inclusive Public Participation.

The NDDOT Title VI Program does not include a detailed public participation plan specifying outreach to engage minority, low income, and LEP populations, as required by Circular 4702.1B-III-8.

Corrective Actions and Schedules

Within 90 days of the final report, NDDOT must develop and submit to the FTA Region VIII Civil Rights Officer a formal public participation plan to conduct outreach to minority, low-income, and LEP populations as part of the three-year Title VI Program update process.

6.2 Language Access to LEP Persons

Requirement

FTA recipients shall take responsible steps to ensure meaningful access to all benefits, services, information, and other important portions of its programs and activities for individuals who are Limited English Proficient (LEP).⁷

Discussion

The four-factor analysis and LAP plan included in the March 2015 NDDOT Title VI Program are based on the approach used within a Limited English Proficiency Plan developed by NDDOT in October 2014 to meet FHWA program requirements. The four-factor analysis and LAP within the March 2015 Title VI Program did not include all the elements required by FTA Circular 4702.1B-III-9. In addition, NDDOT has not implemented all the activities listed within its Language Assistance Plan (LAP) as described in Table 1 below:

Table 1 – LEP Four-Factor Analysis and Language Assistance Plan

Elements Required (per FTA C. 4702.1B)	Included in Plan	Degree of Implementation
Part A – Four-Factor Analysis		
Demography – Number or proportion of LEP persons eligible to be served or likely to be encountered	Partial	NDDOT used data from the 2007-2011 American Community Survey 5-Year Estimates for North Dakota to determine that 33,158 individuals (5.3% of the State population) speak a language other than English. Of those, 9,137 (1.46%) of the overall population have Limited English Proficiency. NDDOT specified the proportion of LEP persons from each language group. The analysis did not reference literacy skills or how LEP persons interact with NDDOT.
Frequency of contact – Frequency with which LEP individuals come into contact with program and/or activities	No	NDDOT did not provide data relating to the frequency with which LEP persons came into contact with its services and programs.
Importance – Nature and importance of program, activity, or service to people's lives	No	NDDOT did not engage its user community through community groups, regional planning organizations, interviews, surveys or the like to determine the nature and importance of its programs and activities to LEP persons throughout the state. NDDOT stated that there are only a few social, service, or professional and leadership organizations within North Dakota that focus on outreach to LEP individuals but these organizations were engaged in discussions about the

⁷ Language access to LEP persons is not limited to only fixed route services, but will also include paratransit service and any other demand response services the grantee makes available to the public.

		importance of NDDOT’s programs.
Resources – Resources available and costs	Partial	NDDOT contracted with written translation service providers and a telephone based interpreter service which could provide immediate interpreter services at no cost to LEP individuals or transit agencies. No cost information was provided and costs for this service will be borne by the individual transit providers. Resource limitations were not forecasted or evaluated.

Part B – Develop Language Assistance Plan		
Identification of LEP persons	Partial	NDDOT included the four-factor analysis in the Title VI Program. This information provides a partial description of the LEP population served but does not include analysis of literacy or methods of interaction when determining the number or proportion of LEP persons eligible to be served or likely to be encountered.
Language assistance measures	Partial	<p>NDDOT did not note the language assistance measures provided by language. The LAP included the following measures:</p> <p>a) “The NDDOT transit staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating in English.</p> <p>b) The following resources will be available to accommodate LEP individuals:</p> <ul style="list-style-type: none"> • Language interpretation will be accessed for most languages through a telephone interpretation service • “I Speak” cards are available to assist with language identification.” <p>The review team verified that I Speak cards had been handed to subrecipients at quarterly meetings and that NDDOT has a contract with a telephone interpretation service that is available for use by subrecipients.</p>

Training of staff	Yes	<p>The NDDOT LAP states the following training will be provided to staff:</p> <ul style="list-style-type: none"> • Information on the Title VI Policy and LEP responsibilities. • Description of language assistance services offered to the public. • Use of the language lists. • Documentation of language assistance requests. • Title VI Complaint Process. <p>Title VI training noted in the LAP was not delivered to NDDOT or subrecipient staff.</p>
Identify Vital Documents/Prioritization of Vital Documents	Partial	<p>The LAP does not identify which languages meet the safe harbor threshold. Based on the demographic data, vital documents must be translated into Spanish and possibly other languages. No analysis of county demographic data has been completed to identify any specific county requirements for vital documents to be translated. No documents have been translated. The NDDOT LAP states that NDDOT has a Request for Accommodation procedure that refers all requests to the Civil Rights Division where requests will be assessed for translation of documents based on possible impacts and known LEP population.</p> <p>The Request for Reasonable Accommodation form used by NDDOT includes space to request Interpreter services for Limited English Proficiency, but no specific section requesting documents to be translated. The form is available on the NDDOT website but is not translated.</p>
Provide notice to LEP persons	Yes	<p>The NDDOT LAP states that the LEP plan and the availability of free interpretation or translation services will be posted.</p> <p>The current NDDOT Title VI Program, which includes the LEP plan, is posted on the Transit Operator services section of the website, but the LEP plan is not posted separately and the availability of translation services is not publicized on this website.</p>

Monitor and update LAP	Yes	The NDDOT LAP states that the transit division will review and update the LEP Plan as required and at a minimum when data from the 2020 U.S. Census is available or when it is clear that higher concentrations of LEP individuals are present in North Dakota. The plan lists what the updates will include.
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Finding

During this Title VI Compliance Review of NDDOT, **deficiencies** were found regarding NDDOT's compliance with FTA guidance for Language Access to LEP Persons.

The four-factor analysis and LAP within NDDOT's Title VI Program does not include all the elements required by FTA Circular 4702.1B-III-9, such as frequency of contact data, information from community groups regarding importance, cost of available resources, and language assistance services provided by language. NDDOT has not implemented all the activities listed within its Language Assistance Plan. NDDOT does not have a formal methodology in place to identify vital documents for translation. NDDOT has not provided training to staff on LAP requirements.

Corrective Actions and Schedules

Within 90 days of the final report, NDDOT must complete and submit to the FTA Region VIII Civil Rights Officer a revised LEP four-factor analysis, a formal process for identifying vital documents to be translated, and a training strategy associated with its LAP and translate vital documents as required.

6.3 Title VI Complaint Procedures

Requirement

FTA recipients and subrecipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public upon request.

Discussion

The NDDOT Title VI Program includes formal Title VI complaint procedures and attaches a Complaint form template that is designed to be used by subrecipient Transit Agencies. This subrecipient template is available on the NDDOT Transit Operator Services website page.

The published form that NDDOT provides for members of the public to file a complaint is included on the NDDOT Civil Rights Division and document list webpages. The Civil Rights Division complaint form was also posted in the public waiting area of the NDDOT offices at 608 East Boulevard Avenue, Bismarck, ND. This form is similar to the FTA Subrecipient template provided in the NDDOT Title VI Program, but it includes a wider list of possible areas of discrimination; sex, age, disability and LEP, as well as race, color, and national origin. The NDDOT Civil Rights Division complaint form and process follow similar steps and timeframes to those in the Transit Services Title VI Program and subrecipient templates, except that the Civil

Rights Division process includes reference to notifying FHWA rather than FTA. The published protest procedure informs the public that they have a right to file with U.S. Department of Transportation, Office of Secretary, 1200 New Jersey Avenue, SE (S-33), Washington, D.C. The procedure states that the Title VI Liaison Officer must acknowledge receipt of the allegation(s) and inform the FHWA Division Office within ten working days of receiving the complaint. The entire investigation process must be completed in a period not to exceed 60 calendar days from the date the original complaint was received by NDDOT.

