



# **Tennessee State Agencies and Title VI of the Civil Rights Act of 1964**

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# Executive Summary

Title VI of the Civil Rights Act of 1964 and its implementing regulations require all state agencies receiving federal money to develop and implement plans to ensure that no one receiving benefits under a federally funded program is discriminated against on the basis of race, color, or national origin. Public Chapter 502, passed by the Tennessee General Assembly and signed into law on May 31, 1993, requires state agencies to “develop a Title VI implementation plan with participation by protected beneficiaries as may be required by such law or regulations. To the extent applicable, such plan shall include Title VI implementation plans of any subrecipients of federal funds through the state entity. Each such state governmental entity shall submit annual Title VI compliance reports and implementation plan updates to the department of audit by June 30, 1994, and each June 30 thereafter. At least once each year, the department shall publish a cumulative report of its findings and recommendations concerning compliance with the requirements of this section. The cumulative annual report shall be distributed to the Governor, to each member of the General Assembly, and to each library designated as a depository of state reports and documents.”

The bill also requires the Comptroller of the Treasury to undertake a study prior to January 1, 1994 to determine “what special actions should be taken by state entities to implement the requirements of Title VI and regulations promulgated pursuant to Title VI.” In response to the legislative directive, staff within the Office of Local Government identified those state agencies that receive federal funds. After a review of applicable law, regulations, and reports, staff interviewed at least one person from each department to determine what, if anything, state officials know about Title VI and the extent of the agencies’ enforcement practices. In addition to the state agency interviews, staff interviewed numerous federal officials at both the national and regional levels. Here, the emphasis was on understanding the federal role in Title VI enforcement and what the federal departments expect of their state counterparts.

This report draws the following conclusions:

- 1. Federal agencies have placed less emphasis on the enforcement of Title VI than on other civil rights laws.** Because of political ideology and decreasing resources federal agencies have reduced compliance programs and shifted civil rights resources to more recent or better publicized civil rights acts, such as the Americans with Disabilities Act (ADA). See page 6.
- 2. In spite of decreased emphasis at the federal level, state agencies have the responsibility to monitor and enforce Title VI.** Federal regulations require recipients to enforce Title VI and its regulations. Additionally, contracts between federal agencies and their recipients require agencies to monitor and enforce Title VI. See pages 8 and 25.
- 3. There is a general lack of knowledge about Title VI among most state agencies.** With a few notable exceptions, state officials are not well-informed about

agency responsibility for implementing Title VI and even which programs are subject to Title VI. See pages 11-17.

**4. To fulfill their obligations under Title VI, state agencies need to develop and implement Title VI compliance procedures.** Compliance procedures should take into account such things as: data collection and analysis, compliance reviews of federally assisted programs, personnel training, minority participation in the planning of programs, notification of rights under Title VI, complaint processing and investigation, resource lists within the minority community, and, where needed, sanctions for uncooperative recipients. See pages 11-17 and 20.

**5. State agencies should seek help from the federal government in the form of training and advice.** The Department of Justice is interested in using Tennessee as a model for other states seeking to improve their Title VI compliance. The Department has offered to provide training for the state agency representatives who will be responsible for ensuring Title VI compliance. Training would consist of an overview of the legislative history of the law, complaint processing, conducting compliance reviews, data collection, and tracking federal assistance. In addition, many of the individual federal departments offer training for their recipients on an ongoing basis. See pages 9-10 and 103.

## **Alternatives**

This report proposes alternatives that might help to improve the state's enforcement and compliance with Title VI. (See page 18.) One alternative is to create a central Title VI enforcement agency. This agency would have an executive director and staff whose responsibility it would be to coordinate all compliance reviews, review data from state agencies, and resolve complaints. A Title VI enforcement agency would allow all Title VI monitoring activities to be centralized. (This alternative was proposed by the U.S. Commission on Civil Rights and the Department of Justice.)

Another alternative is to use the State Planning Office to monitor government agencies for compliance with Title VI. No new agency would have to be created under this alternative and those responsible for enforcement would have direct access to the chief executive.

A third possibility would be to add Title VI responsibilities to the Tennessee Human Rights Commission. This commission already has responsibility for other civil rights laws.

A fourth option would be to create a state agency Title VI task force. The task force, which would consist of representatives from each state agency, would determine what state departments are doing and what they can do to increase compliance. It would also review agency compliance plans and help find solutions to problems encountered by the various departments.

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# Introduction

## Charge from the General Assembly

During the 1993 legislative session, the General Assembly passed Public Chapter 502 requiring state agencies to “develop a Title VI implementation plan with participation by protected beneficiaries as may be required by such law or regulations. To the extent applicable, such plan shall include Title VI implementation plans of any subrecipients of federal funds through the state entity. Each such state governmental entity shall submit annual Title VI compliance reports and implementation plan updates to the department of audit by June 30, 1994, and each June 30 thereafter. At least once each year, the department shall publish a cumulative report of its findings and recommendations concerning compliance with the requirements of this section. The cumulative annual report shall be distributed to the Governor, to each member of the General Assembly, and to each library designated as a depository of state reports and documents.”

The bill also requires the Comptroller of the Treasury to undertake a study to determine “what special actions should be taken by state entities to implement the requirements of Title VI and regulations promulgated pursuant to Title VI” prior to January 1, 1994.

## Methodology

The conclusions reached and recommendations made in this report are based on the following sources:

1. A review of pertinent federal and state laws and regulations, as well as Attorney General’s opinions to determine what is required of state agencies to comply with Title VI.
2. Interviews with appropriate federal officials with emphasis on what federal agencies require of state agencies in complying with Title VI. (See Appendix 4.)
3. Interviews with appropriate state officials in state departments that receive federal funding to determine what they are doing to ensure compliance with Title VI. (See Appendix 4.)
4. A review of relevant literature pertaining to Title VI to identify other research that may have been conducted. (See Appendix 5.)
5. A review of manuals and policy statements provided by state agencies regarding their Title VI procedures. (See Appendix 5.)
6. A review of manuals, reports, and pamphlets provided by federal agencies.

## Legal Background

Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. 2000d, states that:

No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

## **Purpose of Title VI**

Title VI is intended to prohibit discrimination on the basis of race, color, or national origin in federally assisted programs. It applies to discrimination by a federal authority as well as by a recipient of federal assistance. **Title VI applies to a program even if federal money comprises only a portion of the program's budget.** The act is a service delivery oriented statute, meaning that the emphasis is on services provided by a government agency to the citizens of a given area. If federal money is used to provide services, then Title VI applies and services must be delivered in a nondiscriminatory manner. **The situations covered by Title VI include a broad spectrum of federal assistance ranging from the ultimate use of Veterans Administration educational benefits to equipment and building loans, research grants, loan guarantees, employee or student recruitment, and even tax benefits enjoyed by fraternal and non-profit organizations.**

A recipient of federal assistance violates Title VI when it:

- (a) denies an individual service, aid, or benefits because of race, color, or national origin;
- (b) provides only inferior or discriminatory service, aid, or benefits because of an individual's race, color, or national origin;
- (c) subjects an individual to segregation or different treatment in relation to aid, service, or benefits because of race, color, or national origin;
- (d) restricts or discourages individuals in their enjoyment of facilities because of race, color, or national origin;
- (e) treats an individual differently because of race, color, or national origin in regard to eligibility for programs or services;
- (f) uses criteria which would impair accomplishment of the act's objectives or which would subject individuals to discrimination because of race, color, or national origin;
- (g) discriminates against an individual in any program or activity that is conducted in a facility constructed even partly with federal funds; or
- (h) subjects an individual to discriminatory employment practices under any federal program intended to provide employment.

**Title VI does not provide relief for discrimination based on age, sex, geographical locale, or wealth.** The title does not reach direct benefit federal programs, such as social security. It has been interpreted to cover only those situations where federal funding is given to a nonfederal entity which, in turn, provides financial assistance to the ultimate beneficiary.

## **Implementation of Title VI by the U.S. Attorney General**

Executive Order 12250 delegates the authority to implement the provisions of the Civil Rights Act vested in the President of the United States to the U.S. Attorney General, head of the U.S. Department of Justice. It is the Attorney General's responsibility to coordinate the implementation and enforcement by executive agencies of the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964.

It is also the responsibility of the U.S. Attorney General in consultation with affected agencies to: prepare a plan for the implementation of rules; develop standards for taking enforcement action; issue guidelines for establishing time limits on efforts to secure voluntary compliance; establish a schedule for the review of agencies' regulations; establish guidelines for the development of effective record keeping by executive agencies; and establish training, information, and cooperative programs.

### **Agency Regulations**

In response to Executive Order 12250 and the power vested in the U.S. Attorney General, each executive agency has issued implementing directives in the form of regulations and policy guidelines. The agencies' regulations may be found as follows:

- Department of Agriculture, see 7 CFR 15.1 *et seq.*
- Department of Commerce, see 15 CFR 8.1 *et seq.*
- Department of Defense, see 32 CFR 300.1 *et seq.*
- Department of Education, see 34 CFR 100.0 *et seq.*
- Department of Energy, see 10 CFR 1040.1 *et seq.*
- Department of Health and Human Services, see 45 CFR 80.1 *et seq.*
- Department of Housing and Urban Development, see 24 CFR 1.1 *et seq.*
- Department of the Interior, see 43 CFR 17.1 *et seq.*
- Department of Justice, see 28 CFR 42.1 *et seq.*
- Department of Labor, see 29, CFR 31.1 *et seq.*
- Department of State, see 22 CFR 141.1 *et seq.*
- Department of Transportation, see 49 CFR 21.1 *et seq.*

The regulations contain essentially the same components with differences arising within the various programs administered by different departments and their subsidiary agencies. All the regulations are organized into discrete sections: purpose, application of the regulations, a statement describing the types of discrimination prohibited, assurances required, illustrative applications, compliance information, conduct of investigations, procedure for effecting compliance, hearings, decisions and notices, judicial review, effect on other regulations, and definitions. A brief summary of these sections is provided below.

*Purpose:* This section contains a simple policy statement that the purpose of the regulations is to effectuate the provisions of Title VI.

*Application:* This section states that the regulations apply to any program for which federal assistance is authorized to be extended to a recipient.

*Types of Discrimination:* Generally, this section provides that no person shall be discriminated against based on race, color, or national origin. Specifically, it provides that a recipient under any program may not deny an individual any service or benefit provided under the program, provide any service or benefit in a different manner from that provided under the program, subject an individual to separate treatment under the program, restrict an individual in any way in the enjoyment of any privilege enjoyed by others under the program, **deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program, or employ criteria that have the effect of**

**subjecting individuals to discrimination based on race.** Specific forms of discrimination listed are not inclusive and do not limit the general prohibition against discrimination.

*Assurances Required:* Every application for federal assistance shall contain, as a condition of its approval, an assurance that the program will be conducted in compliance with all requirements imposed by Title VI.

*Illustrative Applications:* This section lists the department's programs that are subject to the requirements of Title VI. (See Appendix 2.)

*Compliance Information, Conduct of Investigations, and Procedure for Effecting Compliance:* This section states that from time to time the responsible federal official shall review the practices of recipients to determine whether they are complying with the regulations. It provides that discrimination complaints may be filed with the responsible department official. A complaint must be filed within 180 days from the date of the alleged discrimination. The responsible department must make a prompt investigation which should include a review of the recipient's practices and procedures. Compliance may be effected by termination of aid or any other means authorized by law, if more informal means are unsuccessful.

*Hearings, Decisions, and Notices:* Hearings are to be held in Washington, D.C. before a hearing examiner, and are conducted much the same way as hearings under Tennessee's Administrative Procedures Act. The examiner's findings are sent to the department for a final decision. Notice of the decision is sent to the recipient and the complainant.

*Judicial Review:* Appeal of the agency's final decision may be made to the appropriate federal court as provided by Section 603 of the Act.

# Analysis

Staff interviewed federal officials to learn how they determine whether state entities that receive federal assistance comply with Title VI. State officials were also interviewed to find out what Title VI compliance procedures exist at the state level. Following is an analysis of both sets of interviews. The state analysis includes administrative recommendations; legislative alternatives follow.

## Federal Agencies and Title VI

Title VI of the Civil Rights Act of 1964 is intended to prohibit racial discrimination by a federal authority as well as by a recipient of federal assistance. The U.S. Attorney General (by authority of Executive Order 12250) is responsible for coordinating the implementation and enforcement of the nondiscrimination provisions of Title VI by the executive agencies.

The Department of Justice, under the direction of the U.S. Attorney General, requires that federal agencies subject to Title VI issue their own regulations to implement Title VI and publish guidelines for each type of assistance program subject to Title VI. The guidelines must describe the nature of Title VI coverage, methods of enforcement, examples of prohibited practices, and methods for collecting data and handling complaints. Most of the federal agencies' regulations are similar with differences arising from the varying functions and programs within the different agencies. Uniform requirements contained in all agency regulations include the following:

- Each application for federal assistance must contain an assurance that the program will be conducted in compliance with all requirements imposed by Title VI.
- Each recipient must keep records and reports and submit them to the federal agency in the form determined by the agency.
- Federal department officials must review the practices of recipients to determine whether they are complying with the regulations.
- Each recipient must provide equal opportunity for minorities to participate as members of planning or advisory bodies that are an integral part of a program.

According to a report issued by the U.S. General Accounting Office (GAO) in 1980, each federal agency's Office of Civil Rights should perform at least six major functions to assure that agency officials and recipients are in compliance with Title VI: (1) provide technical assistance, education and outreach; (2) conduct pre-award reviews ; (3) conduct post-award reviews; (4) investigate individual complaints of discrimination filed against agency officials and recipients of federal financial assistance; (5) monitor and evaluate state and local agencies' Title VI enforcement efforts; and (6) impose sanctions (legal and administrative enforcement) for noncompliance.

After interviewing several officials of federal agencies in Washington, D.C. and their regional offices in Atlanta, Georgia, staff learned that:

- Federal agencies conduct few on-site compliance reviews. Many federal agencies attribute their inability to conduct on-site compliance reviews to their lack of adequate staff and budget.

- The Department of Justice, whose responsibility it is to coordinate the federal agencies' implementation of Title VI, has devoted most of its resources in the last few years to educating agencies about the Americans with Disabilities Act (ADA). (The Department of Justice is, however, interested in helping Tennessee develop a Title VI program. The Department sees this as a means of revitalizing its own Title VI program.) See the section "Guidance for State Agencies.")
- The Department of Justice's main function concerning Title VI is presently limited to reviewing implementation plans submitted annually by each federal agency. The U.S. Commission on Civil Rights believes this is inadequate to determine compliance.
- Most federal agencies seem to operate in response to complaints received under Title VI rather than engaging in proactive enforcement.
- Sanctions are rarely imposed for noncompliance; however, virtually all complaints are resolved through a conciliation process.

### **Identification of Title VI Programs**

The federal agencies' guidelines include a list of programs and activities subject to Title VI. According to the Department of Justice, agencies unclear about whether a particular program falls under the Title VI provisions should consider a three-part analysis, including: (1) a review of the statute to determine whether Congress intended a program to provide service or benefits to individuals; (2) a determination that the assistance is other than by contract of insurance or guaranty (to which Title VI usually does not apply); and (3) an examination of the program itself to determine whether or how recipients are assisted. (See Appendix 2 for a list of programs covered by Title VI taken from the federal agencies' regulations and for another method of determining what programs are subject to Title VI.)

### **Enforcement and Monitoring**

Federal agencies use four methods to determine whether applicants and recipients comply with Title VI: (1) written assurances; (2) complaint systems; (3) pre-award reviews; (4) post-award reviews. A summary follows of the federal agencies interviewed and, generally, how they enforce and monitor Title VI.

*U.S. Department of Agriculture:* The department conducts desk audits and on-site reviews. The schedule of audits depends on different factors (it is unclear as to what these factors are). Some are scheduled after referral from the U.S. Commission on Civil Rights.

*U.S. Department of Education:* Vocational school boards are supposed to perform annual desk audits; a percentage of these are then selected for on-site review. Monitoring includes looking at admissions, accessibility, placement, counseling, and anything that impacts education delivery. The department relies on reports from advocacy groups to determine where on-site reviews will occur.

*U.S. Department of Housing and Urban Development:* The department has instituted PHACA, Public Housing Affirmative Compliance Actions system, designed to assist participating Public Housing Agencies in completing self-assessment of their programs. The department "rewards" agencies that choose to participate by *not* performing compliance reviews of the agencies. In reality, department staff said there are

too many contractors and subrecipients to track noncompliance. The department targets only the worst offenders. According to HUD's regional office in Atlanta, they are required to submit quarterly data to the office in Washington listing the number of complaints processed and the dates. The regional office does 10 compliance audits annually throughout Region IV (which includes Alabama, Florida, Georgia, Mississippi, Kentucky, North Carolina, South Carolina, and Tennessee). They are selected by analyzing the tenant selection list, waiting lists, and complaints.

*U.S. Department of the Interior:* Every two years the department does a program review of the states' enforcement program. Local sponsors are reviewed to see if nondiscriminatory funding exists. Every assisted site must be inspected at least once every five years. However, staff explained that it is difficult to determine whether discrimination exists from such an inspection; therefore, they rely more on receiving complaints to determine enforcement.

*U.S. Department of Labor:* Because of limited resources, the department focuses on post-award audits in which reviewers look for reasons for disparities in racial data. (Tennessee's system has not been reviewed since 1987.) According to staff in the Employment and Training Division of the Department of Labor in Atlanta, the regional office does not monitor state compliance with Title VI.

*U.S. Department of Transportation:* The department conducts annual reviews looking at the number of minority contractors accepted or rejected, reasons for rejection, contract certification, hiring practices, complaints and the state's Title VI Action Plan. This plan, which is updated and approved annually, outlines the state's Title VI goals and objectives. The state's Title VI coordinator is responsible for ensuring each program manager is aware of their Title VI responsibilities.

## **Beneficiaries' Rights**

Title VI is intended to remove the barriers to full participation in all programs receiving federal assistance. Many persons may be unaware of their rights under Title VI, or reluctant to seek agency assistance for fear of reprisal. Effective civil rights enforcement requires civil rights agencies to provide technical assistance so that those who must comply understand their obligations and those who are protected under these laws know their rights. Many agencies disseminate brochures and require posters to be placed so that those receiving services are aware of their rights. In some cases, however, particularly in rural areas, agencies may have to be more creative in "getting the word out." Because all communities have their own unique vehicles of communication, it may be difficult to monitor their methods of effectively informing the public about Title VI. In the interviews, the federal agencies had more suggestions about how states can inform the public, rather than solid methods of determining whether the public really is being informed.

According to the *U.S. Department of Agriculture*, one of the most important areas in a compliance review is public notification. The department emphasizes tailoring public notification to the demographics of an area. They recommend using newsletters, newspapers, local organizations, and community leaders to educate the public. According to the department, lack of complaints is a "red flag" that beneficiaries are unaware of their rights.

The *U.S. Department of Housing and Urban Development* provides handbooks and notices for all of its field offices.

The *U.S. Department of Labor* also emphasizes information dissemination. It is an important segment of the Methods of Administration (MOA) manual that state agencies are required to compile.

### **Title VI Complaint System**

The complaint system plays an important role in Title VI enforcement. According to Department of Justice staff, complaints increase awareness. The *U.S. Department of Housing and Urban Development* determines the number of compliance reviews to schedule from the number of complaints received. The *U.S. Department of Health and Human Services* attempts to reach an agreement between the affected parties before taking a complaint to a more formal level. According to the *U.S. Department of the Interior*, since the regional office in Atlanta started investigating complaints in 1987, they have received only two Title VI complaints. Staff in the regional office of the *U.S. Department of Education* said that the number of Title VI complaints they receive is very low compared to other types of complaints. Since October 1992, they have received 36 Title VI complaints. Most of these are resolved through a comprehensive investigation process, which includes analyzing racial data, examining position openings, comparing applications to the relevant labor market, and looking at census data. According to staff in the regional office of the *U.S. Department of Transportation*, the Tennessee program has never had a Title VI complaint. Staff explained this was because when a highway project is being planned, if serious problems arise then usually an alternative route is selected. Staff stated Title VI has major implications when determining where to build a road. The state must consider whether and how the road will disrupt minority and non-minority neighborhoods. If the state concludes that more construction has been done in minority neighborhoods, sometimes an alternative route must be chosen that is both cost-effective and non-discriminatory.

### **Title VI Compliance Reporting**

None of the federal agencies interviewed require state agencies to submit compliance reports to them.

### **Title VI Guidelines**

The Department of Justice requires that federal agencies issue their own regulations to implement Title VI and publish guidelines for each type of assistance program subject to Title VI. The guidelines must describe the nature of Title VI coverage, methods of enforcement, examples of prohibited practices, and methods for collecting data and handling complaints.

### **Racial and Ethnic Data Collection**

Each recipient of federal assistance is required to collect racial and ethnic data. According to staff at the Department of Justice, collection of data is vital as a basis for evaluating program effectiveness.

The *U.S. Department of Agriculture* staff said that one of the most common problems noted in compliance reviews is that agencies do not use the data they have collected to determine their needs.

The *U.S. Department of Housing and Urban Development* requires their field offices to submit participant and beneficiary data to the regional offices. By law, HUD is required to report to Congress on fair housing compliance, so this data is important. The department also requests data in preparation for Title VI reviews.

Data collection is not required by the *U.S. Department of the Interior*. However, they do analyze population data to see where the funding is going and compare the department's expenditure with the population in each county. Most funding goes where the people and the parks are, and is not allocated on a racial or ethnic basis.

### **Training/Guidance for State Agencies**

According to Arthur Fletcher, Chairman of the U.S. Commission on Civil Rights, after Title VI became law in 1964, federal agencies had money designated in their budgets to train state agencies. Over the years, this funding has decreased.

*Department of Justice* officials believe that training is vital and should come from the regional offices. They believe that organizations such as the NAACP, community groups, and others should be involved in training for awareness of discrimination.

Department of Justice staff expressed interest in using Tennessee as a model to show that at least one state is concerned about enforcing Title VI and to revitalize their own Title VI program, since most of their resources have been going to the Americans with Disabilities Act (ADA). In addition, Justice offered to provide training for state agency representatives who would be responsible for ensuring Title VI enforcement and compliance. Training would consist of an overview of the legislative history of the law, complaint processing, conducting compliance reviews, data collection, and tracking federal assistance.

The *U.S. Department of Agriculture's* regional offices provide training to state and local officials. Federal officials suggest that the states need to provide training to increase awareness among service providers.

The *U.S. Department of Education* has regional training personnel available upon request.

The *U.S. Department of Health and Human Services'* regional offices provide training to the states.

The *U.S. Department of Housing and Urban Development* provides training to its regional offices on a regular basis. If the regional offices cannot afford to send staff, then the department will conduct training via conference calls. Each regional field office provides training to the states on community development block grant responsibilities, technical assistance, monitoring, and fair housing laws.

The *U.S. Department of the Interior* provides mandatory training for regional offices annually. States can request this training also. Training in grants administration is also offered approximately every two years for states in Region IV.

The *U.S. Department of Labor* believes that training increases compliance. Within the last year, Labor has provided training for all states at the federal agency's expense.

The *U.S. Department of Transportation* regional offices provides training to the state's Title VI coordinator and the program managers, upon request.

## **Minority Representation on Boards and Commissions**

**Ensuring minority participation on planning boards and advisory commissions is vital to providing equal access to programs receiving federal assistance.**

The *U.S. Department of Agriculture* compares the demographics of communities to the makeup of planning and advisory boards. In some cases, agencies have been instructed to develop contact lists of minority organizations.

The *U.S. Department of Housing and Urban Development's* Title VI regulations encourage rather than require the inclusion of minorities on planning and advisory boards.

