

**SUBMISSION OF
TITLE VI IMPLEMENTATION PLANS
JUNE 30, 1996**

April 24, 1997

The Honorable John S. Wilder
Speaker of the Senate
The Honorable Jimmy Naifeh
Speaker of the House of Representatives
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the report on the submission of Title VI implementation plans. This review was conducted pursuant to the requirements of Section 4-21-901, *Tennessee Code Annotated*.

Very truly yours,

W. R. Snodgrass
Comptroller of the Treasury

WRS/dvl
97/073

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INTRODUCTION

AUTHORITY

Chapter 502 of the Public Acts of 1993 (Section 4-21-901, *Tennessee Code Annotated*) requires those state agencies subject to the requirements of Title VI of the Civil Rights Act of 1964 to develop a Title VI implementation plan. These plans were to be submitted to the Department of Audit by June 30, 1994, and are to be submitted each June 30 thereafter.

Section 4-21-901 further requires the Department of Audit to publish, at least once a year, a cumulative report of its findings and recommendations concerning compliance with the statute's requirements. Pursuant to that directive, this report will identify the plans submitted to the Department of Audit.

OBJECTIVES OF THE REVIEW

The objectives of the review were to summarize the purpose and scope of Title VI and to detail agencies' compliance with the reporting requirements in *Tennessee Code Annotated*, Section 4-21-901.

SCOPE AND METHODOLOGY OF THE REVIEW

The Title VI plans submitted to the Department of Audit are the result of a self-reporting process in which each agency drafts its own plan. The Division of State Audit's review of the agencies' plans was limited to whether the plans had been submitted.

Accordingly, we do not attempt to express an opinion on the implementation of the provisions in the plans. Rather, this review will be limited to determining if Title VI implementation plan documents were submitted.

PURPOSE AND SCOPE OF TITLE VI

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

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.

Title VI is intended to prohibit racial discrimination on the basis of race, color, or national origin in federally assisted programs even if federal money makes up only a portion of the program's budget. The emphasis of Title VI is on services provided by a government agency to the citizens of a given area. If federal money is used to provide services, Title VI applies, and services must be delivered in a nondiscriminatory manner.

A recipient of federal assistance violates Title VI when it

- denies an individual service, aid, or benefits because of race, color or national origin;
- provides only inferior or discriminatory service, aid, or benefits because of any individual's race, color, or national origin;
- subjects an individual to segregation or different treatment in relation to aid, services, or benefits because of race, color, or national origin;
- restricts or discourages individuals in their enjoyment of facilities because of race, color, or national origin;
- treats an individual differently because of race, color, or national origin in regard to eligibility for programs or services;
- 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;
- discriminates against an individual in any program or activity that is conducted in a facility constructed even partly with federal funds; or
- subjects an individual to discriminatory employment practices under any federal program intended to provide employment.

TITLE VI PLAN GUIDELINES

The Human Rights Commission has issued guidelines for the development of Title VI Implementation Plans. By following these guidelines, agencies can ensure that their plan documents are comprehensive and complete.

OBSERVATIONS AND COMMENTS

In general, most agencies have taken the steps necessary to prepare vigorous Title VI implementation plans. See Conclusions for the status of submission of implementation plans for fiscal years 1994-95, 1995-96, and 1996-97.

As reported in *Tennessee State Agencies and Title VI of the Civil Rights Act of 1964*, issued in 1994 by the Comptroller's Office of Local Government, many state agencies receiving federal funding were generally unaware of or had little knowledge of their responsibilities under Title VI. This situation arose, in part, because the federal entity responsible for coordinating implementation of Title VI—the U.S. Department of Justice—placed little emphasis on and provided no guidance on Title VI compliance.

Because most state agencies knew little about Title VI compliance issues, many referred to existing plans and examples for guidance when drafting their 1994-95 plans. The examples, however, lacked several elements necessary for compliance with U.S. Department of Justice guidelines. Governor Ned McWherter assigned the responsibility of monitoring Title VI compliance to the State Planning Office on March 1, 1994. As the State Planning Office received the implementation plans, staff reviewed the plans and compared them to the guidelines. State Planning then sent comments on weaknesses noted and requested revised plans. As a result, several agencies submitted revised plans that satisfied the necessary Title VI requirements. On June 12, 1995, the State Planning Office was repealed by Chapter 501, Public Acts of 1995. According to the Human Rights Commission's Title VI Program Director, the commission is acting as the monitoring agency while the Governor's office works on an executive order that will designate the Human Rights Commission as the monitoring agency. As of February 1, 1997, the monitoring responsibility had not been officially assigned to any government agency.

Filing Title VI Complaints of Discriminatory Practices

Tennessee Code Annotated, Section 4-21-905, specifies the procedures for filing a complaint concerning discriminatory practices. Any person claiming to be aggrieved by a discriminatory practice under this part has 180 days to file a complaint with the state agency receiving federal funds. An aggrieved person may also file a complaint with the Human Rights Commission, as provided in *Tennessee Code Annotated*, Section 4-21-302. Complaints filed with state agencies are subject to review by the Human Rights Commission for applicability under Title VI of the Civil Rights Act of 1964.