NDDOT does not have complaint procedures detailing the process for handling complaints made against NDDOT or its subrecipients or including a requirement that these procedures be made available to the public as outlined in FTA Circular 4702.1B-III-6.

Finding

During this Title VI Compliance Review of NDDOT, **deficiencies** were found regarding NDDOT's compliance with FTA guidance for Title VI Complaint Procedures.

NDDOT's published complaint form and procedure does not specify requirements for filing a complaint related to FTA programs, or narrow the coverage of Title VI to race, color, and national origin.

Corrective Actions and Schedules

Within 90 days of the final report, NDDOT must submit to the FTA Region VIII Civil Rights Officer a complaint procedure and complaint form to address FTA requirements. NDDOT must provide evidence that the complaint procedure and complaint form has been published on the Transit section of the NDDOT website.

6.4 Record of Title VI Investigations, Complaints, and Lawsuits

Requirement

FTA recipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipients that allege discrimination on the basis of race, color, or national origin. This list shall include the date that the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient in response to the investigation, lawsuit, or complaint.

Discussion

The current NDDOT Title VI Program, dated March 2015, states that the Transit section has had no Title VI complaints or lawsuits filed for their Transit Programs. NDDOT staff confirmed that no complaints or lawsuits had been received. A sample complaint log is attached to the Title VI Program that would be used by NDDOT to track and report any investigations, lawsuits, and complaints received directly or through subrecipients. NDDOT's complaint tracking list included all elements required by FTA Circular 4702.1B (Chapter III-7).

Finding

During this Title VI Compliance Review of NDDOT, **no deficiencies** were found regarding NDDOT's compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits.

6.5 Notice to Beneficiaries of Protection under Title VI

Requirement

FTA recipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Recipients shall disseminate this information to the public through measures that can include but shall not be limited to a posting on its Website. Furthermore, notices will detail a recipient's Title VI obligations into languages other than English, as needed and consistent with the DOT LEP Guidance and the recipient's LAP.

Discussion

NDDOT has a Title VI notice related to FHWA requirements which is published to its website and posted in facilities. The content of this notice is reviewed against the requirements of FTA Circular 4702.1B-III-5 in Table 2 below. The published notice is not translated into languages other than English and does not include direction for how to request translation services, if required. NDDOT's LAP plan states that NDDOT will post notice of the availability of interpretation or translation services free of charge. The Title VI notice does not narrow coverage to race, color, and national origin, as it includes sex, age, disability, Limited English Proficiency, and income status.

The NDDOT Title VI Program indicates that the Title VI and Nondiscrimination Policy Statement will be posted in transit locations, transit vehicles, and transit websites. The Policy and Nondiscrimination statement included in the March 2015 Title VI Program is not published by NDDOT separately from the program.

Table 2 – NDDOT Notice to Beneficiaries of Protection under Title VI

Elements Required (per FTA Circular 4702.1B)	Included in NDDOT's Notice?
Statement that agency operates programs without regard to race, color, and national origin.	Yes
Description of procedures that members of the public should follow to request additional information on recipient's nondiscrimination obligations.	Yes
Description of procedures that members of the public should follow to file a discrimination complaint against recipient.	Yes
Notice translated into languages other than English	No

Finding

During this Title VI Compliance Review of NDDOT, **deficiencies** were found regarding NDDOT's compliance with FTA guidance for Notice to Beneficiaries of Protection under Title VI.

NDDOT has not published a Title VI notice which meets FTA requirements or has been translated in accordance with NDDOT's Language Assistance Plan.

Corrective Actions and Schedules

Within 90 days of the final report, NDDOT must submit to the FTA Region VIII Civil Rights Officer, a Title VI notice that meets FTA requirements, including notice of availability of translation services. NDDOT must provide evidence that the notice has been posted in their facilities and on the DOT website and has been translated in accordance with the NDDOT Language Assistance Plan.

6.6 Annual Title VI Certification and Assurance

Requirement

FTA recipients shall submit their annual Title VI certification and assurance as part of their Annual Certifications and Assurances submission to FTA (in the FTA Web-based Transportation Electronic Award Management (TEAM) grants management system).

Discussion

The FTA Civil Rights Assurance is incorporated in the Annual Certifications and Assurances submitted annually to FTA through TEAM-Web. NDDOT executed its FY 2015 Annual Certifications and Assurances in the EMS on 12/18/2014. NDDOT checked as applicable the "01" category of Required Certifications and Assurances for Each Applicant, which is the category where the nondiscrimination assurance is located.

Finding

During this Title VI Compliance Review of NDDOT, **no deficiencies** were found regarding NDDOT's compliance with FTA requirements for Annual Title VI Certification and Assurance.

6.7 Monitoring Subrecipients

Requirement

Primary recipients must monitor their subrecipients for compliance with the regulations. Importantly, if a subrecipient is not in compliance with Title VI requirements, then the primary recipient is also not in compliance.

Discussion

The following table contains guidance for monitoring subrecipients and whether NDDOT followed the guidance.

Table 3 – Guidance on Monitoring Subrecipients

Guidance on Monitoring Subrecipients (per FTA C. 4702.1B, III, 12, a. – b.)	In NDDOT Process?
Document its process for ensuring that all subrecipients are complying with the general reporting requirements of this circular.	Partial
At the request of FTA, in response to a complaint of discrimination, or as otherwise deemed necessary by the primary recipient, the primary recipient shall request that subrecipients who provide transportation services verify that their level and quality of service is provided on an equitable basis. Subrecipients that are fixed route transit providers are responsible for reporting as outlined in Chapter IV of this Circular.	N/A

At the time of the review, NDDOT had 34 subrecipients. The NDDOT Title VI Program and State Management Plan (SMP) both describe activities to monitor subrecipients for compliance with Title VI requirements. These activities include:

- Conducting annual program area reviews for all subrecipients
- Obtaining the FTA Certifications and Assurances as part of the grant agreement
- Reviewing the contents of Title VI Program materials submitted by subrecipients
- Monitoring and investigating any Title VI complaints regarding subrecipients
- Reviewing service standards for subrecipients with fixed route systems
- Reviewing any required equity analysis for subrecipients with transit facility construction projects
- Completing a physical verification of the subrecipient's public notification to beneficiaries

NDDOT provided the Annual Compliance Review checklist used to document site visits to assess subrecipient compliance with Title VI requirements. Three (3) subrecipient compliance review files were reviewed during the site visit. This documentation demonstrated site visits are conducted using the standard checklist on an annual basis as required by the NDDOT Title VI Program and SMP.