The *U.S. Department of the Interior* requires open access to panels and boards as a part of the open selection process. The boards are supposed to reflect the demographics of the area; however, because of the method of appointment or specific qualifications and background that may be required by state law, minorities may not be selected.

The *U.S. Department of Transportation* encourages minority representation on citizen organizations formed to examine the effects of a highway project on a community.

## **Recommendations from Federal Agencies**

*U.S. Commission on Civil Rights:* Tennessee's Title VI enforcement mechanisms should be centralized in one department.

*U.S. Department of Education:* Require agencies to conduct a self-evaluation to determine where deficiencies are and then establish corrective action.

*U.S. Department of Health and Human Services:* Each agency should appoint a specific individual to examine the structure of services and determine the most effective enforcement procedures: ask federal agencies to provide training in each agency or bring all agencies together for training; make Title VI implementation a part of the evaluation process for policy makers and agency heads to ensure that they make Title VI a priority; and impose sanctions, such as withholding promotions, against employees who fail to perform Title VI responsibilities.

*U.S. Department of Housing and Urban Development:* There should be penalties for noncompliance, such as withholding funds. There should be an outside group to review complaints.

*U.S. Department of Justice:* Civil rights officers charged with implementing Title VI should report directly to the department head and not to an intermediate level manager. Title VI should be given priority from the top down. There also needs to be an education effort, perhaps a training conference to raise the level of consciousness about racial discrimination. (See also the section "Guidance for State Agencies" for training opportunities with the Department of Justice.)

*U.S. Department of Labor:* State departments' civil rights officers should coordinate their activities to ensure that Title VI procedures developed are applied consistently.

## **State Agencies and Title VI**

After interviewing all of the state agencies that receive federal funding, staff concluded that most have little knowledge of their Title VI responsibilities. Title VI of the Civil Rights Act of 1964 prohibits agencies and organizations that receive federal assistance, such as grants, loans, or contracts, from discriminating on the basis of race, color, or national origin. Federal financial assistance generally refers to the process by which the federal government provides benefits to a specified segment of the population (referred to as beneficiaries) through recipients—generally state and local governments. Title VI touches a variety of areas including contracting, hiring, the location of facilities, the distribution of benefits and services, as well as program effects on people in applicable communities.

Each state agency receiving federal financial assistance is required to assure that program recipients comply with Title VI. In Tennessee, at least 23 state agencies receive federal assistance and, thus, are responsible for the enforcement of Title VI. As primary recipients, state departments are required to administer all federally funded programs in a nondiscriminatory manner and to monitor their subrecipients to see that they administer their programs in a nondiscriminatory manner. Major conclusions are as follows.

### **Identification of Title VI programs**

The first step in enforcing Title VI is to properly identify the programs and activities subject to it. Many state agency officials interviewed were not aware of which programs and activities are subject to Title VI. Some officials did not know what “Title VI compliance and enforcement” meant. Several thought that they only had to comply with the more well-known civil rights laws, such as Title VII (employment), affirmative action, or the Americans with Disabilities Act (ADA). In some instances, staff had to explain the federal law and the state agency’s responsibilities under the law.

*Recommendations:* The state agencies’ problems with identifying Title VI programs could be reduced if they received more guidance from their federal counterparts. The federal agencies should be requested to provide assistance by helping the agencies identify programs subject to Title VI. Those state departments not receiving regular assistance from the federal government must take the initiative by contacting their federal counterparts to learn which programs they administer are subject to Title VI. (See also Appendix 2.)

### **Enforcement And Monitoring**

In order to comply with Title VI, state agencies must develop a plan with participation by protected beneficiaries for monitoring themselves and their subrecipients. Compliance reviews, in the form of both pre-award and post-award reviews, are the most reliable means of monitoring implementation of civil rights regulatory requirements. A pre-award review determines a recipient’s compliance with Title VI before releasing federal funds. This is generally a desk audit in which an agency determines an applicant’s potential for complying with Title VI based on data supplied by the applicant. A post-award review determines whether recipients are using funds according to the mandate of Title VI by reviewing the program operations and records. These reviews are generally performed when

an agency visits a recipient to review actual operations and records for determining compliance with Title VI.

**Currently, most state agencies do not require an on-site compliance review. State agencies generally conduct few pre-award and post-award reviews, and those that are conducted tend to be superficial because the agencies have not developed adequate tools for measuring nondiscrimination. Without routine monitoring of activities there is no way to verify if an agency is actually complying with Title VI. Failure to conduct proper monitoring leaves the enforcement to private citizens filing lawsuits against state programs.**

*Recommendations:* The state agencies should develop procedures to conduct periodic Title VI on-site compliance reviews of federally assisted programs. State agencies should have pre-award monitoring systems to assure that potential recipients are in compliance with Title VI. State agencies should also have post-award systems consisting of (1)compliance reports from all program recipients, (2)compliance manuals detailing appropriate review procedures, and (3)an adequate number of post-award on-site reviews. In addition, each agency should develop a procedure for targeting recipients for review. State agencies should consider contacting their federal counterparts for guidance in constructing compliance programs.

### **Agency Personnel and Civil Rights Training**

Most of the departments have only one staff person assigned to enforce civil rights, which includes the provisions of Title VI. In many cases, these responsibilities are in addition to the employees' main duties.

Most state agencies' staff lack a fundamental understanding of Title VI. Some staff members stated that the problem with enforcing Title VI is the lack of enough qualified personnel with civil rights knowledge—agencies said they rarely used program personnel to enforce Title VI. State agencies have not supported the effective use of civil rights staff and have not been fully responsive to the recommendations of staff for enforcement action.

Most state agencies receive some training from the State Department of Personnel in enforcing the American with Disabilities Act or other civil rights laws. Some departments reported receiving some training from federal agencies.

*Recommendations:* Each state agency should have annual Title VI training—this would help develop awareness, sensitivity, and objectivity in carrying out the departments' compliance efforts. If staff were trained in Title VI compliance to the same extent as other civil rights laws, Title VI awareness would likely increase. State departments could develop a list of department personnel who should be required to participate in the annual training. They should also contact federal regional offices that have staff to conduct training sessions.

Training opportunities should also be made available to recipients and their employees who provide services to beneficiaries. Training could include individual development plans (complete with on-the job and self-development experiences), mentoring, and coaching.

Each state agency should also consider conducting self-evaluations and/or assessments of civil rights enforcement knowledge and performance. The self-evaluations could be made a part of new employee orientation and annual evaluation process.

In addition, some agencies should consider assigning more personnel to enforce Title VI. This could result in better Title VI coverage and increase awareness of Title VI requirements.

### **Federal Guidance - Technical Assistance and Training**

For the most part, federal agencies are not providing regular formal Title VI training to state agencies' civil rights program personnel. Without proper training, program staff are limited in their ability to assure that federal assistance systems are operating without discrimination. Most civil rights staff do not have regular contact with their federal counterparts with regard to Title VI. Most federal agencies do not review state Title VI procedures or provide training or technical assistance in developing Title VI procedures.

*Recommendations:* State agencies' enforcement of Title VI could be strengthened if federal agencies reviewed state agencies' Title VI guidelines and provided training and technical assistance on a regular basis, at least annually. Most federal departments indicated a willingness to provide training. State agencies should actively request assistance and training.

### **Contract Assurances and Program Delivery**

All primary recipients of federal assistance sign contracts that contain assurances that the recipient will comply with the requirements of Title VI. Usually, the commissioner of a state department and the appropriate program director execute federal contracts that include such assurances. However, most of the program and service delivery staff in the departments interviewed were not aware of the assurances. Therefore, staff members were not fully aware of their responsibilities to provide services under Title VI.

Contract assurances are important for two reasons. First, they inform the state agency of its responsibility under Title VI. This is true, however, only if the content of the assurance is passed along and understood by those responsible for the department's civil rights program. Second, assurances provide the contractual basis for enforcement. Efforts to enforce compliance or terminate funds can be accomplished through simple contract procedures.

*Recommendations:* Assurance language needs to be included in all contracts between the primary recipient and the federal agency providing assistance, as well as between the primary recipient (the state), and those to whom it distributes the federal assistance (the subrecipients). The state departments should execute nondiscrimination assurances with their subrecipients and do follow-up reviews to verify whether the programs are fulfilling their Title VI contractual responsibilities. Those officials signing contracts need to be aware of the assurance language and inform compliance staff of the specific language.

## **Complaint Systems**

A person who believes he or she has been discriminated against on the basis of race, color, or national origin can file a complaint under Title VI with the appropriate state or federal department. The Department of Justice requires Title VI guidelines to describe methods for handling complaints.

Most state agencies have a general civil rights complaint system in place. However, few report receiving any Title VI complaints, perhaps because the public is unaware of the protections of Title VI or of the right to file a complaint. Lack of complaints may indicate evidence of problems concerning program delivery. Several departments said that complaints increase awareness; most seem to respond more to complaints rather than conducting regular compliance reviews.

*Recommendations:* Each state agency needs to ensure that program participants are aware of the department's procedures for filing a complaint and should train employees on procedures for handling complaints. State agencies need to develop procedures for prompt processing and disposition of Title VI complaints. They also need to initiate investigative proceedings and resolve complaints in a timely manner. In addition, the departments should implement corrective actions based on findings of discrimination. If conciliatory agreements are executed, the department should also follow-up to ensure that adequate steps are taken to reach compliance.

## **Compliance Reporting**

While federal agency regulations require state agencies to submit reports detailing their goals, plans, or results of their Title VI enforcement, most federal agencies do not enforce this requirement. According to the Tennessee Attorney General's Opinion No. 92.47, under regulations promulgated by various federal agencies that administer federal assistance programs, recipients that administer programs are required to submit information regarding compliance with Title VI.

*Recommendations:* State agencies should keep records of their compliance efforts. Such records serve as guides for future enforcement efforts. Additionally, record keeping is required both by federal regulation and by the assurance language in grant contracts. The agencies should develop a Title VI workload and performance data sheet that shows federal dollars provided, number of recipients, and number of complaints received in a fiscal year. State agency fiscal officers and program personnel can then compile the information annually as a summary of civil rights activities with respect to federally assisted programs. The resulting figures can be examined each year to evaluate what areas need improvement or modification to increase nondiscriminatory service delivery.

## **Title VI Guidelines**

According to a report published by the General Accounting Office, guidelines are the most important tool for agencies to use in enforcing Title VI. Without guidelines, recipients may have difficulty understanding how to comply with Title VI and agencies may have difficulty determining whether recipients are complying with Title VI. It appears that many state agencies are unaware of the Title VI guidelines published by their federal counterparts. Many state agencies, when asked to submit their Title VI compliance

procedures, provided affirmative action plans or civil rights plans that contained little or no mention of Title VI.

*Recommendations:* Title VI enforcement and awareness could be improved if state agencies contacted their federal counterparts for help in the development of guidelines. Personnel should be given training that provides a working knowledge of federal guidelines as they apply to state agencies.

### **Beneficiaries' Awareness / Public Notification**

The Department of Justice requires recipients to make certain that all eligible persons who may have been previously or traditionally deprived of equal opportunity are encouraged to participate in all federally assisted programs. Most state departments provide pamphlets and posters to the field offices which give an overview of the law. However, many do not require recipients or field offices to inform potential customers of their right to be served without discrimination on the basis of race, color, or national origin, or where to file complaints of suspected civil rights violations.

*Recommendations:* State agencies should increase Title VI educational outreach and public notification. To accomplish this, state agencies should make special efforts to provide information to applicants, recipients, and beneficiaries of the agencies' nondiscrimination policy, requirements, and complaint procedures. There are several methods state agencies can use to increase beneficiaries' awareness of their rights (See Section V. in "Components of a Title VI Compliance Plan" p. 26). The use of outreach and public notification practices to inform applicants, employees, recipients, and beneficiaries of their rights under Title VI should increase awareness of the law. Public notification efforts should include newspapers, newsletters, periodicals, radio and television, community organizations, special needs directories, and training centers. State agencies could conduct interviews with beneficiaries and special interest groups to evaluate the effectiveness of program delivery and use targeted media and publications to provide information to minority communities. In addition, state agencies need to ensure that program brochures and booklets emphasize nondiscriminatory participation in federally assisted activities.

### **Racial And Ethnic Data Collection**

Comprehensive racial and ethnic data collection is an important part of any compliance program. In addition to providing information that can be used to improve compliance efforts, data collection is required by federal regulation and by the assurances signed by recipients when they receive federal money. Most state agencies do not collect or require subrecipients to collect the data necessary to measure the distribution of benefits to the eligible population. While some state departments do collect data, most do not use the information for evaluating and assessing the effectiveness of their programs. The data collected is rarely used to target populations and evaluate the services provided to the different segments of the population being served.

*Recommendations:* The state departments need to develop procedures for the collection of statistical data (race, color, and national origin) of participants in and beneficiaries of state federally assisted programs. Each state agency should develop annual data reporting

systems for all recipients and subrecipients. Recipients should be required to submit data, cross-tabulated by race and ethnic origin on such variables as (1)the number of program participants; (2)the size of the population to whom the program is directed, and, where appropriate, (3)the number of applicants. The departments should provide procedures to the field offices to assure that the data submitted are accurate and up-to-date.

### **Termination of Federal Assistance**

Under Title VI, federal or state agencies may terminate or discontinue aid to any recipient that does not comply with Title VI and applicable regulations. According to the Department of Justice’s regulations, if there is a determination of noncompliance and a refusal to correct the problem, the ultimate sanction is termination of federal funding. When an applicant for or a recipient of federal assistance is found to discriminate on the basis of race, color, or national origin, and compliance cannot be achieved by voluntary means, Title VI provides several alternatives. If the discrimination is in an applicant’s programs, a federal agency can defer making a grant to the applicant until it can verify full compliance. If the grant has been made, a federal agency may initiate administrative proceedings for the termination of funding. Although not explicitly stated in Title VI, an agency may refer the recipient to the Civil Rights Division of the Department of Justice for the initiation of civil action.

According to all officials interviewed in the course of this study, both at the state and federal level, no instance was reported in which federal assistance had been terminated for failure to comply with Title VI. The departments first try to achieve voluntary compliance. Some departments explained that they would like to sanction some programs for noncompliance by withholding a portion of the federal funds, but this remedy is rarely, if ever, used. When confronted with recipients who are unwilling to correct Title VI violations in their programs, state and federal agencies spend much time in negotiations for voluntary compliance and conciliatory agreements. Most state agencies do not monitor conciliatory agreements, require no records to be kept on what changes have been made, and conduct no follow-up reports or reviews.

*Recommendations:* To solve some severe noncompliance problems, state agencies should consider withholding or terminating federal funds as a punitive sanction against those programs that do not comply with Title VI. When compliance is achieved through conciliatory agreements, follow-up investigations should be conducted to ensure compliance. Federal agencies must take termination of funding provisions seriously so that state agencies understand the importance of compliance.

### **Minority Representation on Planning Boards and Commissions**

Title VI regulations require that recipients, either directly or through contractual means, on the ground of race, color, or national origin, shall not deny a person the opportunity to participate as a member of a planning board or advisory body that is an integral part of the program. Some of the departments’ regulations “encourage” rather than require minority representation. According to the Tennessee Attorney General’s Opinion No. 92.47, an agency that administers a federally funded program may not, directly or indirectly, on the ground of race, color, or national origin, deny a person the opportunity to participate as a member of a planning or advisory body.

**In most state departments, there are planning boards and commissions that determine how and where federal funds will be distributed. Based on interviews with the state agencies, it appears that many departments lack adequate minority representation on planning boards and commissions. The absence of minorities in the planning and implementation of policy has negative effects on the community, including high unemployment, lack of business growth in the private and public sector, underemployment, and decreased property values in minority neighborhoods. Minority participation in planning or advising about the use of federal money may help correct many of these problems.**

*Recommendations:* Each state agency should affirmatively require minorities (protected beneficiaries) on planning boards and commissions. Departments need to take steps to insure that minorities are represented on boards and commissions at all phases of the planning process. In order to achieve this, departments can use census data to compare minority representation on planning and advisory bodies to minority population to determine whether minorities are adequately represented, and implement affirmative steps to correct any deficiency. (See Appendix 7 for a list of resources.) Departments also need to evaluate how members are selected for advisory boards, and may want to target a specific percentage of members who should represent the minority community based on the minority population in the geographical area. For example, if no minority persons are members of an advisory board and if minorities represent at least five percent of the population in the geographic service areas, municipalities, and/or counties, the department should take action to obtain minority representation on the board. State agencies should develop a resource list of persons and organizations from which they can identify minority persons to serve on the boards.

# Alternatives

Following is a list of alternatives that may be used to improve enforcement and compliance with Title VI.

## Legislative Alternatives

- **Create a central Title VI enforcement agency that would be responsible for assuring all of state government's Title VI compliance.** Tennessee's Title VI enforcement mechanisms could be centralized in one agency. Complaints received by state departments would be sent to this agency. The enforcement agency would conduct all compliance reviews, review and analyze racial and ethnic data, and resolve complaints. An executive director would coordinate enforcement and compliance of the state's civil rights requirements and report all noncompliance to the General Assembly and the Governor.
- **Designate the State Planning Office as the agency for coordinating Title VI compliance.** Enforcement efforts are most effective when they are a priority of the head of an organization. As the State Planning Office works closely with the Governor, recommendations made through the Planning Office would represent the policy of the Governor's office. This would help establish accountability and a chain of command. State agencies would submit regular reports to the Planning Office on their enforcement efforts. The Planning Office would coordinate enforcement efforts, report information, and make recommendations to the Governor.
- **Add Title VI responsibilities to the duties of the Human Rights Commission.** The commission would be responsible for Title VI complaint resolution, as it presently handles employment and housing complaints. Complaints could still be filed with state or federal departments, but would be reviewed by the Human Rights Commission for applicability under Title VI. State departments would still be responsible for data collection and compliance reviews.
- **Create a State Agency Title VI Task Force comprised of representatives from each state agency.** The task force could plan a statewide conference to determine what agencies are presently doing, what they need to do to increase compliance, and how confident they are in using their data to evaluate program participation. The statewide task force would require state agencies to submit their Title VI compliance plans for review and would then make recommendations for corrective action if needed. The task force would also monitor the state agencies' Title VI enforcement procedures to ensure that agencies follow federal contractual responsibilities. In addition, each agency could have its own task force using the statewide unit as a guideline. Problems from individual task force units could then be addressed by the statewide task force.

## **Administrative Alternatives**

**•The state agencies’ problems with identifying Title VI programs could be reduced if they received more guidance from their federal counterparts.** The federal agencies should be requested to provide assistance by helping the agencies identify programs subject to Title VI. Those state departments not receiving regular assistance from the federal government must take the initiative by contacting their federal counterparts to learn which programs they administer are subject to Title VI. (See also Appendix 2.)

**• The state agencies should develop procedures to conduct periodic Title VI on-site compliance reviews of federally assisted programs.** State agencies should have pre-award monitoring systems to assure that potential recipients are in compliance with Title VI. State agencies should also have post-award systems consisting of (1)compliance reports from all program recipients, (2)compliance manuals detailing appropriate review procedures, and (3)an adequate number of post-award on-site reviews. In addition, each agency should develop a procedure for targeting recipients for review. State agencies should consider contacting their federal counterparts for guidance in constructing compliance programs.

**• Each state agency should have annual Title VI training—this would help develop awareness, sensitivity, and objectivity in carrying out the departments’ compliance efforts.** If staff were trained in Title VI compliance to the same extent as other civil rights laws, Title VI awareness would likely increase. State departments could develop a list of department personnel who should be required to participate in the annual training. They should also contact federal regional offices that have staff to conduct training sessions.

Training opportunities should also be made available to recipients and their employees who provide services to beneficiaries. Training could include individual development plans (complete with on-the job and self-development experiences), mentoring, and coaching.

Each state agency should also consider conducting self-evaluations and/or assessments of civil rights enforcement knowledge and performance. The self-evaluations could be made a part of new employee orientation and annual evaluation process.

In addition, some agencies should consider assigning more personnel to enforce Title VI. This could result in better Title VI coverage and increase awareness of Title VI requirements.

**• State agencies’ enforcement of Title VI could be strengthened if federal agencies reviewed state agencies’ Title VI guidelines and provided training and technical assistance on a regular basis.** Most federal departments indicated a willingness to provide training. State agencies should actively request assistance and training.

**• Assurance language needs to be included in all contracts between the primary recipient and the federal agency providing assistance, as well as between the primary recipient (the state), and those to whom it distributes the federal assistance (the subrecipients).** The state departments should execute nondiscrimination assurances with their subrecipients and do follow-up reviews to verify whether the programs are

fulfilling their Title VI contractual responsibilities. Those officials signing contracts need to be aware of the assurance language and inform compliance staff of the specific language.

- **State agencies should keep records of their compliance efforts. Such records serve as guides for future enforcement efforts.** Additionally, record keeping is required both by federal regulation and by the assurance language in grant contracts. The agencies should develop a Title VI workload and performance data sheet that shows federal dollars provided, number of recipients, and number of complaints received in a fiscal year. State agency fiscal officers and program personnel can then compile the information annually as a summary of civil rights activities with respect to federally assisted programs. The resulting figures can be examined each year to evaluate what areas need improvement or modification to increase nondiscriminatory service delivery.

- **Title VI enforcement and awareness could be improved if state agencies contacted their federal counterparts for help in the development of guidelines.** Personnel should be given training that provides a working knowledge of federal guidelines as they apply to state agencies.

- **State agencies should increase Title VI educational outreach and public notification.** To accomplish this, state agencies should make special efforts to provide information to applicants, recipients, and beneficiaries of the agencies' nondiscrimination policy, requirements, and complaint procedures. There are several methods state agencies can use to increase beneficiaries' awareness of their rights (See Section V. in "Components of a Title VI Compliance Plan" p.26). The use of outreach and public notification practices to inform applicants, employees, recipients, and beneficiaries of their rights under Title VI should increase awareness of the law. Public notification efforts should include newspapers, newsletters, periodicals, radio and television, community organizations, special needs directories, and training centers. State agencies could conduct interviews with beneficiaries and special interest groups to evaluate the effectiveness of program delivery and use targeted media and publications to provide information to minority communities. In addition, state agencies need to ensure that program brochures and booklets emphasize nondiscriminatory participation in federally assisted activities.

- **The state departments need to develop procedures for the collection of statistical data (race, color, and national origin) of participants in and beneficiaries of state federally assisted programs.** Each state agency should develop annual data reporting systems for all recipients and subrecipients. Recipients should be required to submit data, cross-tabulated by race and ethnic origin on such variables as (1)the number of program participants; (2)the size of the population to whom the program is directed, and, where appropriate, (3)the number of applicants. The departments should provide procedures to the field offices to assure that the data submitted are accurate and up-to-date.

- **To solve some severe noncompliance problems, state agencies should consider withholding or terminating federal funds as a punitive sanction against those**

**programs that do not comply with Title VI.** When compliance is achieved through conciliatory agreements, follow-up investigations should be conducted to ensure compliance.

- **Each state agency should encourage minority representation on planning boards and commissions.** Departments need to take steps to insure that minorities are represented on boards and commissions at all phases of the planning process. In order to achieve this, departments can use census data to compare minority representation on planning and advisory bodies to minority population to determine whether minorities are adequately represented, and implement affirmative steps to correct any deficiency. (See Appendix 7 for a list of resources.) Departments also need to evaluate how members are selected for advisory boards, and may want to target a specific percentage of members who should represent the minority community based on the minority population in the geographical area. For example, if no minority persons are members of an advisory board and if minorities represent at least five percent of the population in the geographic service area, the department should take action to obtain minority representation on the board. State agencies should develop a resource list of persons and organizations from which they can identify qualified minority persons to serve on the boards.