Title VI Complaints Filed During Fiscal Year 1995-1996

Two state departments were subjects of Title VI complaints. The Department of General Services received one complaint, and the Department of Education received two complaints. The complaint against the Department of General Services involved a project bid application which a bidder claimed contained a discriminatory clause. According to an investigation report from the Department of General Services, the department canceled the contract and rebid it without the objectionable term and then closed its investigation. One complaint against the Department of Education involved a claim that a Williamson County high school exhibited an overall lack of sensitivity to the needs of minority students. The second complaint involved a student/parent concern about a suspected disciplinary inequity—based on race—at a Sumner County school. Investigation of these complaints is still in progress.

CONCLUSIONS

The following table presents the status of Title VI implementation plans due June 30, 1994, June 30, 1995, and June 30, 1996.

**Status of Title VI Implementation Plans
As of April 4, 1997**

<u>State Governmental Entity</u>	<u>1994-1995 Plan</u>	<u>Complaints Filed FY 94-95</u>	<u>1995-1996 Plan</u>	<u>Complaints Filed FY 95-96</u>	<u>1996-1997 Plan</u>
Commission on Aging	Submitted June 30, 1994 Revised September 16, 1994	0	Submitted June 30, 1995	0	Submitted June 28, 1996
Department of Agriculture	Submitted June 30, 1994 Revised November 7, 1994	0	Submitted letter June 30, 1995, stating prior plan remains in effect	0	Submitted letter June 27, 1996, stating plan being revised
Alcoholic Beverage Commission	Submitted October 25, 1994	0	Submitted June 29, 1995	0	Submitted July 11, 1996
Tennessee Arts Commission	Submitted July 29, 1994 Revised November 10, 1994	0	Submitted June 30, 1995	0	Submitted July 8, 1996
Commission on Children and Youth	Submitted June 30, 1994 Revised September 30, 1994	0	Submitted June 30, 1995	0	Submitted June 28, 1996
Department of Children's Services	See Note.		See Note.		Submitted June 28, 1996
Department of Correction	Submitted August 17, 1994 Revised November 18, 1994	0	Submitted June 30, 1995 Revised August 21, 1995	0	Submitted June 28, 1996
Administrative Office of the Courts	Entity indicates report pending per letter dated December 15, 1994	0	Submitted August 23, 1995	0	Submitted April 4, 1997
Tennessee District Attorneys General Conference	Entity indicates report pending per letter dated December 21, 1994	0	Submitted July 6, 1995	0	Submitted June 28, 1996
District Public Defenders Conference	Submitted December 8, 1994	0	Submitted June 8, 1995	0	Submitted July 3, 1996

**Status of Title VI Implementation Plans (Cont.)
As of April 4, 1997**

<u>State Governmental Entity</u>	<u>1994-1995 Plan</u>	<u>Complaints Filed FY 94-95</u>	<u>1995-1996 Plan</u>	<u>Complaints Filed FY 95-96</u>	<u>1996-1997 Plan</u>
Department of Economic and Community Development	Submitted August 17, 1994	0	Submitted June 26, 1995	0	Submitted October 4, 1996
Department of Education	Submitted July 12, 1994 Revised November 2, 1994	2	Submitted June 30, 1995	2	Submitted June 28, 1996
Department of Employment Security	Submitted July 14, 1994	0	Submitted June 30, 1995	0	Submitted June 27, 1996
Department of Environment and Conservation	Submitted December 21, 1994	0	Submitted June 30, 1995	0	Submitted June 28, 1996
Executive Department	Submitted June 30, 1994	0	(No federal funds)		(No federal funds)
Department of Finance and Administration	Submitted July 1, 1994 Revised September 12, 1994	0	Submitted July 31, 1995	0	Submitted July 1, 1996
Department of General Services	Submitted August 16, 1994 Revised September 9, 1994, and November 4, 1994	0	Submitted letter June 30, 1995, stating prior plan remains in effect	1	Submitted June 28, 1996
Department of Health	Submitted August 5, 1994 Revised November 28, 1994	0	Submitted June 16, 1995	0	Submitted July 3, 1996
Human Rights Commission	Submitted December 8, 1994	0	Submitted August 4, 1995	0	Submitted October 14, 1996
Department of Human Services	Submitted August 10, 1994	0	Submitted 1994 plan with revision on July 7, 1995. Further revisions to follow.	0	Submitted June 13, 1996