Neither the NDDOT Title VI Program nor the SMP include procedures to monitor the following areas as required by FTA C. 4702.1B-III:

- Subrecipient submission of Certifications and Assurances
- Subrecipient submission of Title VI Programs
- Subrecipient public participation activities
- Subrecipient LEP plan submissions and language assistance plan implementation
- Minority representation on transit boards and committees
- Technical assistance provided to subrecipients
- Fixed-route service standards (where applicable)

Requirement to Provide Title VI Assurances

The NDDOT Title VI Program states that the Transit Section is responsible for ensuring subrecipient Title VI assurances are included in grant applications and the NDDOT State Management Plan (SMP) requires all subrecipients to comply with applicable civil rights statutes and regulations, including Title VI, and to submit the *Federal Certifications and Assurances for Federal Transit Administration Assistance* annually.

During the site visit, three subrecipient compliance files were reviewed for evidence that the required Certifications and Assurances had been submitted. Two subrecipient files contained the current Certifications and Assurances required by NDDOT; one was dated July 27, 2015 and the other was dated July 31, 2015. One subrecipient file contained Certifications and Assurances dated May 13, 2013 which referenced the Federal Highway Administration, not the Federal Transit Administration, and did not reflect the current Certifications and Assurances required by NDDOT. NDDOT had no evidence to demonstrate that a corrective action process was implemented to obtain up to date Certifications and Assurances from this subrecipient.

NDDOT has not collected updated Certifications and Assurances from all subrecipients.

Requirement to Prepare and Submit a Title VI Program

The NDDOT Title VI Program states the NDDOT Transit Section monitors Title VI compliance by conducting annual program reviews and the SMP states “subrecipients must submit their Title VI programs to NDDOT” and notes that the following elements are included:

- A copy of the Title VI notice to the public
- A copy of instructions to the public regarding how to file a Title VI discrimination complaint
- A list of any public transportation-related Title VI investigations, complaints, or lawsuits files since the time of the last program submission
- A public participation plan
- A copy of the NDDOT language assistance plan
- A table depicting the racial breakdown of board or committee membership
- Information required of fixed route transit providers or
- Information required from subrecipients that have received funding to construct a facility including a Title VI equity analysis (as required by the NDDOT Title VI Program)

NDDOT staff indicated that subrecipients submit the policy statement that has been approved by the subrecipient General Manager or Board or Directors, complaint form, complaint procedures, notice to beneficiaries, and LEP plan, including a four factor analysis, every three (3) years. Subrecipients are also required to provide a list of Title VI investigations, complaints, or lawsuits, their language assistance plan, and the racial breakdown of membership on boards and commissions as part of the Annual Compliance Review conducted by NDDOT staff. All documents related to subrecipient Title VI requirements are maintained in hard copy files at the State.

Three (3) subrecipient compliance review files were reviewed for evidence that the required Title VI documentation had been submitted. All three (3) subrecipient files contained the NDDOT required signed policy statements, complaint form, complaint procedures, Title VI notice to beneficiaries, LEP plan, and Language Assistance Plan. All three (3) subrecipient files also contained a complete Annual Compliance Review checklist demonstrating discussions were

held with subrecipients on Title VI investigations, complaints, and lawsuits, the subrecipient LEP plan, and the racial breakdown of board and commission membership. All three (3) subrecipients had not submitted complete Title VI Programs to NDDOT. The analysis of subrecipient Title VI Programs was not included in the Annual Compliance Review checklist.

NDDOT does not require the completion of all required Title VI Program elements from subrecipients such as public participation plans and coverage of the need for equity analysis.

Requirement to Notify Beneficiaries of Protection under Title VI

The NDDOT Title VI Program states that Title VI and Nondiscrimination Policy information is made available on each subrecipient's website if they have one. The Title VI Program also contains a sample Statement of Non-Discrimination. The Title VI notice template provided by NDDOT to subrecipients does not contain information on the availability of translation services. The subrecipient files reviewed on site indicated that not all subrecipients had revised, published and re-submitted their policy statement to NDDOT and were still using a policy statement which included other areas such as sex, age, disability, Limited English Proficiency and income status. A review of subrecipient materials indicated that ten (10) of the 34 subrecipients had not included the Title VI notice on their agency website, brochure, and had not provided proof to NDDOT that the notice was posted elsewhere including on vehicles and in public areas. This was verified in an interview with one (1) subrecipient who confirmed that Title VI notices were not included in their vehicles.

Not all subrecipients are notifying the public of their rights under Title VI as outlined in FTA Circular 4702.1B-III-5(b).

Requirement to Develop Title VI Complaint Procedures and Complaint Form

The NDDOT Title VI Program states that the Transit Section monitors Title VI compliance in each program area and the NDDOT State Management Plan (SMP) requires that subrecipients submit a copy of instructions to the public regarding how to file a Title VI discrimination complaint and a copy of the complaint form. NDDOT staff stated that subrecipients must submit copies of their complaint procedures and complaint forms every three (3) years. The Annual Compliance Review checklist includes verifying the written complaint procedure for Title VI.

Three (3) subrecipient compliance review files were reviewed for evidence that the required complaint procedures and complaint forms had been submitted. All three (3) subrecipient files contained the required complaint procedures and complaint forms. The completed Annual Compliance Review checklist for all three (3) subrecipients also demonstrated that NDDOT staff verified the complaint procedure for Title VI during the annual on-site compliance review. NDDOT staff provided documentation during the site visit that demonstrated one (1) subrecipient failed to make their Title VI complaint procedures and forms available to the public.

Not all subrecipients have made their Title VI complaint procedures and forms available to the public, as required by FTA Circular 4702.1B-III-6.

Requirement to Record and Report Transit-Related Title VI Investigations, Complaints, and Lawsuits

The NDDOT Title VI Program states that the Transit Section monitors Title VI compliance in each program area and the NDDOT State Management Plan (SMP) requires subrecipients to

report any Title VI complaints or lawsuits as part of their annual grant applications. The SMP also states “Subrecipients may contact NDDOT at any time during the year to report Title VI complaints, potential complaints and/o lawsuits.” The Annual Compliance Review checklist includes verification of the subrecipient complaint tracking process and identifies whether any complaints or investigations have occurred.

During the site visit, three (3) subrecipient compliance review files were reviewed for evidence that the required list of complaints or investigations was documented. The documentation for two (2) subrecipients notes that there have been no complaints or investigations and the Annual Compliance Review checklist demonstrates NDDOT staff have verified this information. One subrecipient has not been tracking complaints and investigations.

NDDOT staff has not implemented a process to record and report subrecipient investigations, complaints, and lawsuits, as required by FTA Circular 4702.1B-III-7.

Promoting Inclusive Public Participation

The NDDOT Title VI Program states that the Transit Section monitors Title VI compliance in each program area and the NDDOT State Management Plan (SMP) requires subrecipients to submit “a public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI program submission”, and the Annual Compliance Review checklist includes the requirement to hold public meetings before service changes are implemented.

NDDOT staff stated that subrecipients are not currently submitting their public participation plans to the State for review as required in the SMP. In addition, NDDOT does not have procedures to monitor whether subrecipients have implemented their public participation plans and outreach efforts. NDDOT does not have a procedure in place to monitor public meetings held by subrecipients for compliance with the requirements of FTA Circular 4702.1B-III-8.

Subrecipients are not submitting public participation plans to NDDOT.