# Components of a Title VI Compliance Plan

Title VI prohibits the following actions for recipients of federal assistance, including state departments that receive federal assistance and the entities to which state departments distribute federal assistance. Recipients either directly or through contractual means, on the ground of race, color, or national origin, shall not:

1. Deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.
2. Provide a service or benefit to an individual that is inferior (either in quantity or quality) to that provided to others in the program.
3. Provide an individual with a service or benefit in a manner different from others under the program.
4. Subject an individual to segregation in any manner related to the receipt of services or benefits under the program.
5. Subject an individual to separate treatment in any manner related to receiving services or benefits under the program.
6. Restrict an individual in any way in the receipt of any advantage or privilege enjoyed by others under the program.
7. Require different standards or conditions as prerequisites for accepting an individual into a program.
8. Deny an individual any service or benefit provided under the program.
9. Use criteria or methods of administration which (a) have the effect of subjecting individuals to discrimination or (b) operate to defeat or substantially impair the accomplishment of the objectives of the program.
10. Permit discriminatory activity in a facility built in whole or in part with federal funds.
11. Fail to provide service or information in a language other than English when significant numbers of potential or actual beneficiaries are of limited English speaking ability.
12. Fail to advise the population eligible to be served or benefited by the program of the existence of the program.
13. Subject an individual to discriminatory employment practices under any federally funded program whose object is to provide employment.
14. Locate a facility in any way which would limit or impede access to a federally funded service or benefit.

Because federal law and regulations require state recipients to insure compliance with Title VI of the Civil Rights Act and to ensure that the above discriminatory actions do not occur, every agency that receives and distributes federal money must have compliance programs in place. State law also requires state agencies subject to Title VI to develop implementation plans, and submit annual compliance reports and implementation plan updates to the Department of Audit beginning June 30, 1994 (Public Chapter 502, 1993). This section is designed to help state agencies develop implementation (or compliance) plans to ensure that they comply with the requirements of Title VI. It contains a sample compliance manual as well as sample complaint forms.

It is suggested that state agencies assign responsibility to a ranking agency official for the conduct of the Title VI program. This person would ultimately be the responsible party to insure compliance with Title VI. The responsibilities for the day-to-day management of the civil rights compliance efforts of the agency could be delegated to another level. However, the designee, frequently called a civil rights coordinator, would be responsible to the top agency official. The civil rights coordinator would be responsible for:

- a. Implementing the system adopted by the department for the periodic evaluation of all aspects of the program to insure that the program is being conducted without discrimination on the basis of race, color, or national origin;
- b. Dissemination of policies which state that the agency's programs will be operated in compliance with Title VI;
- c. Policy dissemination to all agency staff, applicants for services, beneficiaries of services, the public (via printed media, television, radio, mass mailing), and to entities with which the agency usually comes in contact.

The following sample manual addresses each subject area necessary for a complete compliance manual. Note that language in *italics* is explanatory concerning what the section should contain. Each state department will have to tailor the manual to fit its programs. Also note that the manual refers to exhibits containing sample letters and forms. These numbered exhibits begin on page 32.

## **Sample Compliance Manual**

### **I. POLICY**

It is the policy of this department to ensure equal opportunity in all aspects of its programs and services without regard to race, color, or national origin under Title VI of the Civil Rights Act of 1964.

### **II. APPLICABILITY**

This policy applies to the administration of all programs, projects, facilities, benefits, or services that receive assistance from the federal government.

### **III. DEFINITIONS**

*There are certain words and phrases that need to be defined depending on the program or department in question. The following is a partial list of such terms. State agencies can look to the applicable federal agency regulations for definitions, or may*

*create their own lists to fit their needs and programs. See also the glossary to this report for some definitions.*

Applicant	Assurance
Beneficiaries	Civil Rights Act and Regulations
Complainant	Complaint
Discrimination	Federal Assistance
Minority	Noncompliance
Parity/Parity of Participation	Potential Beneficiaries/Participants
Post Award/Compliance Review	Pre-award Compliance Review
Preliminary Inquiry	Primary Recipient
Program Applicant	Racial Categories
Secondary Recipient	Service Delivery Area
Service Delivery Point	

#### **IV. INTERGOVERNMENTAL RESPONSIBILITIES**

**A. Department of Justice.** By executive order, the Attorney General has been delegated the responsibility to coordinate Title VI enforcement by federal departments. The Department of Justice prescribes standards and procedures regarding the implementation of Title VI and extends assistance to departments and agencies in accomplishing effective implementation. The department is responsible for the judicial enforcement of Title VI should voluntary compliance efforts fail.

**B. Federal Agencies.** Most federal agencies have an office of civil rights or equal opportunity which coordinates all aspects of the departments' civil rights programs.

**C. Primary Recipients (or states).** Primary recipients or state departments shall administer all federally funded programs in a nondiscriminatory manner. Specific responsibilities include:

1. Conducting compliance reviews to insure that all benefits and services are provided on an equal opportunity basis.
2. Assuring that records are maintained that depict on a racial/ethnic basis those eligible to participate, those participating, those denied participation, number of fair hearing requests and results, and employment staffing data.
3. Submitting data and reports that the responsible federal agency determines necessary to ascertain whether the recipient has complied or is complying with Title VI and the requirements of this manual.
4. Requiring secondary recipients to maintain records and submit reports necessary to ascertain whether such secondary recipients have complied or are complying with Title VI.

Each state agency administering a continuing program that receives federal financial assistance is required to establish a Title VI compliance program for itself and secondary recipients that obtain federal assistance through it. State compliance programs must provide for the assignment of Title VI responsibilities to designated state personnel and comply with the minimum standards established in this manual, including the conduct of

reviews and the maintenance of records necessary to permit federal officials to determine the Title VI compliance of the state agencies and secondary recipients.

## **V. PUBLIC NOTIFICATION**

The department and its secondary recipients shall inform the public, particularly those eligible for programs, about all available services and also about their rights under Title VI.

The department and its secondary recipients shall:

- A. Take positive and specific action to advise minorities of program availability by using such means of communication as newspaper articles, radio, and television announcements. Also, distribute letters, leaflets, brochures and bulletins to referral sources and relevant service area minority organizations.
- B. Display nondiscrimination posters.
- C. Inform eligible persons of new programs or changes in existing programs pertaining to eligibility benefits and services, including the location of local facilities or service delivery points and hours of service, by mailing information to minority and grass roots organizations in the area affected.
- D. Include civil rights requirements in all guidelines. Make guidelines available to the public.
- E. Provide access to Title VI information to beneficiaries, potential beneficiaries, and applicants, including procedures for filing complaints; program information; and rights of beneficiaries and applicants as reflected in legislation, program regulations, directives, materials, pamphlets, etc.
- F. Include in any published program information a statement that the program is available to all without regard to race, color, or national origin. The statement shall be in bold type and in a prominent location.

## **VI. DATA COLLECTION AND REPORTING** *Accurate data collection and reporting is vital in determining whether state departments are complying with Title VI.*

**A. Data collection and reporting requirements.** The department shall provide for and maintain a system to collect, analyze, and report the eligible population and participation data by race for each program on an annual basis, and define parity of program in advance of the program year. (See D. Civil Rights Evaluation Report for more information on defining parity of programs.) The analysis shall be used to determine how effectively programs are reaching eligible groups; assist in the selection of locations for compliance reviews; identify areas for additional outreach efforts; and provide status reports to measure progress of program delivery. The system shall also provide report data on compliance reviews conducted. All data shall be based on reviewable records.

A data collection program shall:

- 1. Provide for the establishment and maintenance of a system for collecting and reporting participation data for each program by service delivery point.
- 2. Develop a system defining parity of participation for minority groups and establish specific participation targets in each program annually.

3. Advise those responsible for outreach efforts and the selection of compliance reviews of the delivery points that are identified as needing affirmative action.

**B. Determining the Eligible Population.** The population eligible to participate in a program shall be identified by racial/ethnic category for each service delivery point. The information can be derived from standard statistical sources such as the federal census, census of agriculture, population and housing, records from other agencies, both state and federal, and such documented estimates which give a valid indication of potential beneficiaries. Eligible population data should be established for a base year and updated annually or when source documents are updated.

**C. Collecting and Reporting Participation Data.** Systems for collecting and reporting racial/ethnic data should be established immediately and maintained. Such systems shall ensure that:

1. Data will be collected and retained at the service delivery point for each program for reporting to state and federal agencies.
2. Data will be based on reviewable records and maintained for as long as state law requires for the maintenance of records.
3. Data will be maintained under safeguards to prevent its use for discriminatory purposes.

**D. Civil Rights Evaluation Report.** A civil rights evaluation report should be developed from the information gathered above. The report should contain:

1. A comparison of actual racial/ethnic participation to the eligible racial/ethnic population for each program by service delivery point.
2. Service delivery points where the proportion of minority participation is below the proportion of nonminority participation.
3. An explanation of changes in data which reflect apparent inequities in the delivery of benefits.
4. Actions to be taken with those service delivery points where minority participation is below the established target or the proportion of nonminority participation.
5. Achievements made in the prior year in reaching more eligible participants.
6. Examination of recipient program staffing patterns to determine if staffing patterns indicate possible discrimination in program delivery on the basis of race, color or national origin.

**E. Program Targets.** Program targets for the delivery of program benefits to minority groups should be developed and incorporated into planning procedures. Targets shall:

1. Define parity of participation for minority groups in each program by service delivery point; and
2. Establish specific participation targets by racial/ethnic category for each program by service delivery point.

## **VII. TITLE VI COMPLAINT PROCEDURES**

### **Acceptance of Complaints of Discrimination**

**A.** Any person alleging discrimination based on race, color, or national origin has a right to file a complaint within 180 days of the alleged discrimination. At the complainant's discretion, the complaint can be filed with the federal department, the state recipient, or the agency providing the service. It is not necessary to know the identity of the complainant, so long as the information is sufficient to determine the identity of the recipient and indicates the possibility of a violation.

**B.** All complaints, written or verbal, should be accepted. In the event a complainant sets forth the allegations verbally and refuses to reduce such allegations to writing, the person to whom the complaint is made should reduce the elements of the complaint to writing.

**C.** Complaints, whether written or later reduced to writing by a staff person, should contain the following information:

1. Name, address, and telephone number of the complainant.
  2. The location and name of the entity delivering the service.
  3. The nature of the incident that led the complainant to feel discrimination was a factor.
  4. The basis of the complaint, i.e. race, color or national origin.
  5. Names, addresses and phone numbers of people who may have knowledge of the event.
  6. The date or dates on which the alleged discriminatory event or events occurred.
- Forms may be developed to aid a complainant in filing a complaint, but the use of such forms should not be required for acceptance of a complaint. (See Exhibit 1 for a sample complaint form.)

**D.** Complaints.

1. Complaints should be handled within 90 days of their receipt.
2. A letter should be sent acknowledging receipt of the complaint and requesting a time and date an investigator can reach the complainant by phone to discuss the complaint. (See Exhibits 2 and 3 for sample letters.)
3. Complainants are not parties to a Title VI investigation and do not enjoy a status different from other persons interviewed.
4. A preliminary inquiry should be conducted on all complaints to substantiate or refute the allegations. (See Exhibit 4 for a sample investigator's worksheet.)
5. If the preliminary inquiry indicates that there may be a problem, then a full complaint investigation should be initiated. A letter should be sent to the complainant explaining that an investigation will be started and that their cooperation will be needed in the future. (See Exhibits 5 and 6.)
6. If the allegations are not substantiated a letter should be sent to the complainant that contains a description of the allegations investigated, the scope of the investigation, the facts learned and a closing statement summarizing the basis on which the determination was made. (See Exhibit 7.)

7. A complaint log should be kept for records and submission to the proper federal authorities.

## **VIII. COMPLIANCE REVIEWS**

**A. Authority.** The authority for this department to conduct compliance reviews is derived from Title VI of the Civil Rights Act of 1964 and its implementing regulations. Additionally, Public Chapter 502 of the Public Acts of 1993 requires state agencies to develop an implementation plan for the enforcement of Title VI.

### **B. Types of reviews.**

**1. Pre-award compliance review.** Agency officials must determine that program applicants (potential recipients who have not previously participated in a program) are in compliance with Title VI prior to approval for program assistance. Compliance determinations should be made in writing and based on written information provided by the applicant. An on-site compliance review should be conducted if the information provided is inadequate.

If the pre-award review reveals weaknesses in the applicant's program, approval/disapproval action should be deferred pending prompt remedial action on the part of the applicant to resolve the areas of noncompliance. The applicant must be notified of the areas of apparent noncompliance and given the opportunity to take timely corrective action.

**2. Routine Compliance Reviews.** The agency will conduct routine compliance reviews. The selection of a particular recipient for a routine review is based on, but not limited to, such factors as:

- a. A periodic assessment of compliance;
- b. An increase in complaints;
- c. Community patterns of discrimination;
- d. Failure of recipient to file compliance reports or reports show patterns of discrimination;
- e. Recipient receiving federal money under other programs and found to be in noncompliance by other agencies.
- f. Racial staffing patterns that may present a problem.
- g. Previously unreviewed recipients.

### **C. Compliance Enforcement Plan.**

Agencies should develop written compliance enforcement plans detailing the policies and procedures for implementing compliance reviews in their programs. (See Appendix 3 for details.) A plan should specify:

1. The frequency and number of reviews.
2. The identity of entities to be reviewed and criteria to be used in selecting the entities.
3. A procedure for maintaining a log of reviewed entities to ensure that a sufficient number and type of reviews are completed.
4. Examples of noncompliance in the program.

5. A training plan to insure that persons implementing Title VI compliance are competent in their duties.
6. That the assurance of nondiscrimination is included in all appropriate documents.
7. The state agency personnel responsible for conducting civil rights functions.
8. That the composition of planning or advisory bodies reasonably represents program participation by race and that adequate public notification of the existence of such bodies has been made.
9. Record maintenance for proper lengths of time.
10. Procedures for the prevention of acts of retaliation or intimidation.

#### **D. Resolution of Noncompliance.**

The Civil Rights Act of 1964 and regulations require that efforts be made to the fullest extent practicable to obtain voluntary compliance before there can be a refusal, suspension, or termination of federal financial assistance. Attempts to gain compliance should not be unduly protracted, however.

Probable noncompliance results when any civil rights compliance reviewer, federal or state, finds that any civil rights law or regulation is not being adhered to.

##### **1. Procedures for Achieving Voluntary Compliance.**

a. In cases where a complaint investigation or compliance review results in findings of noncompliance, the department shall notify the recipient through certified mail of the apparent noncompliance. The notice shall clearly identify the conditions of noncompliance and offer a reasonable time to willingly comply. (See Exhibit 9 for a sample letter of noncompliance.)

b. The department shall record the date the recipient received notice, and shall note and record the last day afforded the recipient for voluntary compliance before initiating an administrative process to terminate assistance.

c. The recipient may request a meeting for the purpose of discussing the problem areas or requirement for compliance. The principal investigator should be involved in the discussion process.

d. The department head or designee shall approve the recipient's voluntary compliance plans, methods, procedures, and proposed actions if such approval will result in compliance with the act. Such a plan should be reduced to writing. (See Exhibit 10 for suggested format.)

Failure of voluntary efforts will result in termination or suspension of assistance. (See Exhibits 11 and 12 for sample letters accepting or rejecting plans.)

##### **2. Termination or Suspension of Assistance.**

Any action to terminate or suspend assistance shall be limited to a particular recipient against whom finding of noncompliance has been made and shall be limited in its effect to the particular program, or part thereof, in which noncompliance has been found.

General conditions for termination or suspension of assistance shall not become effective until:

- a. The department has advised the recipient of its failure to comply and it has been determined that compliance cannot be secured through voluntary means.
- b. There is a documented finding that after opportunity for a hearing, the recipient has failed to comply with the requirements of Title VI and applicable state and federal regulations.
- c. Approval has been given by the department head.

## **IX. ASSURANCES**

*Financial assistance is conditioned on the applicant providing assurances that the program or facility to be benefited will be operated without discrimination. Although the particular form of assurance will need to be specified by each department, in substance, the assurance is a contractual obligation through which the recipient promises to comply with Title VI regulations and will take immediate and continuing steps to effectuate this compliance. The assurance obligates the recipient for the period during which federal money is extended. In the case of real or personal property the assurance obligates not only the recipient but also any subsequent transferee for the period during which possession or ownership is retained or during which the property is used for a purpose for which the property has been given. The assurance further acknowledges that the federal financial assistance is extended in reliance on the representations and agreements made in the assurance and that the government has the right to seek its judicial enforcement.*

*Assurances should be a part of all contracts extending federal financial assistance from the state agency on through to the state agency's sub-recipients. A review of the recipient's operations should be made within one year of the recipient's initial receipt of funds to determine compliance with the assurances.*

*(See Exhibit 8 for a sample assurance form and accompanying explanation.)*

# Exhibit 1

## SAMPLE: Discrimination Complaint Form

**Note:** We are asking for the following information to assist us in processing your complaint. If you need help in completing this form please let us know.

1. **Complainant's Name** \_\_\_\_\_  
**Address** \_\_\_\_\_  
**City, State and Zip Code** \_\_\_\_\_  
**Telephone Number (home)** ( ) \_\_\_\_\_  
**(business)** ( ) \_\_\_\_\_
2. **Person discriminated against (if someone other than the complainant)**  
**Name** \_\_\_\_\_  
**Address** \_\_\_\_\_  
**City, State and Zip Code** \_\_\_\_\_
3. **What is the name and location of the institution or agency that you believe discriminated against you?**  
**Name** \_\_\_\_\_  
**Address** \_\_\_\_\_  
**City, State and Zip Code** \_\_\_\_\_  
**Telephone Number** ( ) \_\_\_\_\_
4. **Which of the following best describes the reason you believe the discrimination took place? Was it because of your:**  
**a. Race/Color (specify)** \_\_\_\_\_  
**b. National Origin (specify)** \_\_\_\_\_
5. **What date did the alleged discrimination take place?** \_\_\_\_\_



8. Have you filed this complaint with any other federal, state, or local agency; or with any federal or state court?  Yes  No

If yes, check all that apply:

Federal agency

Federal court

State agency

State court

Local agency

Please provide information about a contact person at the agency/court where the complaint was filed.

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Telephone Number ( ) \_\_\_\_\_

9. Do you intend to file this complaint with another agency? Yes  No

If yes, when and where do you plan to file the complaint?

Date \_\_\_\_\_

Agency \_\_\_\_\_

Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Telephone Number ( ) \_\_\_\_\_

10. Has this complaint been filed with this agency before? Yes  No

If yes, when? Date \_\_\_\_\_

11. Have you filed any other complaints with this agency? Yes  No

If yes, when and against whom were they filed?

Date \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Telephone Number ( ) \_\_\_\_\_

Give a brief description of the other complaint \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What is the status of the other complaint? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Please sign below. You may attach any written materials or other information that you think is relevant to your complaint.

\_\_\_\_\_  
Complainant's Signature

\_\_\_\_\_  
Date

## **Exhibit 2**

### **SAMPLE: Letter acknowledging receipt of a complaint under Title VI**

Ms. Joanne Doe  
President, Some County  
Chapter NAACP  
P.O. Box 333  
Somewhere, Tennessee

Dear Ms. Doe:

This is to acknowledge receipt of your complaint alleging denial of participation of minorities in the \_\_\_\_\_ Program in Yolandaville.

An investigator will be assigned to investigate your complaint. In the interim, if you have additional information you wish to convey or questions concerning this matter, please feel free to contact this office by telephoning 615/555-5555, or writing to me at the above address.

A member of my staff will contact you soon.

Sincerely,

Appropriate Official

## **Exhibit 3**

### **SAMPLE: Second Letter to Complainant**

Ms. Joanne Doe  
President, Some County  
Chapter NAACP  
P.O. Box 333  
Somewhere, Tennessee

Dear Ms. Doe:

Your complaint of \_\_\_\_\_(date) alleging denial of participation of minorities in the \_\_\_\_\_ Program of Yolandaville has been directed to this office.

Your complaint has been reviewed. In preparation for a possible investigation, we would like to discuss the matters stated in your letter with you by telephone. Please send a telephone number and state a time between the hours of 8:00 a.m. and 5:00 p.m. when it would be convenient for a member of my staff to call you.

Sincerely,

Appropriate Official

# Exhibit 4

## SAMPLE: Investigator's Worksheet

---

Case Name

---

Case Number

---

For Complaint Investigation

A.

**The Complainant(s)**

Name:

Telephone Number(s):

Address:

(Home)

(Work)

(other)

Hours complainant says  
convenient to call

\_\_\_\_ a.m. \_\_\_\_ p.m.

**Date complaint received:**

**Complainant alleges discrimination based on:**

\_\_\_\_ race; \_\_\_\_ color; \_\_\_\_ national origin; \_\_\_\_ sex\*

\*applicable for section 109, HCDA 1974, only

---

For Compliance Review

B.

**Date when compliance review was scheduled** \_\_\_\_\_

**Reason why compliance review is scheduled** \_\_\_\_\_

**Office requesting a compliance review** \_\_\_\_\_

**Date of last compliance review or complaint investigation** \_\_\_\_\_

## **Exhibit 5**

### **SAMPLE: Letter notifying complainant of an investigation**

Mr. John Doe  
1234 Main Street  
Somewhere, Tennessee

Dear Mr. Doe:

The matter referenced in your letter of \_\_\_\_\_(date) alleging racial discrimination in the operation of \_\_\_\_\_ Program will be investigated by staff from this office. The investigation has been scheduled for the week of \_\_\_\_\_ (date). Mr. James Bond has been assigned to investigate the matter. He will contact you to establish a convenient time for you to discuss your complaint with him.

We appreciate your help in this important matter.

Sincerely,

Appropriate Official

## **Exhibit 6**

### **SAMPLE: Letter notifying complainant of Title VI compliance status of respondent**

Mr. John Doe  
1234 Main Street  
Somewhere, Tennessee

Dear Mr. Doe:

The matters referenced in your complaint of \_\_\_\_\_(date) alleging racial discrimination in the operation of \_\_\_\_\_ Program have been investigated by staff from this office.

My staff found several apparent violations of Title VI of the Civil Rights Act of 1964, including those mentioned in your letter. Efforts are underway to correct these deficiencies.

Thank you for calling this important matter to our attention. You were extremely helpful during our review of the program. [If a hearing is requested, the following sentence may be appropriate.] You may be hearing from this office, or from federal authorities, if your services should be needed during the administrative hearing process.

Sincerely,

Appropriate Official

## **Exhibit 7**

### **SAMPLE: Letter advising complainant that the complaint is not substantiated**

Ms. Joanne Doe  
1964 Main St.  
Somewhere, Tennessee

Dear Ms. Doe:

The matters referenced in your letter-complaint of \_\_\_\_\_(date), alleging racial discrimination in the operation of \_\_\_\_\_ Program, have been investigated by staff from this office.

The results of the investigation did not indicate that the provisions of Title VI of the Civil Rights Act of 1964 had in fact been violated. As you know, Title VI prohibits discrimination based on race, color, or national origin in any programs receiving federal financial assistance.

My staff has analyzed the materials and facts gathered during the course of their investigation of your complaint for evidence of a failure to comply with any of the civil rights laws administered by this office. We did not find evidence that any of these laws have been violated.

We must therefore advise you that your complaint has not been substantiated, and that we are closing this matter in our files.

Thank you for taking the time to write to this office. If we can be of assistance to you in the future, do not hesitate to call us.

Sincerely,

Appropriate Official

# Exhibit 8

## SAMPLE: Assurance of Compliance Under Title VI of the Civil Rights Act of 1964

\_\_\_\_\_  
Name of Applicant (Hereinafter called "The Applicant.")

HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the Regulations of the U.S. Department of \_\_\_\_\_, Department of Justice (28 CFR Parts 42 & 50), the Tennessee Department of \_\_\_\_\_, and any directives or regulations issued pursuant to that Act and the Regulations, to the effect that, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Applicant received Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants and loans of Federal funds, reimbursable expenditures, grant or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use, Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Applicant by the Department.

