



CAPITAL REGION  
**Transportation  
Council**

# Title VI

# Implementation Plan

## and Assurances

Draft for Planning Committee Review July 10, 2024

## **Disclaimer**

This document was prepared and published by the Capital Region Transportation Council, the Metropolitan Planning Organization (MPO) for a planning area that includes the counties of Albany, Rensselaer, Saratoga, and Schenectady (except for the Town of Moreau and the Village South Glens Falls, which lie within the adjoining MPO region for the Adirondack-Glens Falls Transportation Council). This report was funded in part through grants from the Federal Highway Administration and the Federal Transit Administration of the U.S. Department of Transportation. The views and opinions of this report do not necessarily state or reflect the official views or policy of the U. S. Department of Transportation.

## **Title VI & Nondiscrimination Policy Statement**

The Capital Region Transportation Council (Transportation Council) is committed to ensuring that no person is excluded from participation in, or denied the benefits of, its metropolitan transportation planning process on the basis of race, color, or national origin as protected by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d). Additionally, the Transportation Council will provide meaningful access to services for persons with Limited English Proficiency (LEP) in accordance with Executive Order # 13166. The Transportation Council is also committed to ensuring that no person is excluded from participation in, or denied the benefits of, its transportation planning process on the basis of sex, age, or disability as protected by Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 U.S.C. § 324), the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. It is also the policy of the Transportation Council to ensure that all programs, policies, and other activities do not have disproportionate adverse effects on minority and low-income populations in accordance with Executive Order #12898.

If information is needed in another language, contact 518-458-2161 or send an e-mail to [info@capitalmpo.org](mailto:info@capitalmpo.org).

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# Title VI Implementation Plan and Assurances

This document was approved by the Capital Region  
Transportation Council's Policy Board and its  
Executive Director on September XX, 2024

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## Introduction

Title VI of the Civil Rights Act of 1964 prohibits discrimination based upon race, color, and national origin. Specifically, 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 subjected to discrimination under any program or activity receiving Federal financial assistance.” The use of the word “person” is important as the protections afforded under Title VI apply to anyone, regardless of whether the individual is lawfully present in the United States or a citizen of the United States. The U.S. Department of Transportation (USDOT) implements its Title VI program in 49 C.F.R. Part 21, which also provides guidance to funding subrecipients like the Capital Region Transportation Council. Specific provisions regarding the investigation of complaints are found at 49 C.F.R. §21.11. State highway agency responsibilities are given in 23 C.F.R. §200.9.

## Title VI Coordinator

The Capital Region Transportation Council’s Title VI Coordinator is the Executive Director, Sandra Misiewicz, AICP. She is responsible for Title VI nondiscrimination activities, instructions, complaints, and reports.

## Description of Title VI Program Responsibilities and Review Procedures

In a partnership with the Capital District Regional Planning Commission, the Transportation Council analyzes residential population data on race, ethnicity, and English proficiency within the Transportation Council’s area.

The Transportation Council’s Environmental Justice/Title VI Analysis (as of January 2023) discusses all projects and programs funded through the Transportation Council in relation to racial and ethnic status as well as other disadvantaged groups to ensure nondiscrimination on these grounds. For the 2023 analysis, the Transportation Council considered the residential locations and transportation patterns of people and households by race and for limited-English speakers, as well as other historically disadvantaged groups, to be able to identify their transportation needs and whether they have been addressed. The analysis also considered the impacts of transportation investments on different demographic groups based on commuting data. The analysis identifies Environmental Justice areas, which are census tracts where 1) the percent of people who are not White alone, not Hispanic/Latino is greater than the regional

percent of 21.8%, and/or where 2) the percent of people whose income is below the federal poverty level is greater than the regional percent of 10%.

At a minimum, planning studies funded through the Transportation Council refer to the Transportation Council's Environmental Justice/Title VI analysis in the scope of work. Additionally, an EJ scan and a limited English proficiency (LEP) scan must be conducted within the study area boundary to identify EJ areas and enclaves of eligible LEP populations. The information discovered in the scans is then used to develop a scope of work that meets the project objectives, complies with Title VI regulations, and advances equity in the region. The documentation must note if the project or plan will likely benefit or harm residents within the EJ areas.

The 2022-2027 Transportation Improvement Program (TIP) included an Environmental Justice/Title VI component in its merit evaluation that considered the location and purpose of projects relative to the locations of the Transportation Council's designated EJ areas. Each project was awarded positive or negative points based on the EJ/Title VI component that contributed to its overall total score.