Requirement to Provide Meaningful Access to LEP Persons

The NDDOT Title VI Program does not require subrecipients to submit their LEP plan and the State Management Plan (SMP) only requires that subrecipients include “a copy of the NDDOT’s plan for providing language assistance to persons with limited English proficiency”. During the site visit, NDDOT staff stated subrecipients are required to submit an LEP plan using a template that is provided by the State. NDDOT staff indicated that the subrecipient LEP plan is reviewed during the annual compliance review process and the Annual Compliance Review checklist does include verification of the subrecipient “LEP - Access Plan for Meaningful Access”.

During the site visit, three (3) subrecipient compliance review files were reviewed for evidence of complete LEP plans. One (1) subrecipient file contained a complete LEP plan dated January 15, 2013 and was based on data from the 2006-2010 American Community Survey. A second subrecipient file contained an LEP plan dated July 31, 2015 that had an incomplete four-factor analysis and was based on data from the 2000 Census; the plan had not been updated to reflect 2010 Census data. The third subrecipient file contained an LEP plan that did not have a complete analysis for factors 2 and 3 of the required four-factor analysis. There is no evidence that NDDOT staff initiated a corrective action process to address these issues.

All three (3) subrecipient compliance review files contained evidence that the subrecipients have plans in place to provide language assistance for LEP persons, and the Annual Compliance Review checklists for these subrecipients demonstrate NDDOT staff verified these plans during the annual compliance review. NDDOT staff could not provide evidence that implementation of these language assistance plans was verified as part of the annual compliance review process.

NDDOT does not have documented procedures in place to formally review subrecipient LEP plan submissions, including the four factor analysis, for completeness and accuracy, or to monitor whether subrecipient language assistance plans have been implemented.

Not all subrecipient LEP plans submitted to NDDOT are complete and implemented.

Minority Representation on Planning and Advisory Bodies

The NDDOT Title VI Program states that the Transit Section monitors Title VI compliance in each program area and the NDDOT State Management Plan (SMP) states “subrecipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, must provide a table depicting the racial breakdown of the membership of those committees and a description of efforts made to encourage the participation of minorities on such committees or councils” as part of their Title VI Program submission. The Annual Compliance Review checklist includes a section to identify the breakdown of minority representation on the subrecipient transit board, and a review of three (3) subrecipient compliance review files demonstrates NDDOT staff are obtaining this data; however, NDDOT does not require subrecipients to document the efforts made to encourage participation of minorities on such committees.

NDDOT does not ensure that subrecipients document efforts to encourage participation of minorities on their Board of Directors or other transit-related planning or advisory committees, as required by FTA Circular 4702.1B-III-10.

Providing Assistance to Subrecipients

The following table contains guidance for Providing Assistance to subrecipients and whether NDDOT followed the guidance:

Table 4 – Guidance on Providing Assistance to Subrecipients

Guidance on Providing Assistance to Subrecipients (Per FTA C. 4702.1B, III, 11, a. – c.)	In NDDOT Process?
Sample notices to the public informing beneficiaries of their rights under DOT’s Title VI regulations, procedures on how to file a Title VI complaint, and the recipient’s Title VI complaint form.	Yes
Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient, and when the primary recipient expects the subrecipient to notify the primary recipient of complaints received by the subrecipient.	Yes
Demographic information on the race and English proficiency of residents served by the subrecipient. This information will assist the subrecipient in	No

Guidance on Providing Assistance to Subrecipients (Per FTA C. 4702.1B, III, 11, a. – c.)	In NDDOT Process?
assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.	

The NDDOT Title VI Program includes sample notices to the public informing beneficiaries of their rights under DOT’s Title VI regulations, sample procedures to file a Title VI complaint, and a sample Title VI complaint form, and these are provided to subrecipients. Sample forms and templates to assist subrecipients in complying with Title VI requirements are also posted on the NDDOT website and interviews with three (3) subrecipients demonstrate they are aware of these resources. NDDOT staff and the subrecipients interviewed also noted that quarterly meetings and annual on-site compliance reviews are used to provide information to subrecipients on any regulatory changes or areas of concern regarding Title VI requirements.

The NDDOT SMP states NDDOT will “help provide demographic data to assist subrecipients in conducting their four-factor analysis and subsequently developing their LEP plan”. NDDOT is not providing this assistance. There is also no documented evidence that NDDOT has assessed the effectiveness of the technical assistance provided to subrecipients.

Determination of Site or Location of Facilities

The NDDOT Title VI Program states that subrecipients are required to complete a Title VI equity analysis if they intend to build a facility that does not require a NEPA process. NDDOT staff indicated that three (3) subrecipients are planning new storage facilities in the future. None of the sites had been finalized at the time of the review and one (1) subrecipient had not secured funding for the project. NDDOT is monitoring subrecipient compliance with this requirement.

Requirements and Guidelines for Fixed Route Transit Providers

NDDOT has one subrecipient, the City of Minot, which provides fixed route service. The NDDOT State Management Plan states “NDDOT reviews the service standards for fixed route systems”; however, the State did not monitor fixed-route service standards for this subrecipient.

Finding

During this Title VI Compliance Review of NDDOT, **deficiencies** were found regarding NDDOT’s compliance with FTA requirements for Monitoring Subrecipients.

NDDOT is not monitoring the following areas as required by FTA C. 4702.1B(Chapter III-11 and III-12):

- Subrecipient submission of Certifications and Assurances
- Subrecipient submission of Title VI Programs
- Subrecipient public participation activities
- Subrecipient LEP plan submissions and language assistance plan implementation
- Minority representation on transit boards and committees
- Technical assistance provided to subrecipients
- Fixed-route service standards (where applicable)

NDDOT has not provided demographic data to assist subrecipients in conducting their four-factor analysis and LEP plan as required by the NDDOT SMP.

Not all subrecipients are notifying the public of their rights under Title VI as outlined in FTA Circular 4702.1B-III-5(b).

Not all subrecipients have made their Title VI complaint procedures and forms available to the public, as required by FTA Circular 4702.1B-III-6.

NDDOT staff has not implemented a process to record and report subrecipient investigations, complaints, and lawsuits, as required by FTA Circular 4702.1B-III-7.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, NDDOT must develop and submit to the FTA Region VIII Civil Rights Officer revised subrecipient monitoring procedures that include the specific procedures to monitor the following areas:

- Subrecipient submission of Certifications and Assurances
- Subrecipient submission of Title VI Programs
- Subrecipient public participation activities
- Subrecipient LEP plan submissions and language assistance plan implementation
- Minority representation on transit boards and committees
- Technical assistance provided to subrecipients
- Fixed-route service standards (where applicable)

NDDOT must provide demographic data to assist subrecipients in conducting their four-factor analysis and LEP. Documentation demonstrating that this assistance has been provided must be submitted to the FTA Region VIII Civil Rights Officer.

NDDOT must provide a revised Title VI notice to subrecipients that includes the availability of translation services and document that all subrecipients have implemented the revised notice, have included it on their website or brochure as applicable, and have translated it as required by the subrecipient's Language Assistance Plan.

NDDOT must provide evidence that all subrecipients have made their Title VI complaint procedures and forms available to the public.

NDDOT must review all subrecipient complaint tracking documentation and initiate corrective action as needed.