BY ACCEPTING THIS ASSURANCE, the applicant agrees to compile data, maintain records, and submit reports as required to permit effective enforcement of Title VI, and permit authorized Department personnel during normal working hours to review such records, books, and accounts as needed to ascertain compliance with Title VI. If there are any violations of this assurance, the Department shall have the right to seek administrative and/or judicial enforcement of this assurance.

This assurance is binding on the applicant, its successors, transferees, and assignees as long as it receives assistance from the Department. In the case of real property, this assurance is binding for as long as the property is used for a purpose for which this assistance was intended or for the provision of services or benefits similar to those originally intended. In the case of personal property, this assurance applies for as long as the recipient retains ownership or possession of the property. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the applicant.

Dated \_\_\_\_\_

\_\_\_\_\_  
(Applicant)  
By \_\_\_\_\_  
(Title of Authorized Official)

\_\_\_\_\_  
(Address of Applicant)

No further monies or other benefits may be paid out under these programs unless this Assurance is completed and filed as required by existing regulations.

## **Explanation of Sample Assurance Form**

Federal regulations require each agency to obtain an assurance from each applicant for assistance. This document is a recommended sample of such an assurance. Applicants shall obtain comparable written assurances of compliance from their subgrantees, contractors, and subcontractors. See explanation, questions 9 and 12.

### **1. By executing the assurance, what does an applicant agree to do?**

The applicant agrees to make no distinction on the ground of race, color, or national origin in providing to individuals any service, financial aid, or other benefit under any program receiving federal financial assistance extended to the applicant by the department. The applicant further agrees to provide actual racial/ethnic data of its applicants and participants.

### **2. What is meant by “distinction on the ground of race, color, or national origin”?**

“Distinction on the ground of race, color, or national origin,” includes (1) any type of segregation, separate or different treatment, or other discrimination on that ground; (2) the imposition of any admission, enrollment quota, eligibility, or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit under a program or to be afforded an opportunity to participate in a program, if the race, color, or national origin of individuals is considered in determining whether they meet any such requirement or condition; (3) the use of membership in a group as a basis for the selection of individuals for any purpose, if in selected members of the group there is discrimination on the ground of race, color, or national origin; and (4) the assignment of personnel to provide services, or the assignment of time or places for the provision of services, on the basis of the race, color, or national origin of the individuals to be served.

### **3. What is meant by “service, financial aid, or other benefit”?**

“Service, financial aid, or other benefit” under a program receiving federal financial assistance includes any assistance made available to individuals (1) with the aid of federal financial assistance, or (2) with the aid of the applicant’s or of other non-federal funds required to be made available for the program as a condition to the receipt of federal financial assistance, or (3) in or through a facility provided with the aid of federal financial assistance or the non-federal matching funds referred to in (2).

### **4. What requirements are placed on the use of facilities?**

The applicant agrees to make no distinction on the ground of race, color, or national origin, in making available to individuals the use of any land, building, equipment, or other facility leased, acquired, constructed, improved, or equipped with the aid of federal financial assistance extended to the applicant by the department including:

- (a) The use of any room, dormitory, ward, or other space in the facility;
- (b) The use of any equipment or facility;
- (c) The use of any office, waiting room, restroom, eating, recreational, concession, or other accommodation or convenience provided in the facility;

(d) The use of any facility not provided with the aid of federal financial assistance if the availability of such facility is required as a condition to the receipt of federal financial assistance for the federally-assisted facility.

**5. What requirements are placed on the opportunities to participate in a program receiving federal assistance?**

The applicant agrees to make no distinction on the ground of race, color, or national origin in affording opportunities to individuals to participate (other than as employees) in any program receiving federal financial assistance extended by the department to the applicant, including opportunities to participate:

- (a) As providers of service, financial aid, or other benefits;
- (b) As conferees, observers, consultants, advisors, or as members of advisory or planning groups; or
- (c) As volunteers.

**6. Does that mean that an applicant who signs the department's assurance may nevertheless make distinctions among his employees on the basis of race, color, or national origin?**

Title VI of the Civil Rights Act prohibits employment discrimination when it affects the delivery of program benefits or when the purpose of the program is to provide employment. Moreover, even when this is not the case, an applicant may be precluded from engaging in any discriminatory employment practices under the provisions of Title VII of the Civil Rights Act, other civil rights laws, and the merit system requirements.

**7. When an applicant's employment practices are covered by the department's regulation, which requirements must be met?**

The applicant agrees to make no distinction on the ground of race, color, or national origin, in its employment practices with respect to individuals seeking employment or employed under any program receiving federal financial assistance extended to the applicant by the department.

**8. Does the assurance of nondiscrimination apply to the entire operation of an institution?**

Yes, the assurance applies to the entire operation of an institution with certain limited exceptions.

**9. If an applicant intends to make use of other individuals to help carry out the federally-assisted program, does the requirement not to discriminate apply to such a subgrantee, contractor, or subcontractor?**

It does. The applicant must require any individual, organization, or other entity which utilizes, to which it subgrants, or with which it contracts or subcontracts or otherwise arranges to provide services, financial aid, or other benefits under, or to assist it in the conduct of, any program receiving federal financial assistance extended to the applicant by the department, or with which it contracts or otherwise arranges for the use of any facility provided with the aid of federal financial assistance for a purpose for which the federal

financial assistance was extended, to comply fully with Title VI of the Civil Rights Act of 1964 and the regulations of the department.

**10. Must this assurance of nondiscrimination by the subgrantee, etc., be in writing?**

In the case (1) of any contractual or other arrangement with another such individual or entity which will continue for an indefinite period or for a period of more than three months, (2) of any subgrant, or (3) of any conveyance, lease, or other transfer of any real property or structures thereon provided with the aid of federal financial assistance extended to the applicant by the department, the applicant shall obtain from such other person, subgrantee, contractor or subcontractor, an agreement, in writing, enforceable by the applicant and by the department, that such other individual or entity, subgrantee, contractor, or subcontractor will carry out its functions under such subgrant, or contractual or other arrangement, or will use the transferred property, as the case may be, in accordance with Title VI of the Act and the department regulations.

**11. What obligation does the applicant have to inform beneficiaries, participants, and others of the provisions of the regulations?**

The applicant must make available to beneficiaries, participants, and other interested persons information regarding the provisions of the department regulations and protections against discrimination provided under Title VI of the Civil Rights Act of 1964.

**12. What obligations does the applicant have to keep records and to make them available to the department?**

The applicant shall keep such records and submit to the department timely, complete, and accurate compliance reports at such times, and in such form, and containing such information as the department may determine to be necessary to ascertain whether the applicant has complied or is complying with the regulations in this part. The applicant shall permit access by authorized employees of this department during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with the regulations in this part. Where any information required of an applicant is in the exclusive possession of any other subgrantee, institution, or person, and this subgrantee, institution, or person shall fail to or refuse to furnish this information, the applicant shall set forth what efforts it has made to obtain the information.

**13. Must separate assurance forms be filed with each application?**

As a general rule once a valid assurance is given it will apply to any further application as long as there is no indication of a failure to comply.

## **Exhibit 9**

### **SAMPLE: Letter notifying recipient of apparent noncompliance with Title VI**

Mr. John Doe, Executive Director  
Department of Blank  
Nashville, Tennessee

Dear Mr. Doe:

Departmental regulations implementing Title VI of the Civil Rights Act of 1964 provide for a periodic review of the practices of recipients of federal assistance to determine whether they are complying with nondiscrimination requirements of Title VI.

As you know, staff from this office conducted such a review of your program during the week of \_\_\_\_\_(date). From this review, the staff determined that the program was administered and (or) operated in apparent noncompliance with Title VI and the department's implementing regulation, in the following areas:

1. [Statement indicating areas of noncompliance/discrimination.]
2. [Another statement indicating areas of noncompliance/discrimination.]

It is the policy of this department that all persons benefit and participate in federally financed programs on a nondiscriminatory basis. Your program receives federal financial assistance from this department and must adhere to departmental policy as well as the requirements of Title VI. Therefore, within 30 days from the date of this letter, please advise me: (1) whether and how the program intends to immediately voluntarily comply with Title VI; or (2) whether you wish to submit for our review and approval a plan or method for compliance with Title VI. Your program will be afforded 60 calendar days from the date of this letter for preparation of this plan. You may request staff from this office to advise you during preparation of the plan.

If you do not choose voluntarily to bring the program into compliance and implement a plan to accomplish the purpose of Title VI within 60 calendar days from the date of this letter, it will be necessary for this office to begin administrative procedures necessary to insure compliance by your program and/or seek termination of federal assistance for your program. Additionally, it will be necessary for this office to refer the matter to the proper federal department with a recommendation that the federal department begin administrative proceedings pursuant to Section 602 of Title VI of the Civil Rights Act of 1964.

I hope you will be able to furnish and implement the necessary plan so there will be no need for administrative proceedings. Please call me if you need advice on this matter.

Sincerely,

Appropriate Official

# **Exhibit 10**

## **Example of Voluntary Compliance Agreement Format**

### **Voluntary Compliance Agreement**

Subject of Review:

Name, address and telephone number of organization  
Official in charge

Review information:

Names of Reviewers  
Date(s) of Review  
Type of Review  
Reviewing Agency

Summary of Finding(s) and Recommendations for Corrective Action:

Corrective Action Taken or Proposed to be Taken:

---

Official in Charge of Recipient Reviewed/Date

---

Reviewer/Date

---

Office of Civil Rights and Equal Employment  
Opportunity/Date

## **Exhibit 11**

### **SAMPLE: Letter accepting a plan for voluntary compliance with Title VI**

Mr. John Doe  
Executive Director  
Department of Blank  
Nashville, Tennessee

Dear Mr. Doe:

Thank you for your letter of \_\_\_\_\_(date) in which you submitted a plan for compliance with Title VI of the Civil Rights Act of 1964.

Under that plan, it is our understanding that steps will be taken to:

- Example.
- Example.
- Example.

We are keeping a copy of your plan on file in our office. In addition, we have forwarded a copy to \_\_\_\_\_ (appropriate federal department) in Washington, D.C. The plan you submitted has been approved by this office. It appears that the implementation of this plan should eliminate the racial discrimination in the program and that you will be in compliance with Title VI of the Civil Rights Act of 1964. As long as this is the case, you will remain eligible to receive financial assistance from this department.

Thank you for your cooperation in this matter. Please call anytime we can be of assistance to you.

Sincerely,

Appropriate Official

## **Exhibit 12**

### **SAMPLE: Letter rejecting a plan for voluntary compliance with Title VI**

Mr. John Doe  
Executive Director  
Department of Blank  
Nashville, Tennessee

Dear Mr. Doe:

The plan submitted by your program on \_\_\_\_\_(date) does not meet the requirements of Title VI of the Civil Rights Act of 1964, or the departmental Title VI regulations. Your plan does not offer a method to address certain items of concern previously discussed.

Our regulation requires the initiation of the administrative hearing process whenever there is a failure to comply with the requirements of Title VI. Because you have not submitted an acceptable plan for your program to comply with Title VI, steps have been taken to initiate the administrative hearing process which could lead to the termination of federal financial assistance from this Department. You will hear from our office soon concerning this.

We regret that this action must be taken. Please advise this office if you reconsider your position. We will be happy to assist you in your effort to resolve these matters through voluntary compliance.

Sincerely,

Appropriate Official

## **Exhibit 13**

### **SAMPLE: Letter announcing a compliance review**

Mr. John Doe  
Executive Director  
Department of Blank  
Nashville, Tennessee

Dear Mr. Doe:

Departmental regulations implementing Title VI of the Civil Rights Act of 1964 (copy enclosed) provide for a periodic review of the practices of recipients of federal assistance to determine whether they are complying with nondiscrimination requirements of Title VI.

Recipients are selected for compliance reviews on the basis of population and racial character of their locality; existence, size, and nature of community programs; date of last compliance review; complaints, etc. Your program, among others in your area, has been selected.

Members of our staff will conduct the review. Their present schedule will permit them to visit your program during the week of March 24. Please advise us promptly by telephone if that time is inconvenient for you or your staff. You may confirm this time, or suggest another, by calling Ms. Wanda Klink at 615/555-5555.

I appreciate your cooperation in this important matter.

Sincerely,

Appropriate Official

## **Exhibit 14**

### **SAMPLE: Letter announcing a complaint investigation**

Mr. John Doe  
Executive Director  
Department of Blank  
Nashville, Tennessee

Dear Mr. Doe:

Departmental regulations implementing Title VI of the Civil Rights Act of 1964 (copy enclosed) provide for a prompt investigation whenever a complaint or any other information indicates a possible failure to comply with Title VI or its implementing regulation. A complaint has been filed in this office which indicates a possible failure to comply with Title VI in the operation of the Department of Blank.

Members of our office will conduct an investigation of this matter. Their present schedule will permit them to visit your program during the week of March 24. Please advise us promptly if that time is convenient for you and your staff. You may confirm this time, or suggest another, by calling Ms. Wanda Klink of my staff at 615/555-5555.

Please be assured of my appreciation of your cooperation in this important matter.

Sincerely,

Appropriate Official

## **Exhibit 15**

### **SAMPLE: Letter confirming a compliance review**

Mr. John Doe  
Executive Director  
Department of Blank  
Nashville, Tennessee

Dear Mr. Doe:

This is to confirm the conversation between you and a member of my staff in which it was agreed that staff from this office would conduct an on-site review of the \_\_\_\_\_ Program to determine its compliance with Title VI of the Civil Rights Act of 1964.

The staff member assigned to conduct the investigation of your program is James Bond. Mr. Bond and a team of investigators will be in your city Monday, March 24. They expect to arrive at your office at 9:30 a.m. on Monday.

In order to facilitate our review, and minimize our on-site staff time, please have available for our visit the following records and/or information as applicable:

1. All records and assurances required to be maintained by your office for compliance with Title VI and its implementing rules and regulations;
2. Racial breakdown of participants in all projects administered by your program;
3. A description of the program's application processing system;
4. A compilation of the program's staff assignments by race, sex, title, and salary and a copy of the program's current personnel policy;
5. A description of grievance procedures now being used by your program.

Investigators may also need access to other records and personnel. I appreciate your making these available to them as required.

Thank you for your cooperation in this important matter.

Sincerely,

Appropriate Official

# Exhibit 16

## SAMPLE: Checklist for Determining Compliance and Written Finding of Compliance

\_\_\_\_\_  
Name of Applicant for Federal Assistance

<b>A. Checklist</b>	<b>Yes</b>	<b>No</b>
1. Is the data provided by the applicant sufficient for determining that benefits and services are or will be available without discrimination on the basis of race, color, or national origin?	<input type="checkbox"/>	<input type="checkbox"/>
2. Did the applicant provide the racial composition of the area serviced?	<input type="checkbox"/>	<input type="checkbox"/>
3. Did the applicant provide the population eligible to be served by race, color, or national origin?	<input type="checkbox"/>	<input type="checkbox"/>
4. Is employment data by race provided? The data should include, where necessary, the use or planned use of bilingual public contact employees to permit effective participation by non-English and limited English speaking beneficiaries.	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the location of the existing facility or relocation of the facility have the effect of or deny access to any person on the basis of race, color, or national origin?	<input type="checkbox"/>	<input type="checkbox"/>
6. Does the composition of planning or advisory committees reasonably represent program participation by race, color, or national origin?	<input type="checkbox"/>	<input type="checkbox"/>
7. Has the applicant been advised to immediately notify _____ of any complaints or lawsuits filed against the applicant?	<input type="checkbox"/>	<input type="checkbox"/>
8. Does the applicant presently have a pending application for federal assistance with other federal agencies?	<input type="checkbox"/>	<input type="checkbox"/>

9. Has a civil rights compliance review been conducted at the applicant's site by any federal or state agency within the last two years?

10. Has a federal or state agency found the applicant in noncompliance with any civil rights requirements?

**B. Written Finding of Compliance**

This is to certify that the application and data submitted by the above applicant was reviewed and that the applicant (is) (is not) found in compliance with Title VI.

\_\_\_\_\_  
Civil Rights Coordinator

\_\_\_\_\_  
Date

# Title VI Compliance Efforts

During the course of interviewing, staff learned that a few state agencies have developed some Title VI compliance procedures, often with few resources available to them. Some elements of these procedures may be useful to other state agencies in developing compliance plans. Following are brief descriptions of some state departments' programs.

## **Department of Mental Health and Mental Retardation**

The Department of Mental Health and Mental Retardation's (DMHMR) Title VI manual outlines the procedures for monitoring Title VI compliance activities and complaint processing in all DMHMR programs. The procedures apply to all programs that are directly or indirectly responsible to DMHMR, i.e., developmental centers, mental health institutes, alcohol and drug programs, mental health and mental retardation community programs, all of which receive federal funding in whole or in part. The manual outlines all prohibited practices, annual reporting procedures, and requirements for minority representation on planning and advisory bodies. It also contains a survey, an assessment sheet, and federal regulations under Title VI. In addition, staff makes regular visits to conduct orientations on Title VI requirements and to ensure that all contracted agencies have Title VI manuals, brochures, and posters.

The department requires each contracted agency to complete an annual survey explaining its Title VI compliance procedures. If an agency fails to complete the survey and return it to the department by the required date, staff does a field visit to inform the agency of its obligations under Title VI. According to the coordinator, some of the most important questions in the survey concern the racial composition of the advisory board and how members are selected. If no minority persons are on the advisory board and if minorities represent at least five percent of the population in the geographic service area, the agency must list steps that have been taken to obtain minority representation. The coordinator uses census information to examine and compare the minority representation and population. The survey also asks if posters containing Title VI are prominently displayed; the number and type of complaints; how Title VI information is disseminated to staff; how clients are informed of their rights; how new employees are informed of their responsibilities; if contracts to provide direct services to clients contain a Title VI statement of compliance; and if the agency has a nondiscriminatory policy. Survey results are reviewed by the commissioner and division head.

It is interesting to note that the department has no regular contact with its federal counterpart, and that the program is basically handled by one staff person. The federal department presently does not review their procedures or compliance activities. The manual and procedures were developed by a Title VI committee made up of select DMHMR staff members.

The Title VI coordinator indicated some changes she would like to make in the procedures, such as making completion of the survey a condition of the contract. Presently, the agencies have no real incentive to complete the survey. The coordinator would also like to have the authority to cut the contracted agencies' budgets by two

percent if they do not complete the survey. In addition, the coordinator believes there should be information available on how federal funds travel down from the federal government and how Title VI compliance is tied to the contract.

### **Department of Health**

In response to *Linton v. Carney*, 779 F.Supp. 925 (M.D.Tenn. 1990), the Tennessee Department of Health developed procedures that each nursing home and hospital must follow for ensuring compliance with Title VI. The department uses a team of surveyors that annually visit each nursing home and hospital to review compliance procedures, check complaints, and collect data on the number and type of clients. The racial data is compared to the racial makeup of the county population. Department regulations require that there be no more than a 10 percent variance. The facilities are required to complete a civil rights compliance report which is reviewed by the surveyors during their on-site visits.

In 1989 the department began the “MAPS” (Minority Application Pool System) program to ensure that minorities know the proper methods to gain access to health care facilities. To qualify for MAPS, facilities must complete quarterly progress reports and send invoices to the department showing how much money has been spent and for what purpose.

The Title VI coordinator received no formal training from the federal agency in developing the department’s procedures. However, on his own initiative, he has developed a working relationship with the federal department and maintains regular contact with them for technical assistance.

### **Department of Employment Security**

The Department of Employment Security has five equal opportunity officers (EEO) who handle enforcement activity for the various civil rights laws. The EEO officers: collect racial and ethnic data regarding persons served at the different job service centers; provide continuous training to field staff on all civil rights laws; periodically complete assessment and compliance checklists at the field offices to ensure that staff are complying with the civil rights laws; review public notification procedures; and prepare regular reports containing findings, recommendations, and methods for corrective action. These reports are reviewed by the field managers and the department’s administration.

The department has a comprehensive Civil Rights Orientation manual for its employees. It is written in a direct, easy-to-understand style and presents hypothetical situations for employees to use to test their knowledge. The department requires all new employees to complete a self-test in the manual.

### **Department of Environment and Conservation, Bureau of Recreation Services**

The Tennessee Department of Environment and Conservation (TDEC) receives federal grants for distribution to eligible local government entities for the purchase of land for parks, natural areas, greenways, and other recreational facilities. The Bureau of Recreation Services, a division of TDEC, provides grants and technical assistance to local governments for recreational activities.

The bureau requires grantees to attend a workshop prior to receiving any funds. The workshop covers everything the grantee is required to do in order to qualify for grant money, including compliance procedures for Title VI. The bureau does not have a formal complaint procedure, but does have the authority to revoke or “jeopardize” a local government’s grant money if it refuses to correct a deficiency. In addition, the bureau requires someone in authority (such as the mayor of a town) to sign a form stating that he or she understands what the entity must do to comply with the bureau’s requirements. Bureau staff reason that with the signing of such a form, the grantee cannot easily argue in the event of a deficiency that they were not informed.

### **Department of Labor**

Tennessee’s Department of Labor receives federal funds under the Job Training Partnership Act. The department follows both an Equal Employment Opportunity and Affirmative Action Plan. As required by the federal Department of Labor, the state department develops a Methods of Administration manual annually that outlines compliance procedures and methods for monitoring compliance with Title VI and other federal laws dealing with discrimination.

### **Department of Transportation**

Tennessee’s Department of Transportation (TDOT) has recently completed a comprehensive action plan that must be approved by the Federal Highway Administration (FHA) prior to being implemented. The plan sets up a civil rights unit in the department headed by a coordinator responsible for initiating and monitoring Title VI activities and preparing required reports.

### **University of Tennessee**

The University of Tennessee complies with the stipulation of settlement developed in the lawsuit *Geier v. McWhorter* in the early 1960s. The settlement agreement, approved by the federal district judge in 1984, implements the requirements of Title VI within the specific context of the University of Tennessee and the Tennessee Board of Regents’ Schools. The U.T. system is still under a continuing obligation to remedy the effects of past discrimination.



# Appendix 1: Glossary of Terms

**Assurance:** A written statement or contractual agreement signed by the agency head in which a recipient agrees to administer federally assisted programs in accordance with civil rights laws and regulations.

**Beneficiaries:** Those persons to whom assistance, services, or benefits are ultimately provided.

**Compliance:** The fulfillment of the requirements of Title VI, other applicable laws, implementing regulations, and instructions to the extent that no distinctions are made in the delivery of any service or benefit on the basis of race, color, or national origin. (See also *conciliatory agreement* and *noncompliance*.)

**Complaints:** A verbal or written allegation of discrimination which indicates that any federally assisted program is operated in such a manner that it results in disparity of treatment to persons or groups of persons because of race, color, or national origin.

**Conciliatory Agreement:** A voluntary agreement between a federal agency and the state or between the state and a subrecipient that provides for corrective action to be taken by a recipient to eliminate discrimination in any program receiving federal assistance.

**Contractor:** A person or entity that agrees to perform services at a specified price.

**Civil Rights Compliance Reviews:** Regular systematic inspections of agency programs conducted to determine regulatory compliance with civil rights laws and regulations. Compliance reviews determine compliance and noncompliance in the delivery of benefits and services in federally-assisted programs. These reviews help to measure the effectiveness of agency civil rights programs. They identify problems, such as denial of full benefits, barriers to participation, different treatment, lack of selection to advisory boards and planning committees, lack of information, and denial of the right to file a civil rights complaint. Compliance reviews may be conducted on-site or through desk audits.

**Desk Audit:** A desk audit is a structured paper review of statistical and narrative information submitted by recipients or agency program offices of compliance information obtained before or without going on-site, conducted according to review procedures. Desk audits include routine reviews of assurance forms or other documents to ensure that they have been properly completed.