**Status of Title VI Implementation Plans (Cont.)
As of April 4, 1997**

<u>State Governmental Entity</u>	<u>1994-1995 Plan</u>	<u>Complaints Filed FY 94-95</u>	<u>1995-1996 Plan</u>	<u>Complaints Filed FY 95-96</u>	<u>1996-1997 Plan</u>
Council of Juvenile and Family Court Judges	Submitted June 30, 1994	0	Submitted letter June 30, 1995, stating Council is covered by Commission on Children and Youth's plan	0	Submitted July 3, 1996
Department of Labor	Submitted July 5, 1994	0	Submitted June 29, 1995	0	Submitted September 6, 1996
Department of Mental Health and Mental Retardation	Entity indicates report pending per letter dated June 30, 1994	0	Submitted June 28, 1995	0	Submitted July 3, 1996
Military Department of Tennessee	Submitted June 29, 1994 Revised October 20, 1994	0	Submitted letter June 30, 1995, stating prior plan remains in effect	0	Submitted June 27, 1996
Department of Revenue	Entity indicates report pending per letter dated December 21, 1994	0	Submitted June 30, 1995	0	Submitted July 5, 1996
Department of Safety	Submitted June 30, 1994	0	Submitted June 30, 1995	0	Submitted June 28, 1996
Department of State	Submitted July 1, 1994 Revised September 13, 1994	0	Submitted June 30, 1995	0	Submitted June 28, 1996
Tennessee Board of Regents	Submitted June 30, 1994 Revised September 15, 1994, and November 4, 1994	3	Submitted letter July 14, 1995, stating prior plan remains in effect	0	Submitted May 2, 1996
Tennessee Bureau of Investigation	Submitted November 28, 1994	0	Submitted June 30, 1995 Revised December 20, 1995	0	Submitted July 5, 1996
Tennessee Higher Education Commission	Submitted November 21, 1994	0	Submitted June 30, 1995	0	Submitted July 1, 1996

**Status of Title VI Implementation Plans (Cont.)
As of April 4, 1997**

<u>State Governmental Entity</u>	<u>1994-1995 Plan</u>	<u>Complaints Filed FY 94-95</u>	<u>1995-1996 Plan</u>	<u>Complaints Filed FY 95-96</u>	<u>1996-1997 Plan</u>
Tennessee Housing Development Agency	Submitted June 30, 1994	0	Submitted letter June 29, 1995, stating prior plan remains in effect	0	Submitted July 1, 1996
Tennessee Regulatory Authority (formerly Public Service Comm.)	Submitted July 1, 1994	0	Submitted June 30, 1995	0	Submitted July 24, 1996
Tennessee Student Assistance Corporation	Submitted June 30, 1994	0	Submitted letter July 28, 1995, including update to prior plan	0	Submitted July 3, 1996
Tennessee Wildlife Resources Agency	Submitted June 30, 1994	0	Submitted June 30, 1995	0	Submitted July 2, 1996
Department of Transportation	Submitted August 15, 1994	0	Submitted letter July 10, 1995, stating prior plan remains in effect	0	Submitted May 31, 1996
Department of the Treasury	Submitted August 17, 1994 Revised November 3, 1994	0	Submitted letter June 30, 1995, stating prior plan remains in effect Submitted update August 17, 1995	0	Submitted August 23, 1996
University of Tennessee	Submitted December 15, 1994	0	Submitted June 19, 1995	0	Submitted August 8, 1996
Department of Veterans' Affairs	Submitted June 30, 1994 Revised September 14, 1994	0	Submitted June 30, 1995	0	Submitted June 24, 1996
Department of Youth Development	Submitted August 1, 1994	0	Submitted June 28, 1995	0	See Note.

Note: The Department of Children's Services was created in 1996 encompassing the Department of Youth Development, the Department of Finance and Administration's Office of Children's Services Administration and certain functions transferred from the Department of Health and the Department of Human Services.

The following agencies have reported that they have no federal funds and, therefore, are not subject to Title VI requirements:

Office of the Attorney General and Reporter
Department of Commerce and Insurance
Office of the Comptroller of the Treasury
Executive Department (Fiscal years 1995-96 and 1996-97)
Department of Financial Institutions
Fiscal Review Committee
Health Facilities Commission
Office of Legislative Administration
Obion-Forked Deer Basin Authority
Board of Paroles
Department of Personnel
Tennessee Advisory Commission on Intergovernmental Relations
Tennessee Corrections Institute
Department of Tourist Development

The true measure of successful compliance, however, will not hinge so much on whether plans have been prepared and submitted but rather on whether the provisions contained in the plans are actually carried out. The Human Rights Commission should, therefore, be vigilant in making the public aware of citizens' rights under Title VI of the Civil Rights Act of 1964 and investigating any complaints government agencies or the commission receives concerning violations of Title VI.

In addition to the commission's investigation of complaints, the Division of State Audit's financial and compliance audit reports of agencies subject to the requirements of Title VI of the Civil Rights Act of 1964 will include material violations of Title VI requirements noted during the audit. The audit results for the years ended June 30, 1996, June 30, 1995, and June 30, 1994, contain no findings addressing violations of Title VI.