6.8 Minority Representation on Planning or Advisory Bodies

Requirement

FTA recipients shall not deny an individual on the basis of race, color, or national origin the opportunity to participate as a member of a transit-related, non-elected planning, advisory, committee, or similar body. FTA recipients shall provide a table depicting the racial breakdown of the membership of those bodies, and a description of the efforts made to encourage the participation of minorities on such committees.

Discussion

NDDOT does not have any transit-related, non-elected planning boards, advisory councils or committees, or similar committees, and is therefore not required to report on racial breakdown of membership or describe the efforts made to encourage minority participation as outlined in FTA Circular 4702.1B-III-10. The NDDOT Title VI Program included a table of the membership of subrecipient planning or advisory bodies.

Finding

During this Title VI Compliance Review of NDDOT, **no deficiencies** were found regarding NDDOT's compliance with FTA requirements for Minority Representation on Planning or Advisory Bodies.

6.9 Determination of Site or Location of Facilities

Requirement

FTA recipients shall complete a Title VI equity analysis during the planning stage with regard to race, color, or national origin. A recipient shall also engage in outreach to persons potentially impacted by the siting of facilities. The analysis shall compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site. This requirement will mostly focus on certain facilities. If however the NEPA process was not triggered, the normally exempted projects will undergo a Title VI equity analysis.

Discussion

The NDDOT Title VI Program provides a summary of the FTA requirements listed in FTA Circular 4702.1B-III-13. The Program states that no transit facilities were built by NDDOT or subrecipients using federal funding since the prior Title VI Program submission. No facilities have been built since the FY2011 Title VI Program submission.

Finding

During this Title VI Compliance Review of NDDOT, an **Advisory Comment** was issued regarding NDDOT's compliance with FTA requirements for Determination of Site or Location of Facilities.

NDDOT was advised that although NEPA or a Categorical Exclusion can be used as a starting point, an equity analysis must be completed before the selection of the preferred site for each facility relating to the construction of operations facilities/centers and storage facilities.

6.10 Submit Title VI Program

Requirement

All direct and primary recipients must document their compliance with DOT's Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. For all recipients (including subrecipients), the Title VI Program

must be approved by the recipient's board of directors or appropriate governing entity or officials responsible for policy decisions prior to submission.

Discussion

NDDOT submitted its most recent program and policy statement to FTA on March 25, 2015. Concurrence was provided by FTA on April 21, 2015. The current program is due to expire on July 31, 2017. A prior submission of the NDDOT Title VI Program with a revised date of December 2014 has not been deleted from TEAM-Web. The Title VI and Nondiscrimination Policy Statement signed by the DOT Director within NDDOT's Title VI Program includes language that delegates Title VI responsibilities to Division Directors and District Engineers. These staff members have no role with regard to FTA Transit programs as they are managing federal highway programs. The policy statement does not delegate responsibility for the Title VI program to appropriate individuals managing FTA programs.

Table 5 summarizes NDDOT's March 2015 Title VI Program with respect to FTA Circular 4702.1B. The Title VI Program does not include a summary of public outreach and involvement undertaken since the last submission and steps taken to ensure meaningful access for minority and low income groups. The Program briefly summarizes the annual compliance review process for NDDOT subrecipients, but does not include a list of subrecipients or state how their Title VI Programs will be stored. There is no information as to how NDDOT stores and evaluates submitted Title VI Programs. The Program includes a map of the percentage minority population by county, but does not overlay this information with state funding distribution to analyze any disparate impact. Information about the statewide transportation planning process and procedures for passing through FTA financial assistance are provided within the NDDOT State Management Plan (SMP) for Public Transportation, but this information is not included in NDDOT's submitted Title VI Program.

Table 5 – Title VI Program Reporting Requirements and Guidelines

General Reporting Requirements/Guidelines (per FTA Circular 4702.1B)	Included in Program Submittal
Summary of public outreach and involvement activities undertaken since last submission and description of steps taken to ensure that minority and low-income people had meaningful access to these activities.	No
Copy of agency's plan for providing language assistance for persons with limited English proficiency that was based on DOT LEP Guidance or copy of agency's alternative framework for providing language assistance.	Yes
Copy of agency procedures for tracking and investigating Title VI complaints.	Yes
List of any Title VI investigations, complaints, or lawsuits filed with agency since time of last submission. Should include only those investigations, complaints, or lawsuits that pertain to agency submitting report, not necessarily larger agency or department of which entity is a part.	Yes

General Reporting Requirements/Guidelines (per FTA Circular 4702.1B)	Included in Program Submittal
List of any subrecipients and when their Title VI Program is due. Also included is how the primary recipient stores the submitted Title VI Programs, and a summary of the efforts undertaken to ensure subrecipients comply with their Title VI obligations.	Partial. Description of subrecipient review process included. No list of subrecipients or details of how Title VI Programs are stored.
Copy of agency's notice to public that it complies with Title VI and instructions to public on how to file discrimination complaint.	Yes
Copy of the agency's table depicting the racial breakdown of the planning and advisory bodies and the efforts made to encourage the participation of minorities on such committees.	N/A
Copy of any conducted Title VI equity analyses related to the siting or location of facilities.	Yes
Program-Specific Requirements/Guidelines for State DOTs (per FTA Circular 4702.1B)	
A demographic profile of the State that includes identification of the location of minority populations in the aggregate.	Yes
Demographic maps that overlay the percent minority and non-minority populations at the Census tract or block group level, and charts that analyze the impacts of the distribution of State and Federal funds in the aggregate for public transportation purposes.	No
An analysis of these demographic maps and distribution of funding that identifies any disparate impacts on the basis of race, color, or national origin, and if so, determines whether there is a substantial legitimate justification for the policy that resulted in the disparate impacts, and if there are alternatives that could be employed that would have a less discriminatory impact.	No
A description of the statewide transportation planning process that identifies the transportation needs of minority populations.	No
A description of the procedures the agency uses to pass-through FTA financial assistance in a non-discriminatory manner.	No
A description of the procedures the State uses to provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations.	No

Finding

During this Title VI Compliance Review of NDDOT, **deficiencies** were found regarding NDDOT's compliance with FTA guidance to submit a Title VI Program.

NDDOT's Title VI Program does not contain all the elements as required by FTA Circular 4702.1B:

- Summary of public outreach and involvement activities
- A list of subrecipients and how their programs are stored

- Demographic maps that overlay the percent minority and non-minority populations and analyze the distribution of funding to identify disparate impacts
- A description of the statewide transportation planning process that identifies the transportation needs of minority populations
- A description of the procedures used to pass-through FTA financial assistance in a non-discriminatory manner
- A description of the procedures the State uses to provide assistance to potential subrecipients.

Corrective Actions and Schedules

Within 90 days of the final report, NDDOT must submit a Title VI Program that includes the following areas to the FTA Region VIII Civil Rights Officer:

- Summary of public outreach and involvement activities
- A list of subrecipients and how their programs are stored
- Demographic maps that overlay the percent minority and non-minority populations and analyze the distribution of funding to identify disparate impacts
- A description of the statewide transportation planning process that identifies the transportation needs of minority populations
- A description of the procedures used to pass-through FTA financial assistance in a non-discriminatory manner
- A description of the procedures the State uses to provide assistance to potential subrecipients.

Prior submissions of the Title VI Program must be deleted from the Electronic Award Management System (Team-Web).