**Discrimination:** To make any distinction between one person or group of persons and others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, or national origin.

**Federal Assistance:** Any funding, property, or aid provided for the purpose of assisting a beneficiary.

**Minority:** A person or groups of persons differing from others in some characteristics and often subjected to differential treatment on the basis of race, color, or national origin.

**Noncompliance:** Failure or refusal to comply with Title VI of the Civil Rights Act of 1964, other applicable civil rights laws, and implementing departmental regulations. (See *compliance*.)

**Parity:** The proportion of minority participation to the minority eligible population of a service delivery point is the same as the proportion of non-minority participation to the non-minority eligible population of the same delivery point.

**Post-award Review:** A routine inspection of agency programs during and after federal assistance has been provided to the beneficiary or recipient. These reviews may be cyclical or based on a priority system contingent upon the potential for noncompliance in individual programs. Reviews are normally conducted through on-site visits; however, desk audits and other mechanisms may also be used to assess operation of federally assisted programs. A post-award review may result in a written report that shows the compliance status of agency program offices and recipients. When necessary, the report will contain recommendations for corrective action. If the program office or recipient is found to be in noncompliance, technical assistance and guidance must be provided to bring the recipient into voluntary compliance. If voluntary compliance cannot be secured, formal enforcement action is then initiated.

**Potential Beneficiaries:** Those persons who are eligible to receive federally assisted program benefits and services.

**Pre-award Review:** A desk audit of the proposed operations of a program applicant for federal assistance prior to the approval of the assistance. The department must determine that the program or facility will be operated such that program benefits will be equally available to all eligible persons without regard to race, color, or national origin. The applicant may provide methods of administering the program designed to ensure that the primary recipient and subrecipients under the program will comply with all applicable regulations, and correct any existing or developing instances of noncompliance. If the documentation provided by the applicant for the desk audit is inadequate to determine compliance, then an on-site evaluation may be necessary.

**Public Notification:** Process of publicizing information on the availability of programs, services and benefits to minorities and statements of nondiscrimination. This is attained through use of newspapers, newsletters, periodicals, radio and television, community organizations, and grassroots and special needs directories, brochures, and pamphlets.

**Recipient:** Any state, political subdivision of any state, or instrumentality of any state or political subdivision, any public or private agency, institution, or organization, or other entity or any individual in any state to whom federal financial assistance is tended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but not including any ultimate beneficiary under such program.

**Service Delivery Area:** The area served by a service delivery point in the administration of federally assisted programs.

**Service Delivery Point:** The place in which federally assisted program services or benefits are administered to the public.

**Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-4:** Federal law prohibiting discrimination based on race, color, or national origin. It covers all forms of federal aid except contracts of insurance and guaranty. It does not cover employment, except where employment practices result in discrimination against program beneficiaries or where the purpose of the federal assistance is to provide employment.

## Appendix 2: Determining What Programs are Subject to Title VI

Each specific type of discrimination does not necessarily apply to each Title VI covered program. Different programs' actual methods of administration—and thereby the ways in which discrimination can occur—are diverse. Therefore, one way to determine what actions are prohibited by Title VI is to group and examine programs according to a common denominator. Below is a partial list of programs grouped according to the purpose for which assistance is provided. The list does not include all references to all agency regulations. Its purpose is to demonstrate to state agencies how regulations in departments other than their “parent agency” can affect their programs. An advantage of grouping programs in this manner is that a common background is established against which potentially discriminatory acts may be measured for more than one program.

- Agriculture
- Community Services
- Construction
- Covered Employment
- Educational Services
- Health Services
- Housing
- Law Enforcement
- Recreation, Conservation, Cultural
- Social Services
- Transportation

These categories are derived by interpreting the primary objective of the assistance rather than the method of assistance (grant, loan, contract, etc.) or the department or agency giving the assistance. For example, consider a university that operates a federally funded job placement service for its graduates. It is, in a sense, providing the same type of service that the United States Employment Service (USES) funded by the Department of Labor provides for the general public. Discriminatory acts that occur in a university-operated job service are probably more similar to those occurring in a USES funded program than discriminatory practices that might occur in educational programs.

In this light, specific provisions in the Title VI regulations of several agencies can help compliance officers identify discrimination because they directly apply to other programs in that category. The paragraphs that follow provide examples by program type of provisions in agency regulations.

### **AGRICULTURE**

These programs are designed to assure sufficient supplies of agricultural products, maintain adequate producer prices, and provide consumers with quality products at reasonable prices. Programs include protecting agricultural crops from disease, assisting

meat and poultry inspection programs, aiding farmers in the marketing of crops, and donating feed grains to livestock owners.

*Excerpts from agency regulations specifying examples of Title VI discrimination in Agricultural Extension programs.*

- (i) Discrimination in making available or in the manner of making available instructions, demonstrations, information, and publications offered by or through the Cooperative Extension Service;
- (ii) Discrimination in the use in any program or activity of the Cooperative Extension Service of any facility, including offices, training facilities, lecture halls, or other structures or improvement; or
- (iii) Discrimination in training activities, admission to or participation in fairs, competitions, field days, and encampments, conducted or sponsored by, or in which the Cooperative Extension Service participates.

7 C.F.R. 15.3(d)(1) (USDA)

The USDA also has regulations concerning such things as price support programs and forest service programs.

## **COMMUNITY SERVICES**

These programs operate to the benefit of a community as a whole. Programs include creating community action agencies, funding urban renewal projects, providing grants for community development, and making loans to small businesses.

*Excerpts from agency regulations defining coverage in community action programs.*

Community action programs generally consist of a number of related anti-poverty programs coordinated by a central community agency, either public or private nonprofit. There can be no discrimination in the formulation of groups to conduct any program funded... Nor can any such program be operated in a discriminatory manner. Such a program must be open to all regardless of race, color or national origin, and must distribute its benefits in a nondiscriminatory manner. It may not restrict service to members of a group or groups if membership in the group depends on race, color or national origin.

45 C.F.R. 1010.6(a) (CSA)

This category also contains regulations from the Department of Agriculture, Department of Commerce, and the Small Business Administration.

## **CONSTRUCTION**

These programs are intended to directly stimulate or assist construction or act as an impetus for construction as a by-product of some other goal. Programs include providing grants for water improvement projects that involve building a water treatment plant, furnishing funds for urban renewal projects that involve construction of a new industrial center, and supplying low-cost loans for institutions to build new medical or educational facilities.

*Excerpts from agency regulations defining the extent of Title VI coverage in construction programs.*

In grants to assist in the construction of facilities for the provision of health, educational or welfare services, assurances will be required that services will be provided without discrimination, to the same extent that discrimination would be prohibited as a condition of federal operating grants for the support of such services. Thus, as a condition of grants for the construction of academic, research, or other facilities at institutions of higher education, assurances will be required that there be no discrimination in the admission or treatment of students.  
45 C.F.R. 80.6(e) (HHS)

### **COVERED EMPLOYMENT**

These programs' primary objective is to provide employment. Programs include funding public works projects to stimulate private industry and increase employment, providing loans to small business which as a by product increase or sustain employment levels, and establishing Public Service Employment jobs to increase employment in the public sector. Discrimination, in regard to covered employment, also embodies the entire spectrum of Title VII case law as it applies to race, color, and national origin.

*Excerpts from agency regulations defining the extent of Title VI coverage for covered employment programs.*

The discrimination prohibited includes but is not limited to any action which subjects an individual to discrimination on the ground of race, color, or national origin in any employment practice, including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities.

13 C.F.R. 112.7 (SBA)

Where the primary objective of the federal financial assistance is not to provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program, the prohibition against discrimination shall apply to the employment practices of the recipient to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

24 C.F.R. 1.4(c)(2) (HUD)

### **EDUCATIONAL SERVICES**

These programs' objective is to provide, promote, or enhance educational services to the public. Such programs, for example, include providing direct aid to municipal school systems, funding research projects, extending educational loans or benefits to individuals, or establishing Masters and Doctoral fellowships.

*Excerpts from agency regulations that define the scope of Title VI coverage in programs providing educational services:*

In a research or training grant to a university for activities to be conducted in a graduate school, discrimination in the admission and treatment of students in the graduate school is prohibited and the prohibition extends to the entire university unless it satisfies the responsible agency official that practices with the respect to

other parts or programs of the university will not interfere, directly or indirectly, with fulfillment of the assurance required with respect to the graduate school.

14 C.F.R. 1250. 103-4(b). (NASA)

(i) Discrimination in making available information whether published or provided through public or private statement, correspondence, demonstration or field day.

(ii) Discrimination in participation in any cooperative research program or project.

(iii) Discrimination in the use of any facility, including offices, laboratories, or other structures, or research plots or fields.

(iv) Discrimination in employment of graduate students to conduct research when such students receive substantial research training benefits as a result of such employment.

7 C.F.R. 15.3(d)(10) (USDA)

## **HEALTH SERVICES**

These programs provide health care services for eligible individuals and promote better health care for the general public. Examples of programs include letting grants for medical research and providing direct health services to veterans, the disadvantaged, or the poor.

*Excerpts of agency regulations defining the extent of Title VI coverage in Health Services programs.*

In a training grant to a hospital or other nonacademic institution, discrimination is prohibited in the selection of individuals to be trained and in their treatment by the grantee during their training. In a research or demonstration grant to such an institution discrimination is prohibited with respect to any educational activity and any provision of medical or other services and any financial aid to individuals incident to the program.

45 C.F.R. 80.5(d) (Health and Human Services)

The Veterans Administration has a similar regulation.

## **HOUSING**

These programs assist in building, selling, buying, financing, or improving housing. Programs include making available federally insured housing loans, establishing grants for communities that plan and build low cost housing, providing rent subsidies for low income families, and furnishing the public with information about buying a home.

*Excerpts from agency regulations describing Title VI coverage in subsidized housing programs.*

A recipient, in operating low-rent housing with federal financial assistance shall assign eligible applicants to dwelling units in accordance with a plan, duly adopted by the recipient and approved by the responsible department official, providing for assignment on a community-wide basis in sequence based upon the time and date the application is received, the size and type of unit suitable, and factors affecting preference or priority established by the recipient's regulations which are not inconsistent with the objectives of Title VI of the Civil Rights Act of 1964. The plan may allow an applicant to refuse a tendered vacancy for good cause without losing

his standing on the list but shall limit the number of refusals without cause as prescribed by the responsible department official.

24 C.F.R. 1.4(a)(2)(ii) (HUD)

HUD also has regulations concerning site selection of projects and specific equal opportunity requirements placed on recipients in housing programs.

### **LAW ENFORCEMENT**

These programs are intended to promote, assist, and improve municipal law enforcement. Programs include supplying funds to hire officers, furnishing special equipment for police departments, providing training for police officers, and funding special law enforcement-related projects such as drug abuse centers and half-way houses.

### **RECREATION, CONSERVATION and CULTURAL**

These programs are designed to benefit and facilitate the public in its leisure pursuits. Such programs range from providing communities funds to establish recreational areas to subsidizing local theater groups or artist's workshops.

### **SOCIAL SERVICES**

These programs are intended primarily to benefit poor, disadvantaged, or unemployed people. The programs range from providing direct financial aid to low income families with dependent children or furnishing coupons to poverty level persons for redemption in food to maintaining a no-cost labor exchange and job service or supplying free vocational or rehabilitation training.

*Excerpts from regulations defining the extent of Title VI coverage in nutrition programs:*

Direct distribution program.

(i) Exclusion of an otherwise eligible recipient agency (school, summer camp, institution, welfare agency or disaster organization) or person from participation in the direct distribution program.

(ii) Discrimination in the allocation of food to eligible persons.

(iii) Discrimination in the manner in which or the place or times at which foods donated under the program are distributed by recipient agencies to eligible persons.

(iv) Segregation of persons served in different meal periods or by different seating or serving different food or different size portions by recipient agencies serving prepared meals containing donated food.

7 C.F.R. 15.3(d)(3) (USDA)

Food Stamp Program.

(i) Discrimination by a state agency in certifying households as eligible for the program.

(ii) Segregation or other discrimination in the manner in which or the times at which eligible households are issued food coupons.

7 C.F.R. 15.3(d)(5) (USDA)

## **TRANSPORTATION**

These programs are designed to improve, regulate, or assist in the development of transportation systems. Programs include providing federal funds to build interstate highways, promoting automobile and driver safety, building and leasing airport facilities, and furnishing grants and low-cost loans for the development of municipal mass transit systems.

*Excerpts from agency regulations describing specific acts prohibited by Title VI.*

(i) The state acting through its highway department, may not discriminate in its selection and retention of contractors, including without limitation, those whose services are retained for, or incidental to, construction, planning, research, highway safety, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisition of right-of-way.

(ii) The state may not discriminate against eligible persons in making relocation payments and in providing advisory assistance where relocation is necessitated by highway right-of-way acquisitions.

(iii) Federal-aid contractors may not discriminate in their selection and retention of first-tier subcontractors, and first-tier subcontractors may not discriminate in their selection of second-tier subcontractors, who participate in federal-aid highway construction, acquisition of right-of-way, and related projects, including those who supply material and lease equipment.

(iv) The state may not discriminate against the traveling public and business users of the federally assisted highway in their access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed on, over or under the right-of-way of such highways.

(v) The state shall not locate or design a highway in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons.

(vi) The state shall not locate, design, or construct a highway in such a manner as to deny reasonable access to, and use thereof, to any persons on the basis of race, color, or national origin.

49 C.F.R. 21.i et. seq. (DOT)

DOT has other regulations for other programs.

## **Programs Subject to Title VI**

Following is a list of programs subject to the requirements of Title VI taken from the regulations of the federal agencies. The list is not inclusive, and state agencies should also use the methods given above to help them determine which programs are subject to the requirements of Title VI.

### **U.S. Department of Agriculture**

*Administered by the Agricultural Cooperative Service*

1. Technical assistance for agricultural cooperatives.

*Administered by the Agricultural Marketing Service*

2. Federal-States marketing improvement program.

3. Market news service.

*Administered by the Agricultural Research Service*

4. Agricultural research grants.

*Administered by the Agricultural Stabilization Conservation Service*

5. Price support programs operating through producer associations, cooperatives, and other recipients in which the recipient is required to furnish specified benefits to producers (e.g., tobacco, peanuts, sugar, cotton, rice, honey and soybeans price support programs).
6. Disaster feed donation programs.

*Administered by the Cooperative State Research Service*

7. Payments under the Hatch Act.
8. McIntire-Stennis cooperative forestry research.
9. Payments to 1890 colleges and Tuskegee Institute for research.
10. Native latex research.
11. Alcohol Fuels research.
12. Animal Health research.
13. Competitive research grants.
14. Experiment station research facilities.
15. Special research grants
16. Rural development research.

*Administered by Extension Service*

17. Cooperative extension work.

*Administered by Farmers Home Administration*

18. Farm ownership loans to install or improve recreational facilities or other nonfarm enterprises.
19. Operating loans to install or improve recreational facilities or other nonfarm enterprises.
20. Soil and water conservation, (including pollution abatement facilities), and recreational facilities.
21. Financial and other assistance to landowners, operators, or occupiers to carry out land uses and conservation.
22. Rural renewal, resource, conservation development, land conservation and utilization.
23. Watershed protection and flood prevention program.
24. Resource conservation and development loans.
25. Farm labor housing loans.
26. Farm labor housing grants.
27. Rural rental housing for the elderly and families of low and moderate income persons.
28. Rural cooperative housing.
29. Rural housing site loans.
30. Technical and supervisory assistance grants.

31. Technical assistance grants.
32. Rural housing self-help site loans.
33. Mutual self-help housing.
34. Water and waste facility loans and grants and community facility loans and grants.
35. Rural and industrial loan program.
36. Private business enterprise grants.
37. Area development assistance planning grant program.
38. Energy impacted area development assistance program.

*Administered by the Federal Grain Inspection Service*

39. Inspection administration and supervision.

*Administered by the Food and Nutrition Service*

40. Food stamp program.
41. Special supplemental food program for women, infants, and children.
42. Commodity supplemental food program.
43. Food distribution program.
44. National school lunch program.
45. School breakfast program.
46. Special milk program.
47. Food service equipment assistance.
48. Summer food service program.
49. Child care food program.
50. Nutrition education and training program.

*Administered by the Food Safety and Inspection Program*

51. Payments to States for the inspection of egg handlers to insure that they are properly disposing of restricted eggs.
52. Financial and technical assistance to States for meat inspection activities.
53. Financial and technical assistance to States for poultry inspection activities.
54. Financial and technical assistance to States for meat and poultry inspection activities.

*Administered by the Forest Service*

55. Permits for use of National Forests and National Grasslands by other than individuals at a nominal or no charge.
56. Permit for land use of Government-owned improvements by other than individuals at a nominal charge.
57. Permits for disposal of common varieties of mineral materials from lands under the Forest Service jurisdiction for use by other than individuals at a nominal or no charge.
58. Easements for use of National Forests and Grasslands by other than individuals at a nominal or no charge.
59. Easements for road rights-of-way over lands administered by the Forest Service.
60. Road rights-of-way.
61. Rights-of-way for wagon roads or railroads.
62. Timber granted free or at nominal cost to any group.

63. Transfer for fire-lookout towers, improvements and land to States political subdivisions.
64. Payment of 25 percent of National Forest receipts for States for schools and roads.
65. Payment to Minnesota from National Forest receipts of a sum based on a formula.
66. Payment of 25 percent of net revenues from Title III, Bankhead-Jones Farm Tenant Act lands to counties for schools and road purposes.
67. Cooperative action to protect, develop, manage, and utilize forest resources on State and private lands.
68. Advance of funds for cooperative research.
69. Grants for support of scientific research.
70. Research cooperation.
71. Youth conservation corps State grant program.
72. Young adult conservation corps State grant program.
73. Grants to Maine, Vermont, and New Hampshire for the purpose of assisting economically disadvantaged citizens over 55 years of age.
74. Senior community service employment program (SCSEP).

*Administered by the Rural Electrification Administration*

75. Rural electrification and rural telephone programs.
76. CATV, community facilities program.

*Administered by Science and Education Program Staff*

77. Higher education.

*Administered by the Soil Conservation Service*

78. Soil and water conservation.
79. Plant materials for conservation.
80. Resource, conservation and development.
81. Watershed protection and flood prevention.
82. Great plains conservation.
83. Soil survey.
84. River basin surveys and investigations.
85. Snow survey and water supply forecasting.
86. Land inventory and monitoring.
87. Resource appraisal and program development.
88. Rural clean water program.
89. Rural abandoned mine program.
90. Emergency watershed protection.
91. Eleven authorized watershed projects.

*Administered by the Office of Transportation*

92. Transportation services.

## **U.S. Department of Commerce**

### *I. Federal Financial Assistance to which Title 15, Subtitle A, Part 8 applies Economic Development Administration*

1. Loans, grants, technical and other assistance for public works and development facilities, for supplementing Federal grants-in-aid, for private businesses, and for other purposes, including assistance in connection with designated economic development districts and regions.
2. Financial and technical assistance to firms to aid economic adjustment to the effects of increased imports in direct competition with firm products.
3. Assistance to communities adversely affected by increased imports in direct competition with products manufactured in the community area.
4. Assistance to projects involving construction of local and State public facilities in order to reduce unemployment and provide State and local governments with badly needed public facilities.
5. Trade adjustment assistance: Loans, dissemination of technical information.

### *Maritime Administration*

1. Operating differential subsidy assistance to operators of U.S. flag vessels engaged in U.S. foreign commerce.
2. Assistance to operate State maritime academies and colleges to train merchant marine officers.
3. Ship construction differential subsidies, direct payments.

### *National Bureau of Standards*

1. Grants to universities and other research organizations for fire research and safety programs.

### *National Fire Prevention and Control Administration*

1. Academy planning assistance: To assist States in the development of training and education in the fire prevention and control area.
2. State fire incident reporting assistance: To assist States in the establishment and operation of a statewide fire incident and casualty reporting system.
3. Public education assistance planning: Publications, audiovisual presentations and demonstrations, research, testing, and experimentation to determine the most effective means for such public education.
4. Policy development assistance: Studies of the operations and management aspects of fire services.

### *National Oceanic and Atmospheric Administration*

1. Assistance to States, educational institutions, and the commercial fishing industry for the development of tuna and other latent fisheries.
2. Assistance to States for the development and implementation of programs to protect and study certain species of marine mammals.
3. Financial assistance to States with agencies which have entered into a cooperative agreement to assist in the preservation of threatened and endangered species.

4. Assistance to coastal States for the development of estuarine sanctuaries to serve as field laboratories and for acquiring access to public beaches.
5. Assistance to coastal States for the development, implementation, and administration of coastal zone management programs.
6. Assistance to coastal States to help communities in dealing with the economic, social, and environmental consequences resulting from expanded coastal energy activity.
7. Authority to enter into cooperative agreements with “colleges and universities, with game and fish departments of the several States, and with nonprofit organizations relating to cooperative research units.” Assistance limited to assignment of personnel, supplies, and incidental expenses.
8. Grants for education and training of personnel in the field of commercial fishing, “to public and nonprofit private universities and colleges.”
9. Grants for “office and any other necessary space” for the Northern Pacific Halibut Commission.
10. The “Dingell Johnson Act”: Apportionment of dollars to States for restoration and management of sport or recreational species.
11. Authority to cooperate with and provide assistance to States in controlling jellyfish, etc.
12. Authority to cooperate with and provide assistance to certain States and territories in the study and control of “Crown of Thorns” starfish.
13. Technical assistance to fishing cooperatives regarding catching and marketing aquatic products.
14. Fish research and experimentation program cooperation with other agencies in acquisition of lands, construction of buildings, employment of personnel in establishing and maintaining research stations.
15. Assistance to upgrade commercial fishing vessels and gear.
16. Assistance to State projects designed for the research and development of commercial fisheries resources of the nation.
17. Assistance to State and other non-Federal interests under cooperative agreements to conserve, develop, and enhance anadromous and Great Lakes Fisheries.
18. Grants and other assistance under the National Sea Grant College and Program Act of 1966: To support establishment of major university centers for marine research, education, training, and advisory services.
19. Geodetic surveys and services; advisory services; dissemination of technical information.
20. Nautical charts assistance; advisory services; dissemination of technical information.
21. River and flood forecast and warning services; advisory services.
22. Weather forecast and warning services.
23. Commercial fisheries disaster assistance.
24. Provision for the Weather Service to assist in joint projects “of mutual interest.”

*National Telecommunications and Information Administration*

1. Grants for the planning and construction of public telecommunications facilities for the production and distribution of noncommercial educational and cultural radio and television programming and related instructional and informational materials.

*Office of Minority Business Enterprise*

1. Assistance to minority business enterprises: Grants, contracts, advisory service, technical information.

*Regional Action Planning Commissions*

1. Supplemental grants to Federal grant-in-aid programs and technical assistance funds for planning, investigations, studies, training programs, and demonstration projects, including demonstrations in energy, transportation, health and nutrition, education and indigenous arts and crafts.

*United States Travel Service*

1. Assistance to strengthen the domestic and foreign commerce of the United States, and to promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the United States.

*Departmentwide*

1. Authority to make basis scientific research grants.

*II. A primary objective of the financial assistance authorized by the following statutes, already listed above, is to provide employment*

1. Public Works and Economic Development Act of 1965, as amended.
2. Trade Act of 1974.
3. Local Public Works Capital Development and Assistance Act of 1976.