The Transportation Council updates the EJ area data analysis upon the adoption of each new TIP. Additional analyses of race, ethnicity, national origin, and LEP data are conducted with each new Metropolitan Transportation Plan and Coordinated Public Transit – Human Services Transportation Plan.

## Description of Staff Training

The Transportation Council conducts staff training for Title VI and Limited English Proficiency on a biennial basis. Training may occur in partnership with New York State Department of Transportation (NYSDOT), Capital District Transportation Authority (CDTA), Federal Highway Administration (FHWA), and/or Federal Transit Administration (FTA), or may be conducted internally. The Title VI Coordinator maintains data on the frequency of training, locations, number of participants and target audiences.

## Dissemination of Title VI Information

### Public Education

To make the public aware of their rights under Title VI program authorities, the Transportation Council publishes the following Title VI & Nondiscrimination Policy Statement to its website, with Policy Board and Planning Committee press releases, and in studies and plans.

The Capital Region Transportation Council (Transportation Council) is committed to ensuring that no person is excluded from participation in, or denied the benefits of, its metropolitan transportation planning process on the basis of race, color, or national origin as protected by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d). Additionally, the Transportation Council will provide meaningful access to services for persons with Limited English Proficiency (LEP) in accordance with Executive Order # 13166. The Transportation Council is also committed to ensuring that no person is excluded from participation in, or denied the benefits of, its transportation planning process on the basis of sex, age, or disability as protected by Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 U.S.C. § 324), the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. It is also the policy of the Transportation Council to ensure that all programs, policies, and other activities do not have disproportionate adverse effects on minority and low-income populations in accordance with Executive Order #12898.

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### Community Outreach Procedures

The Transportation Council's Public Participation Plan (PPP), adopted March 7, 2024, explains that the Transportation Council's planning process must comply with Title VI. The PPP guides outreach activities and provides baseline standards of how the Transportation Council will engage with the public. The PPP integrates equity throughout all aspects of the Transportation Council's public participation processes that require continual evaluation, clarification,

refinement, and/or experimentation and commits to an iterative approach. The outreach and engagement efforts outlined in the Public Participation Plan have four goals: to be continuous, thorough, inclusive, and effective. To implement these goals, the Transportation Council will develop an activity-specific Public Involvement Plan (PIP) tailored to each of its core planning activities and studies funded through the Community Planning/Linkage Program. Each PIP details how the four goals will be met throughout the planning activity.

Under guidance for the Inclusive goal, the PPP provides the following that pertain to Title VI:

- Identify Transportation Council-defined EJ and eligible LEP populations in, and adjacent to, study areas (regional planning activities & community planning studies), allowing for targeted outreach and engagement to help minimize or eliminate adverse impacts of planning outcomes on their communities.
- Comply with the Transportation Council's LEP Plan.

For more information about outreach procedures, see the Public Participation Plan.

## Community Outreach Effectiveness

To understand whether or not a public participation effort is effective, it is vital to evaluate plans, strategies, methods, and tactics. Every PIP includes an evaluation of the public outreach and engagement efforts employed during the planning activity after its completion. Specifically, the evaluation includes:

- An overview of quantitative metrics and qualitative objectives,
- Discussion of goals met,
- Discussion of any goals not met and a best understanding as to why, and
- Lessons learned and/or suggestions for future improvement for planning activities.