Findings of the Program-Specific Requirements for States

6.11 Statewide Planning Activities

Requirement

All States are responsible for conducting planning activities that comply with 49 U.S.C. Section 5304, Statewide Transportation Planning, as well as subpart B of 23 CFR part 450, Statewide Transportation Planning and Programming. Since States “pass through” planning funds to the MPO, the State as primary recipient is responsible for collecting Title VI Programs from MPOs on a schedule to be determined by the State. Collection and storage of subrecipient Title VI Programs may be electronic at the option of the State. The State is thus responsible for monitoring the Title VI compliance of the MPO for those activities for which the MPO is a subrecipient.

Discussion

FTA Circular 4702.1B-VI-2 states that “Subrecipients, including MPOs, that receive Federal planning money from the State, shall submit Title VI Programs to the State as the primary recipient from whom they receive funding.” This requirement is applicable to each of the three

(3) North Dakota MPOs that receive Section 5303 and Section 5304 planning funds through the Consolidated Planning Grant. The three (3) MPOs are listed below:

- Bismarck/Mandan MPO
- Fargo/Moorhead Metro COG (FM-COG)
- Grand Forks/East Grand Forks MPO (GF-EGF MPO)

The Urban/MPO Team within the Local Government Division take responsibility for MPO oversight. Oversight is conducted primarily on compliance with FHWA rather than FTA requirements. The MPOs are placed in a FHWA subrecipient Title VI audit pool each year. A sample of one (1) of the three (3) MPOs in the pool is chosen each year for audit. NDDOT uses a Title VI pre-audit checklist requests a copy of the MPO's Title VI Program, and other Title VI documentation including Title VI notice, LEP plan, public outreach activities, complaint process and training provided to staff. NDDOT does not have a separate procedure for collecting and reviewing Title VI Programs from MPOs. NDDOT is not monitoring MPO Title VI Programs for compliance with FTA Circular 4702.1B (Chapter V-3).

The 2014 Title VI audit file for Bismarck-Mandan MPO was reviewed on site, including submitted documents, pre-audit checklist and letter from NDDOT outlining findings and corrective actions from the review. NDDOT did not review the MPO's Title VI Program for compliance with FTA Circular 4702.1B requirements.

Finding

During this Title VI Compliance Review of NDDOT, **deficiencies** were found regarding NDDOT's compliance with FTA guidance for Statewide Planning Activities.

NDDOT does not have a defined schedule to collect Title VI programs from MPOs. NDDOT does not have a process for routinely collecting Title VI Programs from MPOs, and reviewing these Programs for compliance with FTA Circular 4702.1B, as required by FTA Circular 4702.1B-V-3.

Corrective Actions and Schedules

Within 90 days of the final report, NDDOT must develop and submit to the FTA Region VIII Civil Rights Officer a formal process to collect and review Title VI Programs from MPOs. The grantee must also review the Title VI Programs from each MPO, document the results, and complete corrective actions as appropriate.

6.12 Program Administration

Requirement

States shall document that they pass through FTA funds under the Enhanced Mobility for Seniors and Individuals with Disabilities (Section 5310) program, the Formula Grants for Rural Areas (Section 5311) program, and any other FTA funds, to subrecipients without regard to race, color, or national origin, and assure that minority populations are not being denied the benefits of or excluded from participation in these programs.

Discussion

The following table contains guidance for conducting subrecipient Program Administration and whether NDDOT satisfactorily followed the guidance.

Table 6 – Guidance on Program Administration

Guidance on Program Administration (per FTA C. 4702.1B, V, 4, a. – c.)	In NDDOT Process?
A record of funding requests received from private non-profit organizations, State or local governmental authorities, and Indian tribes. The record shall identify those applicants that would use grant program funds to provide assistance to predominantly minority populations. The record shall also indicate which applications were rejected and accepted for funding.	Yes
A description of how the agency develops its competitive selection process or annual program of projects submitted to FTA as part of its grant applications. This description shall emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority populations, including Native American tribes, where present. Equitable distribution can be achieved by engaging in outreach to diverse stakeholders regarding the availability of funds, and ensuring the competitive process is not itself a barrier to selection of minority applicants.	Partial. Did not include the method to ensure equitable distribution of funds
A description of the agency's criteria for selecting entities to participate in an FTA grant program.	Partial. Criteria are listed, but relative priority is not indicated.

NDDOT provided a summary of current FY 2016 funding requests received from private non-profit organizations, State and local government authorities and Indian tribes, as required by FTA Circular 4702.1B-V-4. This summary identified the percentage of minority population in the areas served and indicated which applications were rejected and accepted. The data showed that applications were received from governmental and Tribal agencies with high Minority and Native American populations, and funding was provided to these agencies.

NDDOT included a description of how FTA funds are passed through to subrecipients within the June 2015 State Management Plan (SMP), including submittal of annual applications, and committee review of applications. There is no description of outreach to diverse stakeholders to be completed to encourage applications. The plan does not include a description of the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority populations. NDDOT's Title VI Program does not include the SMP, and does not separately describe the procedures the State uses to pass through FTA financial assistance in a non-discriminatory manner.

The NDDOT grant review committee is comprised of a range of stakeholder groups: 3 NDDOT employees (2 Transportation Management Officers, 1 Urban Program Manager) and 3 other representatives (from ND Medicaid Services, Aging Services and Veterans Affairs). The SMP indicates that "the committee reviews eligible applications with consideration to the amount of funding available and the amount of requests received". The plan states that penalties may

apply for late or incomplete applications and lists the following criteria that will be considered when reviewing and awarding funds:

- “Records/claims submitted on time;
- Completeness and compliance with state and federal regulations/requirements;
- Financial plan that demonstrates fiscal capacity and reasonableness;
- Coordinator relationships with other organizations and agencies;
- Demonstrated needs, past performance, vehicle maintenance, history of reliable service, cost per mile, technical capacity, technology and willingness to participate in training.”

There is no indication of the relative importance of these evaluation criteria for operating assistance. The plan provides additional guidance for applicants of capital assistance, indicating a prioritized order for making funding decisions for different types of capital requests.

Two (2) Decision Document memoranda dated May 26, 2015 summarized the committee recommendations for the distribution of FY2015 Section 5310 and 5311 funds. These documents listed the requests made and provided the committee recommendations, but did not include reference to the evaluation criteria used to select the projects. NDDOT received sixteen (16) funding requests for Section 5310 funds in FY2015 and awarded Section 5310 funds to eight (8) agencies as shown in the following table:

<i>Transit Agency</i>	<i>Funding Requested</i>	<i>Recommended Amount</i>
Cando Senior Citizens	\$48,000.00	\$0.00
James River Transportation	\$48,000.00	\$48,000.00
Minot, City of	\$320,000.00	\$0.00
Nutrition United	\$31,356.00	\$32,000.00
NW Dakota Public Transit	\$110,000.00	\$44,000.00
Pembina County	\$32,000.00	\$0.00
Senior Meals and Services d/b/a Devils Lake Transit	\$100,000.00	\$0.00
Souris Basin Transportation	\$133,120.00	\$0.00
South Central Adult Services	\$140,000.00	\$61,704.00
Southwest Public Transportation	\$61,600.00	\$0.00
Spirit Lake Public Transportation	\$28,000.00	\$0.00
West River Transit	\$115,200.00	\$0.00
Wildrose Transportation	\$30,480.00	\$32,000.00
Cities Area Transit	\$188,280.00	\$151,516.00
BisMan Transit	\$62,400.00	\$62,400.00
Fargo MAT	\$340,000.00	\$144,000.00