**U.S. Department of Education**

*Part 1: Assistance other than for State-Administered Continuing Programs*

1. Loans for acquisition of equipment for academic subjects, and for minor remodeling.
2. Construction of facilities for institutions of higher education.
3. School Construction in federally-affected and in major disaster areas.
4. Construction of educational broadcast facilities.
5. Loan service of captioned films and educational media; research on, and production and distribution of, educational media for the handicapped, and training of persons in the use of such media for the handicapped.
6. Demonstration residential vocational education schools.
7. Research and related activities in education of handicapped children.
8. Educational research, dissemination and demonstration projects; research training; and construction under the Cooperation Research Act.
9. Research in teaching modern foreign languages.
10. Training projects for manpower development and training.
11. Research and training projects in Vocational Education.
12. Allowances to institutions training NDEA graduate fellows.
13. Grants for training in librarianship.
14. Grants for training personnel for the education of handicapped children.

15. Allowances for institutions training teachers and related educational personnel in elementary and secondary education, or post-secondary vocational education.
16. Recruitment, enrollment, training and assignment of Teacher Corps personnel
17. Operation and maintenance of schools in Federally-affected and in major disaster areas.
18. Grants or contracts for the operation of training institutes for elementary or secondary school personnel to deal with special educational problems occasioned by desegregation.
19. Grants for in-service training of teachers and other schools personnel and employment of specialists in desegregation problems.
20. Higher education students loan program.
21. Educational Opportunity grants and assistance for State and private programs of low-interest insured loans and State loans to students in institutions of higher education.
22. Grants and contracts for the conduct of Talent Search, Upward Bound, and Special Services Programs.
23. Land-grant college aid.
24. Language and area centers.
25. American Printing House for the Blind.
26. Future Farmers of America.
27. Science clubs.
28. Howard University.
29. Gallaudet College.
30. Establishment and operation of a model secondary school for the deaf by Gallaudet College.
31. Faculty development programs, workshops and institutes.
32. National Technical Institute for the Deaf.
33. Institutes and other programs for training educational personnel.
34. Grants and contracts for research and demonstration projects in librarianship.
35. Acquisition of college library resources.
36. Grants for strengthening developing institutions of higher education; National Fellowships for teaching at developing institutions, and grants to retired professors to teach at developing institutions.
37. College Work-Study Program.
38. Financial assistance for acquisition of higher education equipment, and minor remodeling.
39. Grants for special experimental demonstration projects and teacher training in adult education.
40. Grant programs for advanced and undergraduate international studies.
41. Experimental projects for developing State leadership or establishment of special services.
42. Grants to and arrangements with State educational and other agencies to meet special educational needs of migratory children of migratory agricultural workers.
43. Grants by the Secretary to local educational agencies for supplementary educational centers and services; guidance, counseling, and testing.

44. Resource centers for improvement of education of handicapped children and centers and services for deaf-blind children.
45. Recruitment of personnel and dissemination of information on education of handicapped.
46. Grants for research and demonstrations relating to physical education or recreation for handicapped children and training of physical educators and recreation personnel.
47. Dropout prevention projects.
48. Bilingual education programs.
49. Grants to agencies and organizations for Cuban refugees.
50. Grants and contracts for special programs for children with specific learning disabilities including research and related activities, training and operating model centers.
51. Curriculum development in vocational and technical education.
52. Establishment, including construction, and operation of a National Center on Educational Media and Materials for the Handicapped.
53. Grants and contracts for the development and operation of experimental preschool and early education programs for handicapped.
54. Grants to public or private non-profit agencies to carry on the follow Through Program in kindergarten and elementary schools.
55. Grants for programs of cooperative education and grants and contracts for training and research in cooperative education.
56. Grants and contract to encourage the sharing of college facilities and resources (network for knowledge).
57. Grants, contracts, and fellowships to improve programs preparing persons for public service and to attract students to public service.
58. Grants for the improvement of graduate programs.
59. Contracts for expanding and improving law school clinical experience programs.
60. Exemplary programs and projects in vocational education.
61. Grants to reduce borrowing cost for construction of residential schools and dormitories.
62. Surplus real and related personal property disposal for educational purposes.

*Part 2: Continuing Assistance to State Administered Programs*

1. Grants to States for public library service and construction, interlibrary cooperation and specialized State library services for certain State institutions and the physically handicapped.
2. Grants to States for strengthening instruction in academic subjects.
3. Grants to States for vocational education.
4. Arrangements with State education agencies for training under the Manpower Development and Training Act.
5. Grants to States to assist in the elementary and secondary education of children of low-income families.
6. Grants to States to provide for school library resources, textbooks and other instructional materials for pupils and teachers in elementary and secondary schools.
7. Grants to States to strengthen State departments of education.
8. Grants to States for community service programs.

9. Grants to States for adult basic education and related research, teacher training and special projects.
10. Grants to States educational agencies for supplementary educational centers and services, and guidance, counseling and testing.
11. Grants to States for research and training in vocational education.
12. Grants to States for exemplary programs and projects in vocational education.
13. Grants to States for residential vocational schools.
14. Grants to States for consumer and homemaking education.
15. Grants to States for cooperative vocational education program.
16. Grants to States for vocational workstudy programs.
17. Grants to States to attract and qualify teachers to meet critical teaching shortages.
18. Grants to States for education of handicapped children.
19. Grants for administration of States plans and for comprehensive planning to determine construction needs of institutions of higher education.

### **U.S. Department of Energy**

1. Access permits.
2. Motion pictures film libraries.
3. Granting of patent licenses.
4. University Laboratory Cooperative Program.
5. Facility training institutes, short courses, and workshops on energy and environmental subjects.
6. Reactor sharing and fuel assistance.
7. Traineeships for graduate students in energy related fields.
8. Energy related laboratory equipment grants.
9. Information services exhibits, public speakers publications, reference and analysis.
10. Payment in lieu of property taxes.
11. Radiological emergency assistance.
12. Nuclear industry seminars.
13. Work experience.
14. Citizens: Workshops.
15. Research and development in energy conservation.
16. Energy related inventions.
17. Research and development fission, fossil, solar, geothermal, electric and storage systems, magnetic fusion.
18. Energy Information Administration Clearinghouse (EIAC).
19. National Energy Information Center (NEIC).
20. Grants for Offices of Consumer Services.
21. State Energy Conservation Program.
22. Weatherization Assistance Program for low income persons.
23. Supplemental State Energy Conservation Program.
24. Public education in energy.
25. Special studies and projects in energy education and training.
26. Research and development in biomedical and environmental sciences.

27. Preface (Pre-Freshman and cooperative Education for Minorities in Engineering).
28. Materials allocation.
29. Basic energy sciences, high energy and nuclear physics, and advanced technology and assessment projects.
30. Energy Extension Service.

## **U.S. Department of Health and Human Services**

### *Assistance other than for State-Administered Continuing Programs*

1. Loans for acquisition of equipment for academic subjects, and for minor remodeling.
2. Construction of facilities for institutions of higher education.
3. School Construction in federally-affected and in major disaster areas.
4. Construction of educational broadcast facilities.
5. Loan service of captioned films and educational media; research on, and production and distribution of, educational media for the handicapped, and training of persons in the use of such media for the handicapped.
6. Demonstration residential vocational education schools.
7. Research and related activities in education of handicapped children.
8. Educational research, dissemination and demonstration projects; research training; and construction under the Cooperation Research Act.
9. Research in teaching modern foreign languages.
10. Training projects for manpower development and training.
11. Research and training projects in Vocational Education.
12. Allowances to institutions training NDEA graduate fellows.
13. Grants for training in librarianship.
14. Grants for training personnel for the education of handicapped children.
15. Allowances for institutions training teachers and related educational personnel in elementary and secondary education, or post-secondary vocational education.
16. Recruitment, enrollment, training and assignment of Teacher Corps personnel.
17. Operation and maintenance of schools in Federally-affected and in major disaster areas.
18. Grants or contracts for the operation of training institutes for elementary or secondary school personnel to deal with special educational problems occasioned by desegregation.
19. Grants for in-service training of teachers and other schools personnel and employment of specialists in desegregation problems.
20. Higher education students loan program.
21. Educational Opportunity grants and assistance for State and private programs of low-interest insured loans and State loans to students in institutions of higher education.
22. Grants and contracts for the conduct of Talent Search, Upward Bound, and Special Services Programs.
23. Land-grant college aid.
24. Language and area centers.
25. American Printing House for the Blind.
26. Future Farmers of America and similar programs.

27. Science clubs.
28. Howard University.
29. Gallaudet College.
30. Establishment and operation of a model secondary school for the deaf by Gallaudet College.
31. Faculty development programs, workshops and institutes.
32. National Technical Institute for the Deaf.
33. Institutes and other programs for training educational personnel.
34. Grants and contracts for research and demonstration projects in librarianship.
35. Acquisition of college library resources.
36. Grants for strengthening developing institutions of higher education; National Fellowships for teaching at developing institutions, and grants to retired professors to teach at developing institutions.
37. College Work-Study Program.
38. Financial assistance for acquisition of higher education equipment, and minor remodeling.
39. Grants for special experimental demonstration projects and teacher training in adult education.
40. Grant programs for advanced and undergraduate international studies.
41. Experimental projects for developing State leadership or establishment of special services.
42. Grants to and arrangements with State educational and other agencies to meet special educational needs of migratory children of migratory agricultural workers.
43. Grants by the Commissioner of Education to local educational agencies for supplementary educational centers and services; guidance, counseling, and testing.
44. Resource centers for improvement of education of handicapped children and centers and services for deaf-blind children.
45. Recruitment of personnel and dissemination of information on education of handicapped.
46. Grants for research and demonstrations relating to physical education or recreation for handicapped children.
47. Dropout prevention projects.
48. Bilingual education programs.
49. Grants to agencies and organizations for Cuban refugees.
50. Grants and contracts for special programs for children with specific learning disabilities including research and related activities, training and operating model centers.
51. Curriculum development in vocational and technical education.
52. Establishment, including construction, and operation of a National Center on Educational Media and Materials for the Handicapped.
53. Grants and contracts for the development and operation of experimental preschool and early education programs for handicapped.
54. Grants to public or private non-profit agencies to carry on the Follow Through Program in kindergarten and elementary schools.
55. Grants for programs of cooperative education and grants and contracts for training and research in cooperative education.

56. Grants and contracts to encourage the sharing of college facilities and resources (network for knowledge).
57. Grants, contracts, and fellowships to improve programs preparing persons for public service and to attract students to public service.
58. Grants for the improvement of graduate programs.
59. Contracts for expanding and improving law school clinical experience programs.
60. Exemplary programs and projects in vocational education.
61. Grants to reduce borrowing cost for construction of residential schools and dormitories.
62. Project grants and contracts for research and demonstration relating to new or improved health facilities and services.
63. Grants for construction or modernization of emergency rooms of general hospitals.
64. Institutional and special projects grants to schools of nursing.
65. Grants for construction and initial staffing of facilities for prevention and treatment of alcoholism.
66. Grants for construction and initial staffing of specialized facilities for the treatment of alcoholics requiring care in such facilities.
67. Special project grants for training programs, evaluation of existing treatment programs, and conduct of significant programs relating to treatment of alcoholics.
68. Grants for construction and initial staff of treatment facilities for narcotic addicts.
69. Special project grants for training programs, evaluation of existing treatment programs, and conduct of significant programs relating to treatment of narcotics addicts.
70. Grants for consultation services for Community Mental Health Centers, alcoholism prevention and treatment facilities for narcotic addicts, and facilities for mental health of children.
71. Grants for construction and initial staff of facilities for mental health of children.
72. Special project grants for training programs and evaluation of existing treatment program relating to mental health of children.
73. Grants and loans for construction and modernization of medical facilities in the District of Columbia.
74. Teaching facilities for nurse training.
75. Teaching facilities for allied health professions personnel.
76. Mental retardation research facilities.
77. George Washington University Hospital construction.
78. Research projects, including conferences, communication activities and primate or other center grants.
79. General research support.
80. Mental Health demonstrations and administrative studies.
81. Migratory workers health services.
82. Immunization programs.
83. Health research training projects and fellowship grants.
84. Categorical (heart, cancer, etc.) grants for training, traineeships or fellowships.
85. Advanced professional nurse trainee.
86. Department projects under Appalachian Regional Development Act.

87. Grants to institutions for traineeships for professional public health personnel section.
88. Grants for graduate or specialized training in public health.
89. Health professions school student loan program.
90. Grants for provision in schools of public health of training, consultation and technical assistance in the field of public health and in the administration of state or local public health programs.
91. Project grants for training, studies or demonstrations looking metropolitan area, or other local area plans for health services.
92. Project grants for training, studies, or demonstrations looking toward the development of improved comprehensive health planning.
93. Project grants for health services development.
94. Institutional and special grants to health professions schools.
95. Improvement grants to centers for allied health professions.
96. Scholarship grants to health professions schools.
97. Scholarship grants to schools of nursing.
98. Traineeships for advanced training of allied health professions personnel.
99. Contracts to encourage full utilization of nursing educational talent.
100. Grants to community mental health center for the compensation of professional and technical personnel for the initial operation of new centers or of new services in centers..
101. Grants for the planning, construction, equipment and operation of multicounty demonstration health projects in the Appalachian region.
102. Education, research, training, and demonstrations in the fields of heart disease, cancer, stroke and related diseases.
103. Assistance to medical libraries.
104. Nursing student loans.
105. Hawaii leprosy payments.
106. Heart disease laboratories and related facilities for patient care.
107. Grants for construction of hospitals serving Indians.
108. Indian Sanitation Facilities.
109. Research projects relating to maternal and child health services and crippled children's services.
110. Maternal and child health special project grants to State Agencies and institutions of Higher Learning.
111. Maternity and infant care and family planning services; special project grants to local health agencies and other organizations.
112. Special project grants to State agencies and institutions of higher learning for crippled children's services.
113. Special project grants for health of school and preschool children and for dental health of children.
114. Grant to institutions of higher learning for training personnel for health care and related services for mothers and children.
115. Grants and contracts for the conduct of research, experiments, or demonstrations relating to the developments, utilization, quality, organization, and financing of

- services, facilities, and resources of hospitals, long-term care facilities, for other medical facilities.
116. Health research facilities.
  117. Teaching facilities for health professions personnel.
  118. Project grants and contracts for research, development, training, and studies in the field of electronic product radiation.
  119. Project grants and contracts for research, studies, demonstrations, training, and education relating to coal mine health.
  120. Surplus real and related personal property disposal.
  121. Supplementary medical insurance benefits for the aged.
  122. Issuance of rent-free permits for vending stands, credit unions, employee associations, etc.
  123. Grants for special vocational rehabilitation projects.
  124. Experimental, pilot or demonstration projects to promote the objectives of Title I, X, XIV, XVI, or XIX or Part A of Title IV of the Social Security Act.
  125. Social Security and welfare cooperative research or demonstration projects.
  126. Child welfare research, training, or demonstration projects.
  127. Training projects.
  128. Grants for expansion of vocational rehabilitation services.
  129. Grants for construction of rehabilitation facilities.
  130. Project development grants for rehabilitation facilities.
  131. Rehabilitation Facility improvement grants.
  132. Agreement for the establishment and operation of a national center for deaf-blind youths and adults.
  133. Project grants for services for migratory agricultural workers.
  134. Grants for initial staffing of community mental retardation facilities.
  135. Grants for training welfare personnel and for expansion and development of undergraduate and graduate social work programs.
  136. Research and development projects concerning older Americans.
  137. Grants to States for training of nursing home administrators.
  138. Contracts or jointly financed cooperative arrangements with industry.
  139. Project grants for new careers in rehabilitation.
  140. Children of low-income families.
  141. Grants for training.
  142. Grants for projects for training services.
  143. Grants for comprehensive juvenile delinquency planning.
  144. Grants for project planning in juvenile delinquency.
  145. Grants for juvenile delinquency rehabilitative services projects.
  146. Grants for juvenile delinquency preventive service projects.
  147. Grants for training projects in juvenile delinquency fields.
  148. Grants for development of improved techniques and practices in juvenile delinquency services.
  149. Grants for technical assistance in juvenile delinquency services.
  150. Grants for State technical assistance to local units in juvenile delinquency services.
  151. Grants for public service centers projects.

152. Grants to public or private non-profit agencies to carry on the Project headstart Program.
153. Project grants for new careers for the handicapped.
154. Construction, demonstration, and training grants for university-affiliated facilities for persons with developmental disabilities.

*Continuing Assistance to State Administered Programs*

1. Grants to States for public library services and construction, interlibrary cooperation and specialized State library services for certain State institutions and the physically handicapped.
2. Grants to States for strengthening instruction in academic subjects.
3. Grants to States for vocational education.
4. Arrangements with state education agencies for training under the Manpower Development and Training Act.
5. Grants to States to assist in the elementary and secondary education of children of low-income families.
6. Grants to States to provide for school library resources, textbooks and other instructional materials for pupils and teachers in elementary and secondary schools.
7. Grants to States to strengthen State departments of education.
8. Grants to States for community service programs.
9. Grants to States for adult basic education and related research, teacher training and special projects.
10. Grants to State educational agencies for supplementary educational centers and services, and guidance, counseling and testing.
11. Grants to States for research and training in vocational education.
12. Grants to States for exemplary programs and projects in vocational education.
13. Grants to States for residential vocational education schools.
14. Grants to States for consumer and homemaking education.
15. Grants to States for cooperative vocational educational programs.
16. Grants to States for vocational workstudy programs.
17. Grants to States to attract and qualify teachers to meet critical teaching shortages.
18. Grants to States for education of handicapped children.
19. Grants for administration of State plans and for comprehensive planning to determine construction needs of institutions of higher education.
20. Grants to States for comprehensive health planning.
21. Grants to States for establishing and maintaining adequate public health services.
22. Grants, loans, and loan guarantees with interest subsidies for hospital and medical facilities.
23. Grants to states for community mental health centers construction.
24. Cost of rehabilitation services.
25. Surplus personal property disposal donations for health and educational purposes through State agencies.
26. Grants for State and community programs on aging.
27. Grants to States for planning, provision of services, and construction and operation of facilities for persons with developmental disabilities.

28. Grants to States for vocational rehabilitation services; for innovation of vocation rehabilitation services; and for rehabilitation facilities planning.
29. Designation of State licensing agency for blind operators of vending stands.
30. Grants to States for old-age assistance; aid to families with dependent children; child-welfare services; aid to the blind; aid to the permanently and totally disabled; aid to the aged, blind, or disabled; medical assistance.
31. Grants to States for maternal and child health and crippled children's services; for special projects for maternal and infant care.
32. Grants to States for juvenile delinquency preventive and rehabilitative services.

## **US. Department of Housing and Urban Development**

1. Advance Acquisition of Land.
2. Advise and Assistance with respect to Housing for Low and Moderate Income Families.
3. Alaska Housing Assistance.
4. College Housing Program.
5. Community Disposition Program.
6. Comprehensive Planning Assistance and Comprehensive Planning Research and Demonstration Programs.
7. Counseling Service to Mortgagors and Prospective Mortgagors.
8. Federal-State Training and City Planning and Urban Studies Fellowship Programs.
9. Grants for Housing Management Training.
10. Home Ownership for Lower Income Families.
11. Housing for Elderly or Handicapped.
12. Loan and Grant Assistance for Planning Housing Projects in Appalachia.
13. Low-Income Housing Demonstration Grant Program.
14. Low-Rent Public Housing Program (including housing in private accommodations).
15. Model Cities Program.
16. National Flood Insurance Program.
17. Neighborhood Facilities Grants.
18. New Communities.
19. Loans and Grants for New Community Development Programs.
20. New Technologies in the Development of Housing for Lower Income Families.
21. Open-Space Land Programs.
22. Public Facilities Liquidating Programs.
23. Public Facility Loans Program.
24. Public Works Acceleration Act Program.
25. Public Works Planning Advances.
26. Rehabilitation Loan Program.
27. Rent Supplement Program.
28. Rental and Cooperative Housing for Lower Income Families.
29. Research and Technology.
30. Sale of Surplus Federal Land for Housing.
31. Special Assistance Functions.

32. Technical Assistance to Contractors or Subcontractors.
33. Urban Information and Technical Assistance Services.
34. Urban Mass Transportation programs (Research, Development and Demonstration Projects; Grants for Technical Studies; Grants for Research and Training).
35. Urban Renewal Demonstration Grant Program.
36. Urban Renewal Program (Urban Renewal Projects and Neighborhood Development Programs, Code Enforcement Programs, Demolition Programs, Rehabilitation Grants, Interim Assistance Grants, and Community Renewal Programs).
37. Urban Research and Technology.
38. Water and Sewer Facilities Grants.

## **U.S. Department of the Interior**

### *I. Public Lands and Acquired Lands*

#### *(a) Grants and Loans of Federal Funds*

1. Mineral Leasing Act of 1920, as amended and supplemented.
2. Mineral Leasing Act for Acquired Lands.
3. Alaska Grazing Act.
4. Proceeds of Certain Land Sales.
5. Taylor Grazing Act.
6. Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act.
7. Payment to States for Swamp Lands Erroneously Sold by U.S.
8. Alaska Statehood Act.

#### *(b) Sales, lease, grant or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.*

1. Materials Act.
2. Rights-of-way for Tramroads, Canals, Reservoirs.
3. Highway Rights-of-way.
4. Small Tract Act.
5. Rights-of-way for Dams, Reservoirs, Water Plants, Canals, etc.
6. Rights-of-way for Power and Communication Facilities.
7. Recreation and Public Purposes Act.
8. Stock-Watering Reservoirs.
9. Alaska Housing Authority.
10. Railroad Rights-of-way in Alaska.
11. Grants to States in Aid Schools.
12. Carey Act.
13. Airports and Aviation Fields.
14. Special Land Use Permits.
15. Rights-of-way for Irrigation and Drainage.
16. Rights-of-way for Pipelines to Transport Oil or Natural Gas.
17. Townsite Laws.
18. Leases of Lands near Springs.
19. Rights-of-way for Railroads.

20. Grants of Easements.

*II. Water and Power.*

*(a) Grants and loans of Federal funds.*

1. Federal Reclamation Program.
2. Reservation of Land for Park, Playground, or Community Center.
3. Distribution System Loan Program.
4. Rehabilitation and Betterment Loan Program.
5. Small Reclamation project Loan program.
6. Assistance to School Districts on Reclamation Projects.
7. Payment from Colorado River Dam Fund, Boulder Canyon Project.
8. Payment on In Lieu of Taxes Lands Acquired Pursuant to Columbia Basin Project Act.
9. Payment in Lieu of Taxes on Land to Trinity County, California.
10. Saline Water Research Program.
11. Water use Repayment Obligations on Reclamation Projects.
12. Water Resources Research Act.

*(b) Sale, lease, grant or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.*

1. Townsite Disposal on Reclamation Projects.
2. Transfer of Federal Property in Coulee Dam, Washington.
3. Transfer of Federal Property to Boulder City, Nevada.
4. Reservation of Land for park, Playground, or Community Center.
5. Saline Water Research Program-Donation of Laboratory Equipment.
6. Reclamation Program-Conveyance of Land to School Districts.
7. Recreation and Public Purposes Program.
8. Dedication of Land for Public Purposes.
9. Removal of Sand, Gravel, and Other Minerals, and Building Materials from Reclamation Project Lands.

*III. Mineral Resources. Grants and loans of Federal funds.*

1. Control of Coal Mine Fires.
2. Anthracite Mine Drainage and Flood Control and Sealing of Abandoned Mines and Filling Voids.
3. Sealing and filling of voids in abandoned coal mines, reclamation of surface mine areas, and extinguishing mine fires.

*IV. Fish and Wildlife.*

*(a) Grants of Federal funds.*

1. Pittman-Robertson Act.
2. Dingell-Johnson Act.
3. Sharing of Refuge Revenues.
4. Aid to Alaska.
5. Anadromous Fish Act of 1965.