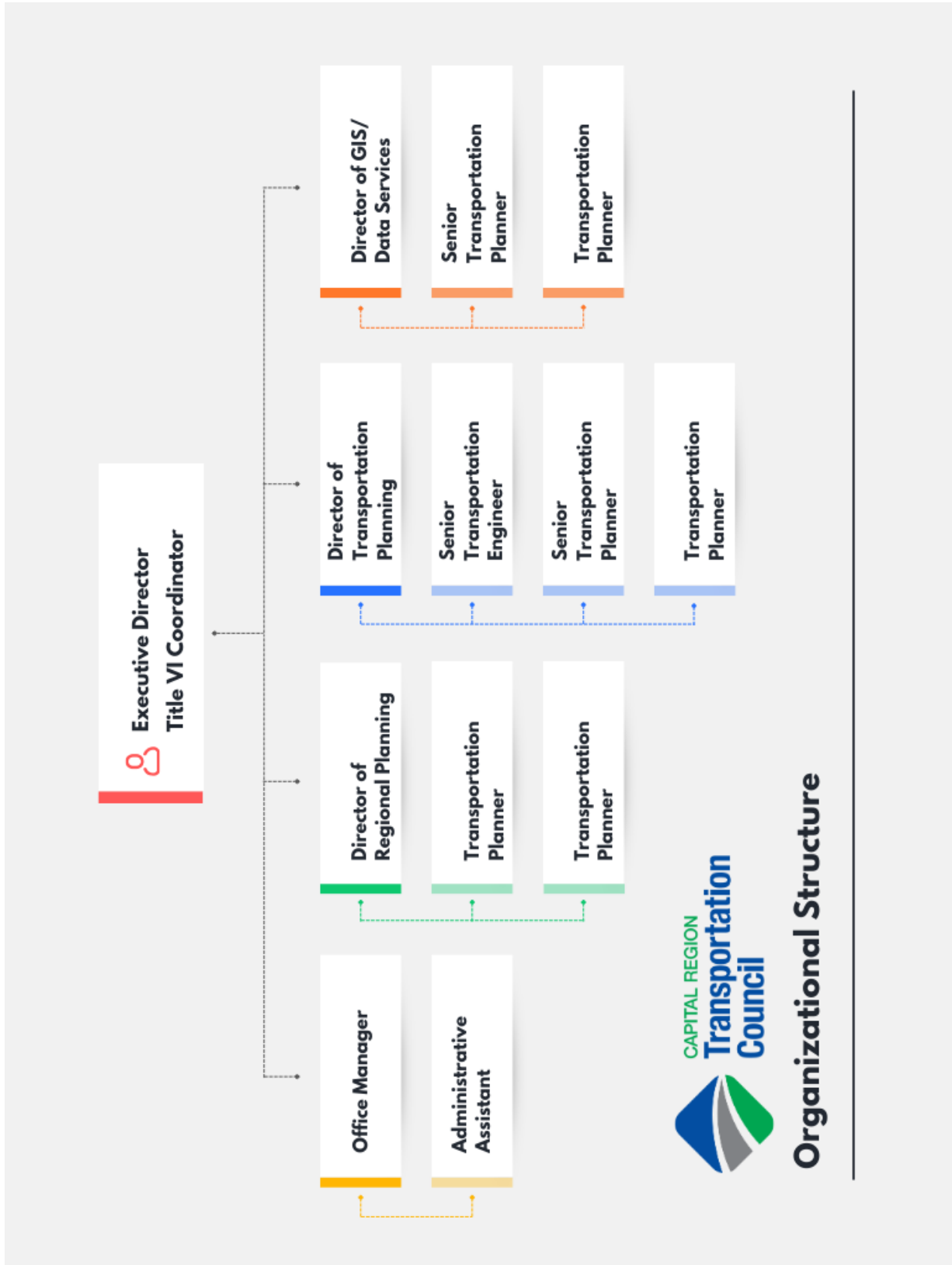
For more information about evaluating outreach effectiveness, see the Public Participation Plan.

## Limited English Proficiency Plan

The Transportation Council approved a new LEP Plan in March, 2024. The updated LEP Plan describes how LEP populations are identified regionally and per project as well as how the 4-factor analysis is applied to each in determining what translations are appropriate. The Transportation Council will monitor the LEP Plan on an ongoing basis for continued applicability, and update when necessary.



# Organizational Chart



## Complaint Procedures

A complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the FHWA or FTA.

You may contact the FHWA Headquarters Office of Civil Rights (HCR) office with questions by calling 202-366-0693. You may contact the Transportation Council with questions at 518-458-2161 or [info@capitalmpo.org](mailto:info@capitalmpo.org).

## Who Can File a Complaint

Any person who believes they—or a specific class of persons—were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of the Capital Region Transportation Council may file a Title VI complaint.

## Where to File a Complaint

Complaints related to the Federal-aid highway program may be filed with the NYSDOT, FHWA Division Office, the HCR, the USDOT Departmental Office of Civil Rights, the USDOJ, or the Transportation Council itself.

Complaints may be sent to the Transportation Council at:

- Postal Mail or In Person: Executive Director, Capital Region Transportation Council, 1 Park Place, Suite 101, Albany, New York 12205
- E-mail: [info@capitalmpo.org](mailto:info@capitalmpo.org)

Complaints may be sent to HCR at:

- Postal Mail: Federal Highway Administration U.S. Department of Transportation Office of Civil Rights 1200 New Jersey Avenue, SE 8th Floor E81-105 Washington, DC 20590
- E-mail: [CivilRights.FHWA@dot.gov](mailto:CivilRights.FHWA@dot.gov)
- Fax: 202-366-1599

## How Complaints are Processed

The Transportation Council must log all complaints it receives, but it does not investigate any complaints. All complaints received by the Transportation Council are routed through the Federal-aid highway hierarchy to the HCR for processing. FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency. When HCR makes that decision, it will notify the person who submitted the complaint, the FHWA Division Office, NYSDOT, and the Transportation Council.