NDDOT received twenty-eight (28) funding requests for Section 5311 funds in FY2015 and awarded Section 5311 funds to twenty-seven (27) agencies as shown in the following table:

<i>Transit Agency</i>	<i>Funding Requested</i>	<i>Recommended Amount</i>
Benson County Transportation	\$63,086.00	\$63,086.00
Cando Senior Citizens	\$42,080.00	\$42,080
Cavalier County Transit	\$52,896.00	\$52,896.00
Senior Meals and Services d/b/a	\$178,480.00	\$110,000.00

<i>Transit Agency</i>	<i>Funding Requested</i>	<i>Recommended Amount</i>
Devils Lake Transit		
Dickey County Senior Citizens	\$2,000.00	\$0.00
Public Transit - Dickinson	\$502,293.00	\$493,200.00
Golden Valley/Billings County	\$95,097.00	95,097.00
Hazen Busing	\$88,250.00	\$81,800.00
James River Senior Citizens	\$332,691.00	\$332,691.00
Kenmare Wheels & Meals	\$33,004.00	\$33,004.00
Kidder Emmons Senior Services	\$51,233.00	\$51,233.00
City of Minot	\$514,137.00	\$514,137.00
Nelson County Transit	\$63,030.00	\$63,030.00
Nutrition United	\$86,759.00	\$86,759.00
Pembina County Meals & Transportation	\$111,402.00	\$111,402.00
Souris Basin Transportation	\$775,540.00	\$629,700.00
South Central Adult Services	\$580,052.00	\$580,052.00
Southwest Public Transportation	\$90,761.00	\$90,761.00
Spirit Lake Public Transportation	\$128,779.00	\$72,376.00
Trenton Indian Service Area	\$30,700.00	\$30,700.00
Turtle Mt Nutrition & Support	\$31,752.00	\$31,752.00
Valley Senior Services	\$225,020.00	\$225,020.00
Walsh County Transportation	\$100,330.00	\$100,330.00
West River Transit	\$353,669.00	\$353,669.00
Wildrose Public Transportation	\$16,058.00	\$16,058.00
NW Public Transit	\$446,825.00	\$252,000.00
Jefferson Lines	\$1,377,654.00	\$474,239.00
Sitting Bull College d/b/a Standing Rock Public Transit	\$244,889.00	\$244,889.00

No additional documentation was provided by NDDOT relating to these determinations or the transparency of the review and the fairness of the process or how NDDOT ensured that FTA funds are passed through without regard to race, color, or national origin.

Finding

During this Title VI Compliance Review of NDDOT, **deficiencies** were found regarding NDDOT's compliance with FTA guidance for Program Administration.

NDDOT did not document activities to ensure an equitable distribution of funds are provided to subrecipients that serve predominantly minority populations. NDDOT could not provide documentation that it passed-through FTA Section 5310 and 5311 funds without regard to race, color, or national origin and that minority and low-income populations were not being denied the benefits of or excluded from participation in the programs. NDDOT's competitive selection process does not include a description of how funding decisions were made as required by FTA Circular 4702.1B-V-4.

Corrective Actions and Schedules

Within 90 days of the final report, NDDOT must submit to the FTA Region VIII Civil Rights Officer procedures to ensure that it will pass through FTA Section 5310 and 5311 funds without regard to race, color, or national origin, and that minority and low-income populations were not being denied the benefits of or excluded from participation in the programs. NDDOT must also revise the competitive selection process to include a description of how funding decisions are made as required by FTA Circular 4702.1B-V-4.

7. Summary of Findings/Corrective Actions

Item	Title VI Requirements	Site Review Finding	Deficiencies	Corrective Action(s)	Response Days/Date
1.	Inclusive Public Participation	D	The NDDOT Title VI Program does not include a detailed public participation plan specifying outreach to engage minority, low income, and LEP populations, as required by Circular 4702.1B -III-8.	NDDOT must develop and submit to the FTA Region VIII Civil Rights Officer a formal public participation plan to conduct outreach to minority, low-income, and LEP populations as part of the three-year Title VI Program update process.	90 days
2.	LEP Language Assistance Plan	D	The four-factor analysis and LAP within NDDOT's Title VI Program does not include all the elements required by FTA Circular 4702.1B-III-9, such as frequency of contact data, information from community groups regarding importance, cost of available resources, and language assistance services provided by language. NDDOT has not implemented all the activities listed within its Language Assistance Plan. NDDOT does not have a formal methodology in place to identify vital documents for translation. NDDOT has not provided training to staff on LAP requirements.	NDDOT must complete and submit to the FTA Region VIII Civil Rights Officer a revised LEP four-factor analysis, a formal process for identifying vital documents to be translated, and a training strategy associated with its LAP and translate vital documents as required.	90 days
3.	Title VI Complaint Procedures	D	NDDOT's published complaint form and procedure does not specify requirements for filing a complaint related to FTA programs, or narrow the coverage of Title VI to race, color, and national origin.	NDDOT must submit to the FTA Region VIII Civil Rights Officer a complaint procedure and complaint form to address FTA requirements. NDDOT must provide evidence that the complaint procedure and complaint form has been published on the Transit section of the NDDOT website.	90 days
4	Record of Title VI Investigations, Complaints and Lawsuits	ND			

Item	Title VI Requirements	Site Review Finding	Deficiencies	Corrective Action(s)	Response Days/Date
5.	Notice to Beneficiaries of Protection Under Title VI	D	NDDOT has not published a Title VI notice which meets FTA requirements or has been translated in accordance with NDDOT's Language Assistance Plan.	NDDOT must submit to the FTA Region VIII Civil Rights Officer, a Title VI notice that meets FTA requirements, including notice of availability of translation services. NDDOT must provide evidence that the notice has been posted in their facilities and on the DOT website and has been translated in accordance with the NDDOT Language Assistance Plan.	90 days
6.	Annual Title VI Certification and Assurance	ND			
7.	Monitoring Subrecipients	D	<p>NDDOT is not monitoring the following areas as required by FTA C. 4702.1B(Chapter III-11 and III-12):</p> <ul style="list-style-type: none"> • Subrecipient submission of Certifications and Assurances • Subrecipient submission of Title VI Programs • Subrecipient public participation activities • Subrecipient LEP plan submissions and language assistance plan implementation • Minority representation on transit boards and committees • Technical assistance provided to subrecipients • Fixed-route service standards (where applicable) <p>NDDOT has not provided demographic data to assist subrecipients in conducting their four-factor analysis</p>	<p>NDDOT must develop and submit to the FTA Region VIII Civil Rights Officer revised subrecipient monitoring procedures that include the specific procedures to monitor the following areas:</p> <ul style="list-style-type: none"> • Subrecipient submission of Certifications and Assurances • Subrecipient submission of Title VI Programs • Subrecipient public participation activities • Subrecipient LEP plan submissions and language assistance plan implementation • Minority representation on transit boards and committees • Technical assistance provided to subrecipients • Fixed-route service standards (where applicable) <p>NDDOT must provide demographic data to assist subrecipients in conducting their four-</p>	90 days