6. Aid to Education.
7. Jellyfish Act of 1966.

*(b) Sale, lease, grant, or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.*

1. Cooperative Research and Training Program for Fish and Wildlife Resources.
2. Protection and Conservation of Bald and Golden Eagles.
3. Wildlife Land Transfers.
4. Fish and Wildlife Coordination Act.

*(c) Furnishing of services of a type for which the recipient would otherwise pay.*

1. Lampry Eradication program.
2. Cooperative Research and Training Program for Fish and Wildlife Resources.
3. Fish and Wildlife Coordination Act.

#### *V. Parks and Territories.*

*(a) Grants and loans of Federal funds.*

1. Payments to School Districts—Yellowstone National park.
2. Payments in Lieu of Taxes—Grand Teton National park.
3. Historic Preservation Act of 1966.
4. Bureau of Outdoor Recreation.
5. Revised Organic Act of the Virgin Islands.
6. Guam Rehabilitation Act.
8. Guam Agricultural Act.
9. Outdoor Recreation Programs.

*(b) Sale, lease, grant or other disposition of, or the permission to, use Federal Property or any interest in such property at less than fair market value.*

1. Puerto Rico Federal Relations Act.
2. Virgin Islands Corporation Act.
3. Territorial Submerged Lands Act.
4. Organic Act of Guam.

*(c) Furnishing of services by the Federal Government of a type for which the recipient would otherwise pay.*

1. Bureau of Outdoor Recreation.

#### *VI. Indian Affairs.*

*(a) Grants and loans of Federal funds.*

1. Menominee County, Wis. Educational Grants.

*(b) Sale, lease, grant, or other disposition of or the permission to use, Federal property or any interest in such property at less than fair market value.*

1. Conveyance of School Property.
2. Adult Vocational Training Act.

*VII. General.*

1. Department Projects under the Public Works Acceleration Act.
2. Grants for Support of Scientific Research.
3. Special Use Permits.
4. Land and Water Conservation Fund Act of 1964.

**U.S. Department of Justice**

1. Assistance provided by the Office of Justice Programs (OJP), the Bureau of Justice Assistance (BJA), the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), and the Office of Juvenile Justice and Delinquency Prevention (OJJDP), including block, formula, and discretionary grants, victim compensation payments, and victim assistance grants.
2. Assistance provided by the Bureau of Prisons (BOP) including technical assistance to State and local governments for improvement of correctional systems; training of law enforcement personnel, and assistance to legal services programs.
3. Assistance provided by the National Institute of Corrections (NIC) including training, grants, and technical assistance to State and local governments, public and private agencies, educational institutions, organizations and individuals, in the area of corrections.
4. Assistance provided by the Drug Enforcement Administration (DEA) including training, joint task forces, information sharing agreements, cooperative agreements, and logistical support, primarily to State and local government agencies.
5. Assistance provided by the Community Relations Service (CRS) in the form of discretionary grants to public and private agencies under the Cuban-Haitian Entrant Program.
6. Assistance provided by the U.S. Parole Commission in the form of workshops and training programs for State and local agencies and public and private organizations.
7. Assistance provided by the Federal Bureau of Investigation (FBI) including field training, training through its National Academy, National Crime Information Center, and laboratory facilities, primarily to State and local criminal justice agencies.
8. Assistance provided by the Immigration and Naturalization Service (INS) including training and services primarily to State and local governments under the Alien Status Verification Index (ASVI); and citizenship textbooks and training primarily to schools and public and private service agencies.
9. Assistance provided by the United States Marshals Service through its Cooperative Agreement Program for improvement of State and local correctional facilities.
10. Assistance provided by the Attorney General through the Equitable Transfer of Forfeited Property Program (Equitable Sharing) primarily to State and local law enforcement agencies.
11. Assistance provided by the Department of Justice participating agencies that conduct specialized training through the National Center for State and Local Law Enforcement Training, a component of the Federal Law Enforcement Training Center (FLETC), Glenco, Georgia.

## **U.S. Department of State**

1. Mutual understanding between people of the United States and the people of other countries by educational and cultural exchange—studies, research, instruction and other educational activities—cultural exchanges.
2. Center for Cultural and Technical Interchange Between East and West—grant to State of Hawaii.
3. Assistance to or in behalf of refugees designated by the President.
4. Donations of certain foreign language tapes and other training material to public and private institutions.

## **U.S. Department of Transportation**

1. Use of grants made in connection with Federal-aid highway systems.
2. Use of grants made in connection with the Highway Safety Act of 1966.
3. Use of grants in connection with the National Traffic and Motor Vehicle Safety Act of 1966.
4. Lease of real property and the grant of permits, licenses, easements and rights-of-way covering real property under control of the Coast Guard.
5. Utilization of Coast Guard personnel and facilities by any State, territory, possession, or political subdivision thereof.
6. Use of Coast Guard personnel for duty in connection with maritime instruction and training by the States, territories, and Puerto Rico.
7. Use of obsolete and other Coast Guard material by sea scout service of Boy Scouts of America, any incorporated unit of the Coast Guard auxiliary, and public body or private organization not organized for profit.
8. Coast Guard Auxiliary Program.
9. Use of grants for the support of basic scientific research by nonprofit institutions of higher education and nonprofit organizations whose primary purpose is conduct of scientific research.
10. Use of grants made in connection with the Federal-aid Airport Program.
11. Use of U.S. land acquired for public airports under:
  - a. Section 16 of the Federal Airport Act.
  - b. Surplus Property Act.
12. Activities carried out in connection with the Aviation Education Program of the Federal Aviation Administration under sections 305, 311, and 313(a) of the Federal Aviation Act of 1958, as amended.
13. Use of grants and loans made in connection with Urban Mass Transportation Capital Facilities Grant and Loan Program—Urban Mass Transportation Act of 1964, as amended.
14. Use of grants made in connection with Urban Mass Transportation Research and Demonstration Grant Program—Urban Mass Transportation Act of 1964, as amended.
15. Use of grants made in connection with Urban Mass Transportation Technical Studies Grant Program—Urban Mass Transportation Act of 1964, as amended.

16. Use of grants made in connection with Urban Mass Transportation Managerial Training Grant Program—Urban Mass Transportation Act of 1964, as amended.
17. Use of grants made in connection with Urban Mass Transportation Grants for Research and Training Programs in Institutions of Higher Learning—Urban Mass Transportation Act of 1964, as amended.
18. Use of grants made in connection with the High Speed Ground Transportation Act, as amended.

# Appendix 3: How to Conduct Compliance Reviews and Complaint Investigations

Complaint and routine compliance reviews have many features in common. Following is a discussion of the steps necessary to conduct thorough field investigations. Some of the steps may or may not be relevant depending on the type of investigation being conducted.

**I. Compliance reviews of service delivery point operations** should cover at a minimum:

**A. Files and Records Examination.** Examine files and records for content, form, and length of time retained.

**B. Interviews.** Conduct interviews with beneficiaries, potential beneficiaries, and denied applicants. In addition, develop contacts with local minority grass roots organizations to determine the community's view of the service delivery point.

**C. Employment Conditions.** The racial/ethnic composition of the delivery point's staff may affect minority participation. Determine through interviews and personal observation whether the racial/ethnic composition of the staff is adversely affecting minority participation. Obtain data on the racial composition of the work force and incorporate the information into the review report.

**D. Public Notification.** Determine if public notification efforts are adequate. Determine if public notification efforts are effective in increasing program participation.

**E. Complaints.** Determine if procedures used by the service delivery point in handling complaints are consistent with the procedures outlined in the department's compliance manual.

**F. Collection of Data.** Determine the level of minority participation and compare it to the number of potentially eligible participants by racial/ethnic category. Determine the reason for any inconsistency.

**G. Equal Access of Physical Facilities.** Observe whether all facilities are made available and used on a nondiscriminatory basis.

**H. Location.** Determine whether or not the location of the service delivery point unnecessarily denies access to any persons on the basis of prohibited discrimination.

**I. Lawsuits.** Determine whether there are any lawsuits alleging discrimination on the basis of race, color, or national origin filed against the recipient.

**J. Other Federal Assistance.** Ascertain whether the recipient is receiving assistance from other federal agencies. If so, determine the purpose of the assistance. If not, determine whether the recipient has applied but was found in noncompliance. If the recipient was found in noncompliance, document it in the report.

**K. Civil Rights Compliance Reviews.** Determine whether any civil rights compliance reviews have been conducted of the recipient in the last two years. If so, review the findings and corrective actions taken.

**II. Compliance Review Selection Criteria.** The following are suggested criteria that establish the need for a review:

- A. Data analysis that indicates if the recipient has complied with Title VI.
- B. Discrimination complaints against an individual recipient.
- C. Recipients receiving federal assistance under other programs that are found in noncompliance by other agencies.
- D. Insufficient or inadequate information from an agency report to support a determination of Title VI compliance.
- E. Racial/ethnic disparities.
- F. A racial/ethnic staffing pattern which may indicate inadequate numbers of bilingual employees for the population of the area served.
- G. Findings from previous reviews.
- H. Previously unreviewed recipients.
- I. New program recipients.

**III. Organization and Conduct of the Review.**

**A. Compliance Review Preparation and Planning.** When a decision is made to review a particular recipient for compliance, the reviewer begins the preliminary preparation. Such preparation includes:

- 1. Coordination with other government agencies which may have parallel Title VI responsibility.
- 2. A review of files to determine program applicant or recipient background information including the number of employees and participants and their racial/ethnic composition, nature of services provided, previous review results, data on service area economy, population, percent of minorities in the service area, and minority or grass roots organizations in the service area, if any.
- 3. A review of compliance status in recipient's other federally assisted programs.
- 4. Information or profiles from such agencies as the U.S. Commission on Civil Rights, EEOC, Community Services Administration, Office of Federal Contract Compliance, and from local civil rights organizations.

**B. Scope of Compliance Review.** The scope of the review will be influenced by whether the review is routine or special in nature. Once the scope of the review is determined, the reviewer should determine if an announced or unannounced review will be conducted. If an unannounced review is conducted, state the reason for the unannounced visit in the review report. In announced reviews, the reviewer sends a letter to the recipient advising that a review is scheduled and arranges for further coordination. (See Exhibits 13 and 14 for sample letters announcing a compliance review or complaint investigation.)

**C. Conduct of the Reviewers.** Compliance reviewers are representatives of their department and the state. Reviewers should conduct themselves in a courteous and professional manner. It is the reviewer's responsibility to:

- 1. Inform the recipient reviewed of the purpose and scope of the review, of planned contacts outside the recipient's premises and take any other actions that

will generate trust and rapport; set a constructive tone, and explain that the main purpose of the review is to determine compliance with Title VI;

2. Be objective and impartial during the conduct of the investigation;
3. Be courteous, empathetic, and informed. Do not get into arguments;
4. Be positive and honest when answering questions. Avoid trying to intimidate or coerce the recipient;
5. Be thorough in the collection and presentation of evidence and maintain working papers in a manner that accurately records the who, what, when, where, why, and how, of the matter;
6. Be sensitive to efforts to discredit the reviewer or the review;
7. Never discuss findings except with those responsible for the recipient's operation. Note the discussions of findings in the review report; and
8. Discuss the deficiencies and recommendations during the exit interview with the recipient from a prepared statement. The recipient's comments during the exit interview should be included in the review report.

**D. Interviews.** Interviews are an important part of compliance reviews and should be conducted in person. If telephone interviews are used they should be followed up by a personal interview, if possible. (See Exhibit 15 for a sample letter confirming a compliance review.)

**1. Persons to be interviewed.** Carefully select people to be interviewed, taking into consideration the following:

- a. What information is desired and who is most likely to have that information;
- b. That compliance reviews should reflect the views of the recipient, the public, program eligibles, beneficiaries, applicants, and those denied benefits or services. Also, they should include views of assistance and advocacy organizations as well as other government entities which normally have knowledge of the community and the recipient's operation.

**2. Identify needed information.** Prepare questions to secure needed information.

**3. Insure adequacy of information.** Note the identity, address, relationship to program, or category of each person interviewed. If allegations of discrimination are made, obtain names of witnesses if possible. Note opinions, general impressions, and reactions, but identify them as such.

**4. Conduct of interview.** The following are suggestions for conducting an interview with a complainant, recipient employee, or other relevant person.

- a. Show official identification and explain the purpose of the review;
- b. Note the identity and address of the interviewee;
- c. Conduct the interview in private. Anything said should be for the record, but information provided can be noted without attributing it to the interviewee;

- d. Seek clarification, confirmation, and supportive data if the interviewee makes any statements that imply noncompliance on the part of the recipient;
- e. Ask the interviewee for an overall opinion or impression of the recipient's operations, treatment of beneficiaries, and assessment of affording equal opportunity;
- f. Ask if the interviewee knows of any person who has a civil rights complaint against the recipient and obtain information that will permit contacting such persons;
- g. Give the interviewee the opportunity to volunteer any information or observations regarding possible noncompliance;
- h. Provide the interviewee with an address and phone number prior to leaving in case additional information comes to mind after the interview.

**5. Records** must be examined during a compliance review. These include:

- a. **Administrative records.** Examine the recipient's files to determine if copies of assurances, public notification plans, press releases, letters, training materials, etc., are available at the location.
- b. **Data Collection Records.** Examine the data collection records available at the site.
- c. **Monitoring Records.** Examine the files of the recipient and determine if they have adequate documentation for monitoring secondary recipients. At a minimum, such records should include an assurance, records related to compliance reviews (if recipient has its own subrecipients), findings and corrective actions taken, participation data and other record keeping data, civil rights guidelines or directives, and documents regarding public notification.
- d. **Program Benefit Records.** Examine the program participation records. Determine whether data regarding participation, eligibles, etc., indicates disparity of participation that can be identified along racial or ethnic lines.
- e. **Board minutes.** Where recipients' policies and actions are determined by a board or governing body, the minutes of such body should be reviewed and copies of relevant sections made and marked.
- f. **Policy v. Practice.** Investigators should inquire as to the official policy of the recipient and a copy should be obtained for the final report. The investigators should also request written or oral explanations of the recipient's practice in all aspects of its programs which are subject to the investigation.

Make copies of relevant records for the working papers. Note date received, custodian of the records, name of the investigator, and, if part of a larger document, the title of the document.

To identify civil rights problem areas, a particular person or group of persons must have been treated in an identifiably different manner from persons or groups not of the same race, color, or national origin. Statistical (participation, time between application, and receipt of benefits, etc.) samples based on race or ethnic background may be compared to determine

whether the averages show disparity of treatment. Items which may be compared include the amount and quality of benefits, timeliness, incidence of denials, or pending cases. This is not a comprehensive list.

**6. Working Papers.** Report conclusions and recommendations should be substantiated by evidence that is clearly reflected in the working papers. Working papers should be kept for at least three years after the case is closed.

The following guidelines will be useful in the preparation of working papers:

**a. Completeness and Accuracy.** Working papers should be complete and accurate to provide support for findings, conclusions, and recommendations and to enable demonstration of the nature and scope of the work.

**b. Clarity and Understandability.** Working papers should be clear and understandable without supplementary explanations. The information contained in them should be clear, complete, and concise. Anyone should be able to determine their purpose, the nature of the work done, and the reviewer's conclusions.

**c. Legibility and Neatness.** Working papers should be neat and legible to ensure their worth as evidence.

**d. Relevance.** The information contained in the working papers should be restricted to matters which are important, pertinent, and useful to the objectives established for the review.

**e. Substantive Proof.** Evidence should be sufficient to reflect the essential elements of a finding, prove possible violation exists, or reflect probable noncompliance. It should identify the persons or entities responsible, corrective action taken by the recipient, the responsiveness in correcting deficiencies, the recipient's general attitude toward compliance, or any other information necessary to substantiate the findings.

**7. Closing Conference.** Arrange for a closing conference with the recipient. The conference should be conducted in a positive and constructive manner. The following steps are suggested for the conduct of the conference:

**a.** State the scope and purpose of the review. State how the review was conducted, how many interviews were conducted, what records were examined, etc.

**b.** State the authority for the review.

**c.** If a routine review, state how the recipient was selected.

**d.** Read findings to the recipient. Clearly state that findings may be further evaluated. As a result, some findings may be disregarded.

**e.** Allow the recipient to comment or produce evidence refuting the findings. Note the comments or explanation and accept for the record any documentation provided. The rebuttal should be reviewed and reconciled with conflicting evidence.

**f.** Explain that findings are subject to further review prior to the final report, and that disagreements can be aired and negotiated at a later date.

**g.** Offer to accept any written documentation or rebuttal within a certain time frame, and state that such written comments will be appended to the report.

**h.** Ask recipient if there are any other questions.

**8. Attitude.** Ascertain general attitude towards correcting any deficiencies discussed and note this in the report.

**9. Compliance review reports.**

**a.** Be concise, clear, and comprehensive so that the report is understood by the users.

**b.** Present factual matter accurately, completely, and fairly.

**c.** Present findings and conclusions objectively, clearly, and simply.

**d.** Include only factual information that can be supported by the documentation in the working papers.

**e.** Place emphasis on improvement rather than on criticisms of the past.

**f.** Identify and explain issues and questions needing further study or consideration.

**g.** Clearly explain the scope and objectives of the review.

(See Exhibit 16 for a checklist for determining compliance.)

**10. Compliance Review Report Format.** The compliance review report format should include the following:

**a.** Summary

**b.** Background Information

**c.** General Information

**d.** Persons Interviewed

**e.** Records Reviewed

**f.** Staffing Patterns

**g.** Analysis

**h.** Recommendations

# Appendix 4: People Interviewed

## State Agencies:

Janice Alexander, Civil Rights Officer, Department of Safety

Barbara Allen, Civil Rights Officer, Department of Veterans Affairs

Bob Arnette, Director of Personnel, Department of Commerce and Insurance

James Austin, Director of the Office of Civil Rights, Division of Health Care Facilities,  
Department of Health

Sharon Bell, Director of Personnel, Department of Agriculture

Mary Boyd, Civil Rights Coordinator, Department of Human Services

Geraldine Brown, Affirmative Action Officer, Department of Health

Gail Collins, Program Evaluation Director, Department of Finance and Administration

George Fletcher, Director of Personnel, Department of Labor

Judi Hollandsworth, Equal Employment Opportunity Officer, Tennessee Bureau of  
Investigation

Joyce Hoyle, Director, Recreation Services Division, Department of Environment and  
Conservation

Troy Jones, Affirmative Action Officer, Department of Education

Paula Lovett, Department of Economic and Community Development

Catherine S. Mizell, University of Tennessee, Office of the General Counsel and Secretary

Maria Morris, Affirmative Action Officer, Department of Employment Security

Regina Morrison, Department of Youth Development

Robert Moxley, Affirmative Action Officer and Title VI Coordinator, Department of  
Transportation

Diane Novak, Director of Internal Audit, Tennessee Housing Development Authority

Jan Owens, Division Coordinator, Department of Mental Health and Mental Retardation

Mary Jo Price, Tennessee Board of Regents

Jan Sylvis, Director of Internal Audit, Department of Finance and Administration

Col. Eugene Tanner, Department of the Military

Linda Voekel, Personnel Division, Public Service Commission

Clifton Whitehead, Civil Rights Officer, Tennessee Wildlife Resources Agency

## Federal Agencies:

Dennis C. Cook, Division Administrator, Federal Highway Administration, Tennessee  
Division Office

Melvyn R. Cooper, Division Realty Office, Federal Highway Administration, Tennessee  
Division Office

David O. Cox, Assistant Division Administrator, Federal Highway Administration,  
Tennessee Division Office

James Cunningham, Assistant Staff Director, Civil Rights Evaluation, U.S. Commission on Civil Rights

Brenda Edmondson, U.S. Department of Housing and Urban Development

Arthur Fletcher, Chairman, U.S. Commission on Civil Rights

Roosevelt Freeman, Chief Regional Civil Rights Attorney, Office of the General Counsel, U.S. Department of Health and Human Services, Region IV

Karen Hakel, Office of General Counsel, Department Of Education

Frederick Isler, Project Director, U.S. Commission on Civil Rights

David E. Libman, Compliance and Review, National Park Service, U.S. Department of the Interior, Region IV

Annabelle Lockhart, Directorate, Office of Civil Rights, U.S. Department of Labor

Archie Meyer, Sr., Regional Director Office for Civil Rights, U.S. Department of Education, Region IV

Theodore Nickens, Deputy Chief Coordination and Review Section, Civil Rights Division, Department of Justice

Farook Sait, Director, Employment Programs and Compliance Division, Civil Rights Enforcement Agency, U.S. Department of Agriculture

Marie W. Vevik, Chief Title VI/Section 109 Branch Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development

**Others:**

John Birdsong, Office of Minority Business Enterprise, Tennessee Department of Economic and Community Development

Francis Guess, former member of U.S. Commission on Civil Rights and former Commissioner of Department of Labor

Representative Rufus Jones

Deborah King Luter, Small Business Division, Tennessee Department of General Services

Larry Stanley, Office of Federal Contract Compliance Program

Dr. Annette K. Stardevant, President, Organization Development Systems, Inc.