## Potential Outcomes When Processing Complaints

There are four potential outcomes for processing complaints:

1. Accept: if a complaint is timely filed, contains sufficient information to support a claim under Title VI, and concerns matters under FHWA's jurisdiction, then HCR will send to the person who submitted the complaint, the Transportation Council, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
2. Preliminary review: if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the person who submitted the complaint and/or the Transportation Council before deciding whether to accept, dismiss, or refer the complaint.
3. Procedural Dismissal: if a complaint is not timely filed, is not in writing and signed, or features other procedural/practical defects, then HCR will send the person who submitted the complaint, the Transportation Council, and FHWA Division Office a written notice that it is dismissing the complaint.
4. Referral/Dismissal: if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the Transportation Council entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the person who submitted the complaint, the Transportation Council, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

## Investigating Complaints

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance. When NYSDOT is delegated an investigation from FHWA, it must complete its investigations within 60 days from the date it receives the delegated complaint from FHWA.

## Who Conducts the Investigation

For complaints filed against the Transportation Council, HCR may either conduct the investigation itself or it may delegate the investigation to NYSDOT. If HCR chooses to delegate an investigation of a complaint against the Transportation Council, HCR will communicate its acceptance of the complaint to the person who submitted the complaint and to the Transportation Council, but NYSDOT will conduct all data requests, interviews, and analysis. NYSDOT would then create a Report of Investigation (ROI), which it would send to HCR. Finally, HCR would review the ROI and compose a Letter of Finding based on the ROI.

The Transportation Council is required to keep detailed records on how it complies with Title VI and provides USDOT with access to documents and persons with relevant information. Typically, the Transportation Council will receive at least one Request for Information and Position Statement (RFI) to gather documents, and additional requests if necessary. Concurrently, the

HCR or NYSDOT investigator will schedule interviews with relevant parties and conduct site visits as necessary.

## Potential Outcomes When Investigating Complaints

First, at any time during the investigation, either FHWA or the Transportation Council may initiate informal negotiations to resolve the issues. The FHWA always strives to resolve Title VI complaints informally, if possible.

In the absence of such negotiations, HCR (or an investigator at NYSDOT) will draft a Report of Investigation, which should contain all relevant data and findings, with legal conclusions and potentially include recommendations for action. FHWA is responsible for the final disposition of all complaints, including initiation and conduct of informal negotiations and the issuance of Letters of Finding (LOFs).

There are five potential outcomes for concluding an investigation:

1. The FHWA makes a finding of no violation and the case will be closed with no further action. The FHWA will issue an LOF stating in sufficient detail the reasons for the determination of no violation.
2. If, by a preponderance of the evidence, FHWA determines the Transportation Council has failed to comply with its Title VI requirements or threatens to fail to comply by action or inaction, then FHWA will inform the Transportation Council and the matter will be resolved by informal means whenever possible.
  - If FHWA informally resolves the matter with the Transportation Council by agreement, then FHWA will hold the complaint in abeyance until the Transportation Council completes its corrective actions. If the corrective actions are completed to the FHWA's satisfaction, then the complaint will be dismissed with no further action.
  - If FHWA cannot informally resolve the matter or the Transportation Council does not complete agreed upon corrective actions, then FHWA may issue a LOF stating that the Transportation Council is in noncompliance with its Title VI obligations.
3. If FHWA issues a LOF of noncompliance to the Transportation Council, the LOF will request that the Transportation Council provide to FHWA, within 90 days, an action plan that implements the recommendations in the LOF.
4. If FHWA approves the action plan, then the Transportation Council will be given a reasonable amount of time to implement the plan. At the end of the implementation period, FHWA will assess whether the Transportation Council has sufficiently corrected the deficiencies.
5. If FHWA does not approve the action plan, or the Transportation Council is nonresponsive/uncooperative, then FHWA may seek administrative sanctions, including, but not limited to, suspension or termination of Federal funds or any other means authorized by law such as referral to USDOJ for enforcement.
  - If USDOT seeks to suspend or terminate funds, it must provide the Transportation Council with an opportunity for a hearing on the record. If the Secretary of

Transportation determines that the Transportation Council has not complied with Title VI and voluntary compliance cannot be secured, USDOT must notify Congress before that finding goes into effect.