Item	Title VI Requirements	Site Review Finding	Deficiencies	Corrective Action(s)	Response Days/Date
			<p>and LEP plan as required by the NDDOT SMP.</p> <p>Not all subrecipients are notifying the public of their rights under Title VI as outlined in FTA Circular 4702.1B-III-5(b).</p> <p>Not all subrecipients have made their Title VI complaint procedures and forms available to the public, as required by FTA Circular 4702.1B-III-6.</p> <p>NDDOT staff has not implemented a process to record and report subrecipient investigations, complaints, and lawsuits, as required by FTA Circular 4702.1B-III-7.</p>	<p>factor analysis and LEP. Documentation demonstrating that this assistance has been provided must be submitted to the FTA Region VIII Civil Rights Officer.</p> <p>NDDOT must provide a revised Title VI notice to subrecipients that includes the availability of translation services and document that all subrecipients have implemented the revised notice, have included it on their website or brochure as applicable, and have translated it as required by the subrecipient's Language Assistance Plan.</p> <p>NDDOT must provide evidence that all subrecipients have made their Title VI complaint procedures and forms available to the public.</p> <p>NDDOT must review all subrecipient complaint tracking documentation and initiate corrective action as needed.</p>	
8.	Minority Representation on Planning or Advisory Bodies	ND			
9.	Determination of Site or Locations	AC			
10	Prepare and Submit a Title VI Program	D	<p>NDDOT's Title VI Program does not contain all the elements as required by FTA Circular 4702.1B:</p> <p>Summary of public outreach and</p>	<p>NDDOT must submit a Title VI Program that includes the following areas to the FTA Region VIII Civil Rights Officer:</p> <ul style="list-style-type: none"> • Summary of public outreach and involvement activities 	90 days

Item	Title VI Requirements	Site Review Finding	Deficiencies	Corrective Action(s)	Response Days/Date
			involvement activities: <ul style="list-style-type: none"> • A list of subrecipients and how their programs are stored • Demographic maps that overlay the percent minority and non-minority populations and analyze the distribution of funding to identify disparate impacts • A description of the statewide transportation planning process that identifies the transportation needs of minority populations • A description of the procedures used to pass-through FTA financial assistance in a non-discriminatory manner • A description of the procedures the State uses to provide assistance to potential subrecipients. 	<ul style="list-style-type: none"> • A list of subrecipients and how their programs are stored • Demographic maps that overlay the percent minority and non-minority populations and analyze the distribution of funding to identify disparate impacts • A description of the statewide transportation planning process that identifies the transportation needs of minority populations • A description of the procedures used to pass-through FTA financial assistance in a non-discriminatory manner • A description of the procedures the State uses to provide assistance to potential subrecipients. <p>Prior submissions of the Title VI Program must be deleted from the Electronic Award Management System (Team-Web).</p>	

State Requirements					
11.	Statewide Planning Activities	D	NDDOT does not have a defined schedule to collect Title VI programs from MPOs. NDDOT does not have a process for routinely collecting Title VI Programs from MPOs, and reviewing these Programs for compliance with FTA Circular 4702.1B, as required by FTA Circular 4702.1B-V-3.	NDDOT must develop and submit to the FTA Region VIII Civil Rights Officer a formal process to collect and review Title VI Programs from MPOs. The grantee must also review the Title VI Programs from each MPO, document the results, and complete corrective actions as appropriate.	90 days
12.	Program Administration	D	NDDOT did not document activities to ensure an equitable distribution of funds are provided to subrecipients that serve predominantly minority populations. NDDOT could not provide documentation that it passed-through FTA Section 5310 and 5311 funds without regard to race, color, or national origin and that minority and low-income populations were not being denied the benefits of or excluded from participation in the programs. NDDOT's competitive selection process does not include a description of how funding decisions were made as required by FTA Circular 4702.1B-V-4.	NDDOT must submit to the FTA Region VIII Civil Rights Officer procedures to ensure that it will pass through FTA Section 5310 and 5311 funds without regard to race, color, or national origin, and that minority and low-income populations were not being denied the benefits of or excluded from participation in the programs. NDDOT must also revise the competitive selection process to include a description of how funding decisions are made as required by FTA Circular 4702.1B-V-4.	90 days

Findings at the time of the site visit: ND = No Deficiencies; D = Deficiency; NA = Not Applicable; NR = Not Reviewed; AC = Advisory Comment

8. Attendees

NAME	TITLE	E-MAIL ADDRESS
GRANTEE – NDDOT		
Steve Salwei	Transportation Programs Director	ssalwei@nd.gov
Becky Hanson	Transit Program Manager	bhanson@nd.gov
Tami Beyer	Transportation Management Officer	tmebyer@nd.gov
Julie Small	Transportation Management Officer	jsmall@nd.gov
Darcy Karel	Transportation Management Officer	dkarel@nd.gov
Paula Messmer	Civil Rights (Title VI) Program Administrator	pmessmer@nd.gov
Ramona Bernard	Civil Rights Director	rbernard@nd.gov
Stacey Hanson	Assistant Local Government Engineer	smhanson@nd.gov
Michael Johnson	Urban Engineer & MPO Coordinator	mijohnson@nd.gov
Ron Henke*	Deputy Director for Engineering	rhenke@nd.gov
Federal Transit Administration – FTA		
Jonathan Ocana	FTA-Office of Civil Rights	jonathan.ocana@dot.gov
Anita Heard	FTA-Office of Civil Rights	anita.heard@dot.gov
Kevin Osborn*	Regional Civil Rights Officer	kevin.osborn@dot.gov
REVIEW TEAM – Calyptus Consulting Group		
George Harris	Reviewer	gharris@calyptusgroup.com
Jameson Beekman	Reviewer	jbeekman@calyptusgroup.com
Philippa Drew	Reviewer	pdrew@calyptusgroup.com

* Participants attended exit conference only.

9. Attachments

Attachment 1: NDDOT Comments to the Draft Report



North Dakota Department of Transportation

Grant Levi, P.E.
Director

Jack Dalrymple
Governor

January 14, 2016

Ms. Anita Heard
Equal Opportunity Specialist
Internal EEO Program Coordinator
Federal Transit Administration
Office of Civil Rights, TCR
1200 New Jersey Ave.
E54-420, East Building
Washington, DC 20590

NORTH DAKOTA TITLE VI COMPLIANCE REVIEW DRAFT REPORT

In response to your January 6, 2016, email, the North Dakota Department of Transportation (NDDOT) has reviewed the December 2015 Title VI Compliance Review Draft Report. The NDDOT has analyzed staff time and coordination with other resources and is respectfully requesting the response time be extended to 90 days.

The NDDOT did not find any factual corrections or any other additions to be added to the report. The Transit Section has begun actions to correct the areas found deficient and work to engage our transit systems to become Title VI compliant.

If you have any further questions, please feel free to contact Becky Hanson, Transit Program Manager, at (701) 328-2542.

A handwritten signature in blue ink that reads "Grant Levi".

GRANT LEVI, P.E., DIRECTOR

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