Fred Toney, F.M. Toney & Associates

Rosie Wilson, Director, Affirmative Action Division, Tennessee Department of Personnel

# Appendix 5: Documents Reviewed

## FEDERAL AGENCIES

### U.S. Commission on Civil Rights:

- *Compliance Officer s manual - A handbook of compliance procedures under Title VI of the Civil Rights Act of 1964 prepared October 1966.*
- Several letters from the U.S. Department of Transportation dated August 93 - listing corrective actions the department plans to take in regard to the January 1993 report by the commission entitled *Enforcement of Equal Employment and Economic Opportunity Laws and Programs Relating to Federally-Assisted Transportation Projects.*
- *The Federal Civil Rights Enforcement Effort - November 1975.*

### U.S. Commission on Minority Business Development:

- *Fiscal Report 1992.*

### U. S. Department of Agriculture:

- *Title VI and Related Civil Rights Statues and Regulations.* - The manual outlines the following:
  - Title VI - Civil Rights Act of 1964
  - Title XI - Education Advancement of 1972
  - Age Discrimination Act of 1975
  - Equal Credit Opportunity Act
  - Civil Rights Restoration Act of 1987
  - Executive Order 11250 and Department of Justice Regulations
  - Office of Advocacy and Enterprise Delegations of Authority
  - Americans with Disabilities Act Summary and Fact Sheet
  - Code of Federal Regulations 15
  - Department of Justice Instructions for Civil Rights Implementation Plans
  - Draft Compliance Evaluation Plan
  - Review Information Guide
  - Departmental Policy for Program Compliance Reviews
  - Equal Opportunity Public Notification Policy
- List of Federally Assisted programs
- Sample of a Compliance Review Interview with a Forest Supervisor
- A pamphlet from the Office of Advocacy and Enterprise - *Ensuring Fairness, Fostering Diversity, and Promoting Enterprise at USDA.*

### U.S. Department of Education:

- *Federal Register Part II Department of Education - Establishment of Title 34 - Title VI Civil Rights Act of 1964 - May 9, 1980.*
- *Annual Report to Congress - FY 1991 - U.S Dept. of Education - Office of Civil Rights.*

- *Policy Update and Schools Obligations Toward National Origin Minority Students with Limited-English Proficiency (LEP).*
- *Assistant Secretary's Roundtable: Racial and Ethnic Conflict in Elementary Schools - Office of Civil Rights DOE.*
- *Listing of Regional Offices - Office of Civil Rights - US Education.*
- *Federal Register - March 21, 1979 - Department of Health Education, and Welfare, Office of Civil Rights - Vocational Programs, guidelines for eliminating discrimination and denial of services on the basis of race, color, national origin, sex and handicap.*
- Several pamphlets:
  - Education and Title VI.*
  - Vocational Education and Civil Rights.*
  - The Guidance Counselor's Role in ensuring equal educational opportunity.*
  - Student Assignment in elementary and secondary schools & Title VI.*
- *Federal Register Part II Department of Education - Establishment of Title 34 - Title VI Civil Rights Act of 1964 - May 9, 1980.*
- Several pamphlets:
  - Education and Title VI.*
  - Spanish Translation - Education and Title VI.*
  - Vocational Education and Civil Rights.*
  - How to file a Discrimination Complaint with the Office for Civil Rights.*
  - Nondiscrimination in Employment Practices in Education.*
  - Placement of School Children with AIDS.*
  - Free Appropriate Public Education for students with handicaps.*
  - The Civil Rights of Students with Hidden Disabilities Under Section 504 of the Rehabilitation Act of 1973.*
  - Discipline of Handicapped Students in Elementary and Secondary Schools.*
  - Teen Pregnancy and Parenthood Issues - Under Title IX of the Education Amendments of 1972.*

**U.S. Dept. of Health and Human Services:**

- *Title VI of the Civil Rights Act of 1964 - Questions and Answers.*
- *Recommended Civil Rights Compliance Activities.*
- *Sample Complaint Acknowledgment letter.*
- *Discrimination Complaint Form.*
- Several Fact Sheets:
  - Know Your Civil Rights.*
  - Your Rights Under Title VI.*
  - Your Rights Under the Age Discrimination Act.*
  - Community Service Assurance under the Hill-Burton Act.*
  - Your Rights as an Individual with Handicaps under Section 504.*
  - Your Rights as a Person with HIV Infection, AIDS or Related Conditions.*
  - Your Rights Under Title VI of the Civil Rights Act of 1964 in Health and Human Service Programs.*

*Your Responsibilities as a Health Care or Social Service Administrator under Title VI of the Civil Rights Act of 1964.*

**U.S. Department of Housing and Urban Development:**

- *Civil Rights Implementation Plan Updates for FY 1990-93.*
- *Title VI Technical Guidance Manual: Review of Low Income Public Housing Programs.*
- *Annual Report to Congress - Who Benefits? Civil Rights Data on HUD Program Applicants and Beneficiaries 1991.*
- *Public Housing Affirmative Compliance Actions Systems (PHACA).*
- *State Administration of the Community Development Block Grants (CDBG) program Actions to affirmatively Further Fair Housing - November 1992.*
- *Programs of HUD.*
- *Housing and Urban Development Code of Federal Regulation 24 Parts 0 to 199, 500 to 699 and 700 to 1699 Revised as of April 1992.*
- *The State of Fair Housing - Report to the Congress Pursuant to Section 808(e)(2) of the Fair Housing Act.*
- *Nondiscrimination in Federally-Assisted Programs regulations - U.S. Department of Housing and Urban Development - Regulations under Title VI of the Civil Rights Act of 1964, as amended through July 5, 1973.*

**U.S. Department of the Interior:**

- *Title VI Guidelines.*
- *Agreement Forms & Assurances.*
- *Sample Contract with the Compliance language.*
- *Open Project Selection Process guidelines.*

**U.S. Department of Justice:**

- *Title VI Enforcement Manual.*

**U.S. Department of Labor:**

- *Guidelines for meeting the standards for Methods of Administration (MOA) Title 29 Code of Federal Regulations Part 34.*
- *Federal Register Part II - issued January 15, 1993 Department of Labor 29 Code of Federal Regulations Part 34 Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Job Training Partnership Act of 1982; Final Rule.*

**U.S. General Accounting Office:**

- *Agencies When Providing Federal Financial Assistance Should Ensure Compliance with Title VI, April 15, 1980.*
- *Within school discrimination inadequate Title VI enforcement by the Office for Civil Rights report to congressional requesters, July 1991.*

## **STATE AGENCIES**

### **Department of Employment Security, State of Tennessee:**

- *Civil Rights Orientation Manual.*

### **Department of Mental Health and Mental Retardation:**

- *Title VI Compliance Manual.*

### **Senate Committee on Governmental Operations, State of Tennessee:**

- *A Review of the State of Florida Minority/Women Business Study conducted by TEM Associates, Inc., March 1991.*

### **State Attorney General's Office:**

- Attorney General's Opinion No. 92.47, issued May 28, 1992.

## **OTHER SOURCES**

### **American Bar Association, Section of Public Contract Law:**

- *Successful Minority and Women Business Programs Producing Results in Government Contracting*, 1992.

### **Court Cases:**

- *Linton v. Commissioner of Health and Environment, State of Tennessee*, 779 F. Supp. 925 (M.D. Tenn. 1990).
- *City of Richmond v. Croson*, 109 S.ct. 706 (1989)

### **Federal Regulations:**

- Department of Agriculture, 7 Code of Federal Regulations (CFR) 15.1 *et seq.*
- Department of Commerce, 15 CFR 8.1 *et seq.*
- Department of Defense, 32 CFR 300.1 *et seq.*
- Department of Education, 34 CFR 100.0 *et seq.*
- Department of Energy, 10 CFR 1040.1 *et seq.*
- Department of Health and Human Services, 45 CFR 80.1 *et seq.*
- Department of Housing and Urban Development, 24 CFR 1.1 *et seq.*
- Department of the Interior, 43 CFR 17.1 *et seq.*
- Department of Justice, 28 CFR 42.1 *et seq.*
- Department of Labor, 29 CFR 31.1 *et seq.*
- Department of State, 22 CFR 141.1 *et seq.*
- Department of Transportation, 49 CFR 21.1 *et seq.*

### **Organization Development Systems, Inc.:**

- *Handbook for Affirmative Action Program Planning: Utilizing the structured Personnel Management Process*, by R. B. Patterson, Jr. and Annette K. Stardevant, Organization Development, Inc., Athens, Ohio, 1980.
- Brochure: *Providing options for Productivity through people.*
- Several pamphlets from Organization Development Systems, Inc.:
  - Providing options for Productivity through people.*
  - Strategic Planning & Team Building for mission accomplishment;*
  - Managing sexuality in the workplace;*
  - Managing cultural diversity in the workplace;*
  - Dealing with sexual harassment.*

### **MISCELLANEOUS DOCUMENTS**

- *Shortchanging the Language-Minority Student An Evaluation of the Manchester, New Hampshire School Department s Title VI Civil Rights Compliance Plan*, December 1982.
- *Nondiscrimination Provisions of Federal Financial Assistance Statutes*, Summer 1984.
- *Proposed Legislation Civil Rights Protection Act of 1988: Message from the President of the United States transmitting a draft of proposed legislation to protect the civil rights of Americans and to clarify the application of Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title VI of the Civil Rights Act of 1964.*
- *To amend the Civil Rights Act of 1964 to permit states and political subdivisions to establish minority set-asides, and for other purposes, hearing before the Committee on Governmental Affairs United States One Hundred First Congress Second Session on S. 1235, May 16, 1990.*

# Appendix 6: Training

## **Federal agencies available to conduct Title VI enforcement and compliance training:**

**U.S. Department of Education:** Louis Bryson, Director, Post-secondary Education; Anita Moore, Secondary Education; Office of Civil Rights, Region IV, Atlanta, Georgia (404) 331-7943

**U.S. Department of Health and Human Services:** Marie Chretien, Regional Office, Atlanta, Georgia (404) 331-2779

**U.S. Department of Housing and Urban Development:** William McCloud, Region IV, Office of Fair Housing and Equal Opportunity, Knoxville, Tennessee (615) 545-4379

**U.S. Department of Justice:** Civil Rights Coordination and Review Section: Mr. Theodore Nickens, Deputy Chief; Merrily Friedlander and Louie Stewart, General Counsel; R. Allen Payne and Margay Williams, Reviewers of Federal Agencies Action Plans. Washington, D.C. (202) 307-2208

**U.S. Department of the Interior:** David Libman, National Park Service, Region IV, Atlanta, Georgia (404) 331-2610

**U.S. Department of Transportation:** Melvyn R. Cooper, Federal Highway Administration, Tennessee Division Office, Region IV, Nashville, Tennessee (615) 736-5394

# Appendix 7: Resource List/Consultants

Title VI regulations state that an agency that administers a federally funded program may not, directly or indirectly, on the ground of race, color, or national origin, deny a person the opportunity to participate as a member of a planning or advisory body. The primary House sponsor of Public Chapter 502 emphasized the need for participation by protected beneficiaries in the Title VI planning process, and recommended the following list of minority persons who may be available to serve on state departments' planning boards and commissions, and help in developing implementation plans for state agencies. Also there is a partial list of consulting firms available to help Tennessee implement Title VI compliance. This list is not exclusive and has not been endorsed by any state officials.

## RESOURCE PERSONS

### SOCIAL SERVICES RESOURCES:

Rev. Bill Adkins  
1000 S. Cooper  
Memphis, TN 38114  
901/274-6711  
901/398-5867

Rev. Charles L. Dorsey  
Second Congregational United Church of Christ  
764 Walker Ave.  
Memphis, TN 38126  
901/946-9493  
901/365-6588

Claudia Hemingway  
Memphis Board of Education/Professional Dev.  
Ctr  
2597 Avery Ave.  
Memphis, TN 38112  
901/320-6193

Ms. Jeanette Jennings  
University of Tennessee  
School of Social Work  
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ODS, a firm specializing in management consulting and training services, is available to help Tennessee in developing and implementing the model for Tennessee Title VI compliance. The firm has provided legal, technical, and interpersonal training seminars to over 40,000 managers and supervisors and 25,000 nonsupervisory personnel. ODS has provided services in the federal sector, advising the Equal Employment Opportunity Commission (EEOC) on policy and regulations for increasing the representation levels and status of women, minorities, and individuals with disabling conditions. ODS is considered a leading authority in the Civil Rights field. The firm's senior associates are knowledgeable and experienced with both the technical and legal aspects of Title VI, as well as with the

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F.M. Toney & Associates is a minority-owned consulting firm rendering services to minority-owned businesses, nonprofit community based organizations, and financial institutions. The firm provides services in the areas of data analysis and evaluation, strategic planning, management training, procurement, and human resource development. The firm has continuous contact with minority-owned businesses and associations, community-based organizations, trade and professional groups, the religious community, public institutions, and private businesses.

# Appendix 8: Interview Questions

Following are the questions staff used for interviewing the federal and state agencies during the course of the Title VI study.

## Federal Agencies

### IDENTIFICATION OF TITLE VI PROGRAMS

Q. Does your department understand which federally funded programs and activities are subject to Title VI?

Q. Do you work with Justice to determine which programs are covered? Does DOJ provide any technical assistance?

### ENFORCEMENT AND MONITORING

Federal agencies generally use four methods to determine if applicants comply with Title VI: (1) written assurances, (2) complaint system, (3) pre-award review - desk audit, (4) post-award on-site visit.

Q. How does your department interpret Title VI? How does it restrict discrimination?

Q. Has there been a situation where federal financial assistance was terminated because of discrimination?

Q. Has your department performed any pre-award compliance audits or reviews? How often?

Q. Has your department performed any post-award on-site compliance audits or reviews?

Q. What criteria do you follow in conducting the reviews and audits?

Q. Does DOJ review your enforcement procedures? How often?

### RECIPIENTS' RIGHTS

This law is intended to demolish the barriers to full participation. Many persons are unaware of their rights, or reluctant to seek the agency assistance for fear of reprisal. Effective civil rights enforcement also involves civil rights agencies providing technical assistance so that those who must comply understand their obligations and those who are protected under these laws know their rights.

Q. What can be done to increase awareness of the law?

Q. Is there a mechanism for providing your agency with information for discovering all noncompliance findings against its recipients?

### PROGRAM PERSONNEL AND TITLE VI ENFORCEMENT

Q. How many staff persons are allocated to conduct compliance reviews and individual complaint investigation?

Q. To whom do these persons report?

Q. Who in the department has adequate Title VI knowledge or training? Is this a problem?

Q. In general for those programs served by Title VI, to what extent do program personnel have Title VI enforcement duties?

Q. Has the staff been trained in Title VI enforcement? Could this be improved?

- Q. Are there any obstacles in your department hindering coordination of staff resources?
- Q. Is there any cooperation from other Federal agencies for compliance review?
- Q. Are there any conflicting enforcement responsibilities with other Federal statutes or regulations which could present problems for enforcement?
- Q. From your agency's experience, to what extent are there discriminatory employment practices?
- Q. In enforcing Title VI what standards does your agency apply as a basis for determining whether discrimination may have occurred?
- Q. Has your agency established written procedures for processing all applications or requests for federal assistance to assure compliance with Title VI?
- Q. Are there written procedures for assuring recipients or potential recipients compliance with Title VI? If not, is there a need for this?
- Q. How does your agency make a written determination as to whether applicants are in compliance with Title VI prior to approval of Federal assistance?
- Q. Has your department ever been sued for not enforcing Title VI?
- Q. Is there a mechanism for providing your agency with information for discovering all noncompliance findings against its recipients?

#### **TITLE VI COMPLAINT SYSTEM**

In the GAO report, Justice stated it had provided a list of programs assumed to be covered by Title VI, and a guidance document to assist agencies in making program updates as appendixes to Title VI regulations. Justice requires Title VI guidelines to describe the nature of Title VI coverage, (2) methods of enforcement, (3) examples of prohibited practices, and (4) methods for collecting data and handling complaints.

- Q. Please explain your complaint process?
- Q. Has there been any consultation with legal experts to provide relief for discrimination victims?
- Q. How are most complaints resolved?
- Q. Has your department held any administrative hearings concerning noncompliance?
- Q. How many Title VI complaints has your agency received in the last two fiscal years?
- Q. Are there any specific time frames for resolution or investigation of complaints?
- Q. How long does it usually take to resolve complaints from the time they are received until resolved?
- Q. In your opinion is there a need for specific limitations required on the number of days for an agency to investigate and make some findings on Title VI compliance?
- Q. Does your agency require primary recipients to report on the number of Title VI complaints?
- Q. What kind of follow-up or monitoring is done to ensure that conciliation agreements are actually carried out?

#### **TITLE VI COMPLIANCE REPORTING**

- Q. Does your agency require by regulation or policy that primary recipients periodically submit Title VI compliance data to permit effective agency enforcement?

- Q. Independent of any paper assurances which your agency receives from recipients does your agency know whether its beneficiaries are carrying out adequate Title VI compliance programs in accordance with Department of Justice regulations? How does it know?
- Q. Do you have an estimate on the total number of primary recipients of your agency's programs covered by Title VI?

### **TITLE VI GUIDELINES**

- Q. Have Title VI compliance guidelines been published for each type of program in your department that is covered by Title VI?
- Q. Who assures that Title VI regulations and guidelines are implemented? Who provides guidance (federal agency)?
- Q. Has any Title VI literature been prepared and disseminated to your staff?
- Q. Who is responsible for clarifying the agencies criteria?
- Q. Who provides technical assistance and reviews the determination of Title VI compliance of those agencies uncertain about title VI coverage? Does technical assistance involve helping the state agencies to share more fully in the Federal enforcement effort?
- Q. What kinds of compliance reports are submitted by your agency?
- Q. In reviewing grants or project proposals is compliance with Title VI considered a part of project review process?

### **RACIAL AND ETHNIC DATA COLLECTION**

The purpose behind collecting this data is to set program goals, reviewing, or compliance assessments that recognize the needs of the people served. This data could ensure adequate Title VI compliance evaluations to target populations and evaluate the different overall services provided to different segments within the population. Justice requires agencies to establish and publish procedures that requires recipients to report any lawsuit alleging racial or ethnic discrimination to the sponsoring agency.

- Q. Are you able to differentiate among the different racial classifications as to who actually receives the funds?
- Q. Does your agency collect racial and ethnic data to permit program mangers to evaluate Title VI compliance.
- Q. To what extent does your department compare racial/ethnic data or the number of beneficiaries served to racial/ethnic data on the eligible program population to help select programs for Title VI?
- Q. What is the approximate number of beneficiaries served by your programs?
- Q. For which programs in your department do you have beneficiaries data available (i.e. who receives assistance)?

### **STATE AGENCY GUIDANCE**

- Q. Under the law as it currently stands what role do state agencies or recipients of Federal funds play in the enforcement of Title VI?
- Q. How much guidance do you give to the states?
- Q. Do you review their guidelines? What do you look for?
- Q. If there are problems? How are they resolved? (i.e. complaints).
- Q. Are the states required to submit reports?

## **COSTS INVOLVED IN COMPLIANCE**

- Q. For what programs do you have funding data available?
- Q. How much federal assistance does your department receive annually?
- Q. How does your department track the federal money it receives? Are there any criteria that is followed to ensure Title VI regulations are not violated or if any discrimination exists?
- Q. Is the information verified?
- Q. In the last fiscal year, by program how much direct or indirect federal assistance did your programs receive?
- Q. Does your agency receive any funds for enforcement of Title VI?
- Q. Is there a Title VI budget?
- Q. Approximately how much does your agency anticipate on spending on all civil rights matters and its Title VI responsibilities?
- Q. How have past budget cuts affected enforcement resources?

## **RECOMMENDATIONS?**

- Q. Are there any recommendations you could make to the Comptroller's Office to improve Title VI training?
- Q. In your opinion what additional work would your department need to do to determine compliance. How difficult would it be to track the federal dollars?

## **State Agencies**

### **FEDERAL AUTHORITY**

Executive Order 11764 issued in 1974 charged the U.S. Attorney General with the responsibility for coordinating federal agencies Title VI programs.

- Q. Does the Tennessee State Attorney General's office have a similar responsibility? Is there any administrative agency which promulgates regulations implementing Title VI? Responsibility for coordinating and enforcing all civil rights matters was delegated to the Justice's Civil Rights Division.
- Q. Does the state have an office which has similar responsibility?
- Q. Who are the primary recipients of the federal assistance? How do these recipients receive the funds? Please explain the process. (How are the federal funds channeled?)

### **IDENTIFICATION OF TITLE VI PROGRAMS**

The first step in enforcing Title VI is to properly identify the programs and activities subject to it.

GAO found that agencies were uncertain about which activities and programs are covered by Title VI. Does your department understand which federally funded programs and activities are subject to Title VI?

- Q. Do you know which federally assisted activities are covered by Title VI?
- Q. What programs in your department receive federal financial assistance?
- Q. Do you think procurement or insurance contracts are covered? (Title VI does not apply to these activities but Title VII does).
- Q. What is the approximate number of beneficiaries served by your programs?

Q. For which programs in your department do you have beneficiaries data available (i.e. who receives assistance)?

### **ENFORCEMENT AND MONITORING**

Federal agencies generally use four methods to determine if applicants comply with Title VI: (1) written assurances, (2) complaint system, (3) pre-award review - desk audit, (4) post-award on-site visit.

Q. How does your department interpret Title VI? How does it restrict discrimination?

Q. Has there been a situation where federal financial assistance was terminated because of discrimination?

Q. Has your department performed any pre-award compliance audits or reviews?

Q. Has your department performed any post-award on-site compliance audits or reviews?

### **PROGRAM PERSONNEL AND TITLE VI ENFORCEMENT**

Q. Does your department have a civil rights enforcement unit which has at least some responsibility for enforcing Title VI?

Q. In general for those programs served by Title VI, to what extent does program personnel have Title VI enforcement duties?

Q. Does this person report to the Commissioner or the Executive Director?

Q. Has the staff been trained in Title VI enforcement? Could this be improved?

Q. Are there any obstacles in your department hindering coordination of staff resources?

Q. Is there any cooperation from Federal agencies for compliance review?

Q. Are there any conflicting enforcement responsibilities with other Federal statutes or regulations which could present problems for enforcement?

Q. From your agency's experience, to what extent are there discriminatory employment practices?

Q. In enforcing Title VI what standards does your agency apply as a basis for determining whether discrimination may have occurred?

Q. Has your agency established written procedures for processing all applications or requests for federal assistance to assure compliance with Title VI?

Q. Are there written procedures for assuring recipients' or potential recipients' compliance with Title VI? If not, is there a need for this?

Q. How does your agency make a written determination as to whether applicants are in compliance with Title VI prior to approval of Federal assistance?

Q. Has your department ever been sued for not enforcing Title VI?

Q. Is there a mechanism for providing your agency with information for discovering all noncompliance findings against its recipients?

### **TITLE VI COMPLAINT SYSTEM**

In the GAO report, Justice stated it had provided a list of programs assumed to be covered by Title VI, and a guidance document to assist agencies in making program updates as appendixes to Title VI regulations. Justice requires Title VI guidelines to describe the nature of Title VI coverage, (2) methods of enforcement, (3) examples of prohibited practices, and (4) methods for collecting data and handling complaints.

Q. How many Title VI complaints has your agency received in the last two fiscal years?

Q. Does your agency have a Title VI complaint system? Did your department hold any administrative hearings concerning noncompliance?

Q. Are there any specific time frames for resolution or investigation of complaints?

Q. How long does it usually take to resolve complaints from the time they are received until resolved?

Q. In your opinion is there a need for specific limitations required on the number of days for an agency to investigate and make findings on Title VI compliance?

Q. Does your agency require primary recipients to report on the number of Title VI complaints?

### **TITLE VI COMPLIANCE REPORTING**

Q. Does your agency require by regulations or policy that primary recipients periodically submit Title VI compliance data to permit effective agency enforcement?

Q. Independent of any paper assurances which your agency receives from recipients, does your agency know whether its beneficiaries are carrying out adequate Title VI compliance programs in accordance with Department of Justice regulations? How does it know?

Q. Do you have an estimate on the total number of primary recipients of your agency's programs covered by Title VI?

### **TITLE VI GUIDELINES**

Q. Have Title VI compliance guidelines been published for each type of program in your department covered by Title VI?

Q. Who assures Title VI regulations and guidelines are implemented? Who provides guidance (federal agency)?

Q. Who in the department is responsible for clarifying the criteria?

Q. Has any Title VI literature been prepared and disseminated to your staff?

Q. Is your agency currently preparing Title VI guidelines for its program covered by Title VI?

Q. Who in the department has adequate Title VI knowledge or training? Is this a problem?

Q. Who provides technical assistance and reviews the determination of Title VI compliance of those agencies uncertain about title VI coverage?

Q. What kinds of compliance reports are submitted by your agency?

Q. In reviewing grants or project proposals is compliance with Title VI considered a part of project review process?

### **RACIAL AND ETHNIC DATA COLLECTION**

Collection of racial and ethnic data is essential in identifying discrimination and in enforcing Title VI compliance. The Justice Department requires Federal agencies to collect data from recipients. Justice also requires agencies to establish and publish procedures that require recipients to report any lawsuit alleging racial or ethnic discrimination to the sponsoring agency.

Q. Are you able to differentiate among the different racial classifications as to who actually receives the funds?

Q. Does your agency collect racial and ethnic data to permit program managers to evaluate Title VI compliance?

Q. Are you required to report racial and ethnic data to the Federal agency from which you receive funding?

Q. To what extent does your department compare racial/ethnic data or the number of beneficiaries served to racial/ethnic data on the eligible program population to help select programs for Title VI?

### **COSTS INVOLVED IN COMPLIANCE**

Q. For which programs do you have funding data available?

Q. How much federal funding does your department receive annually for the qualified programs or activities?

Q. How does your department track the federal dollars it receives? Are there any criteria followed to ensure Title VI regulations are not violated or if any discrimination exists?

Q. Is the information verified? If so, how?

Q. In the last fiscal year how much direct or indirect federal assistance did your programs receive? List by program.

Q. Does your agency receive any funds for enforcement of Title VI?

Q. Is there a Title VI budget?

Q. Approximately how much does your agency anticipate spending annually on all civil rights matters and its Title VI responsibilities?

### **RECOMMENDATIONS**

Q. Are there any recommendations you could make to the Comptroller's Office to improve Title VI training?

Q. Who are your federal contacts or someone we can talk to who deals with Title VI compliance for your federal department?

Q. In your opinion what additional work would your department need to do to determine compliance? How difficult would it be to track the federal dollars?