All LOFs issued by FHWA are administratively final.

# Complaint Form

<b>Capital Region Transportation Council TITLE VI COMPLAINT FORM</b>		
Complaints to the Transportation Council should be submitted using this form and additional sheets as needed. The form must be filled out completely and signed. Complaints may be filed by mail, in person, or e-mail.		
<b>Section I: Complainant Information</b>		
First and Last Name:		
Postal Address:		
Telephone (Home):	Telephone (Work):	
E-mail Address:	Telephone (Mobile):	
Describe any accessible format requirements:		
<b>Section II: Filer Information</b>		
Are you filing this complaint on behalf of another person?	<input type="checkbox"/> Yes	<input type="checkbox"/> No*
<i>*If you answered "no" to this question, skip to Section III.</i>		
First and Last Name of Filer:		
Relationship to complainant:		
Explain why you are filing for a third party:		
By checking this box, you affirm that you have obtained the permission of the Complainant to submit this complaint on his/her/their behalf.		<input type="checkbox"/> I affirm
<b>Section III: Complaint Details</b>		
The basis of the complaint is (check all that apply): <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin		
Provide the date(s) of alleged discrimination (month, day, year):		
On separate sheet(s) of paper, explain as clearly as possible what happened and why the Complainant - or a specific class of persons - believes they were discriminated against. Provide the names of all persons and agencies/organizations who were involved. Provide sufficient information to understand the facts that led to the Complainant to believe that discrimination occurred. Also indicate whether the discrimination is on-going.		
<b>Section IV: Signature</b>		
Signature of Complainant:		Date:

## Capital Region Transportation Council Title VI Assurances

The Capital Region Transportation Council (hereinafter referred to as the "Recipient") HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT) through the Federal Highway Administration and Federal Transit Administration, it is subject to and will comply with the following:

### Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 Stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations hereinafter are referred to as the "Acts" and "Regulations," respectively.

### General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration and Federal Transit Administration.

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

### Specific Assurances

More specifically, and without limiting the above general assurance, the Recipient hereby agrees with and gives the following Assurances with respect to its Federally assisted programs, including the Transportation Improvement Program and Unified Planning Work Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated or will be (with regard to

a "facility") operated or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federally assisted programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The Capital Region Transportation Council, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon, or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over or under such property.

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

(a) for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

(b) for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures



or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

(a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

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

By signing this ASSURANCE, the Capital Region Transportation Council also agrees to comply (and require any subrecipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing Federal Highway Administration and Federal Transit Administration access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration and Federal Transit Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration and Federal Transit Administration, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Capital Region Transportation Council gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Capital Region Transportation Council programs, including the Transportation Improvement Program and Unified Planning Work Program. This ASSURANCE is binding on New York State, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors, transferees, successors in interest and any other participants of Capital Region Transportation Council programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Title VI Assurances Appendix A

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

(1) **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration and Federal Transit Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.

(3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

(4) **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration or Federal Transit Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration or Federal Transit Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration or Federal Transit Administration may determine to be appropriate, including, but not limited to:

- (a) withholding payments to the contractor under the contract until the contractor complies, and/or
- (b) cancelling, terminating or suspending a contract, in whole or in part.

(6) **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration or Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## Title VI Assurances Appendix B

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Capital Region Transportation Council will accept title to the lands and maintain the project constructed thereon in accordance with appropriate legislative authority, the Regulations for the Administration of Federally assisted programs, and the policies and procedures prescribed by the Federal Highway Administration and Federal Transit Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Capital Region Transportation Council all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

### **(HABENDUM CLAUSE)**

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

The Capital Region Transportation Council, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the Capital Region Transportation Council will use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction.]\*

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

## Title VI Assurances Appendix C

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Capital Region Transportation Council pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all other requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the Capital Region Transportation Council will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the [lease, license, permit, etc. had never been made or issued.\*

With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Capital Region Transportation Council will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Capital Region Transportation Council and its assigns.\*

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

## Title VI Assurances Appendix D

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the Capital Region Transportation Council pursuant to the provisions of Assurance 7(b):

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that ( 1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, the Capital Region Transportation Council will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the Capital Region Transportation Council will there upon revert to and vest in and become the absolute property of the Capital Region Transportation Council and its assigns.\*

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

## Title VI Assurances Appendix E

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

### Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority



populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

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