

**CITY OF ESCANABA**

**LIMITED ENGLISH PROFICIENCY PLAN**

**City Hall/Library Complex  
410 Ludington Street  
Escanaba, MI 49829**

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## **I. Legal Basis and Purpose**

This document serves as the plan for the City of Escanaba to provide to persons with limited English proficiency (LEP) services that are in compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

The LEP plan was developed to ensure meaningful access to grant programs and services for persons with limited English proficiency.

Who is a Limited English Proficient Person?

Persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or LEP. These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

## **II. Needs Assessment**

### **The Four-Factor Analysis:**

**Factor 1 – The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee.**

The Census Bureau has a range of four classifications of how well people speak English. The classifications are 'very well', 'not well', and 'not at all'. For our planning purposes, we are considering people that speak English 'less than very well' as Limited English Proficient persons. The City of Escanaba collected the demographic information below from the 2010 Census in preparation of this plan. The Census Bureau indicates that the size of language groups that identify themselves as speaking English "less than very well" in the City is 2.7% of the total population (as noted in the table below).



QT-P16

Language Spoken at Home: 2000

Census 2000 Summary File 3 (SF 3) - Sample Data

Note: This is a modified view of the original table.

NOTE: Data based on a sample except in P3, P4, H3, and H4. For information on confidentiality protection, sampling error, nonsampling error, definitions, and count corrections see <http://factfinder.census.gov/home/en/datanotes/expsf3.htm>.

Language	Escanaba city, Michigan	
	Number	Percent
Population 5 years and over	12,411	100.0
Speak only English	12,079	97.3
Speak a language other than English	338	2.7
Speak a language other than English	338	2.7
Spanish or Spanish Creole	75	0.6
French (incl. Patois, Cajun)	76	0.6
Italian	33	0.3
German	38	0.3
Scandinavian languages	22	0.2
Greek	20	0.2
Serbo-Croatian	7	0.1
Other Indo-European languages	17	0.1
Japanese	6	0.0
Tagalog	4	0.0
Other Native North American languages	4	0.0
Other and unspecified languages	36	0.3

(X) Not applicable.

Language Code List (PDF 17KB)

Source: U.S. Census Bureau, Census 2000 Summary File 3, Matrix PCT10

**Factor 2 – The frequency with which LEP individuals come in contact with the program.**

Due to the small percentage of language groups other than English, the City of Escanaba has had very little contact with LEP persons in the course of business which to date there has been none. The City of Escanaba will continue to monitor this and will update the plan if necessary.

**Factor 3 – The nature and importance of the program.**

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed.

The City of Escanaba serves a small percentage of LEP persons (3.4% in the region) and has limited funds available for LEP services. Providing translation assistance to LEP persons would be funded entirely from existing City operating funds and would compete with other operational requirements for funding. Given the small number of LEP people within the region and the City's budget, it would be burdensome to produce written translations for the core of the City's documents.

It is appropriate, however, for the City to provide translation of vital documents to LEP individuals upon request, within reason. In addition, the City will provide interpretation services on a case-by-case basis.

#### **Factor 4 – The resources available and overall cost to the City of Escanaba.**

*The Federal LEP Guidance states "A recipient's level of resources and the costs imposed may have an impact on the nature of the steps it should take in providing meaningful access for LEP persons. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. In addition, "reasonable steps" may cease to be reasonable where the costs imposed substantially exceed the benefits."*

The City has a list of contact information for interpreters able to translate Spanish, Portuguese, Italian, French, and Brazilian. The City also has access to individuals fluent in sign language for deaf persons. This contact information is available in all departments.

Based on the small number of LEP individuals in the service area, and limited financial resources, it is necessary to limit language aid to the most basic and cost-effective services.

### **III. Plan to Improve Language Assistance to LEP Individuals**

#### Translation/Interpretive Services:

1. Compile a list of City employees who are able and willing to assist LEP Individuals in person or on the telephone with routine inquiries and those who need assistance to complete a form.
2. Compile a database of translation/interpretation service providers that can be hired when needed.
3. Include a statement that language assistance for community outreach meetings is available within seven (7) days in advance of a meeting that an LEP individual will need interpretation services.

Evaluation of LEP Plan:

1. Log and evaluate calls and correspondence received from LEP individuals to determine if the City's LEP plan is adequate to maintain compliance with non-discrimination laws, and to determine if the plan needs to be modified to accommodate increasing contacts from people with LEP.
2. Review the LEP plan periodically to ensure that it effectively meets the needs of the LEP community.

**IV. Action Taken by the City of Escanaba**

If LEP services are requested, the City of Escanaba will make contact from the interpreter's list and provide such services to the best of their ability.

**INTERPRETERS**

**DEAF/SIGN LANGUAGE:**

Jacquelyn Richer	1-231-922-9834 Home 1-231-218-4128 Work	<a href="mailto:lricher@tbaisd.k12.mi.us">lricher@tbaisd.k12.mi.us</a>
Rebecca Horness	1-231-392-4344 Work	<a href="mailto:bhorness@gmail.com">bhorness@gmail.com</a>
Tina Taghon	1-231-326-2331 Home	<a href="mailto:Aleycia_Sage@yahoo.com">Aleycia_Sage@yahoo.com</a>
All Pro Sign Language	1-888-965-3334	<a href="mailto:aslbilling@sbcglobe.net">aslbilling@sbcglobe.net</a>

**SPANISH:**

Michigan Interpreter	1-616-499-9467	<a href="mailto:info@michiganinterpreters.com">info@michiganinterpreters.com</a>
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**ALL LANGUAGES:**

Professional Interpreting Services (PIE)	1-888-801-9393	<a href="mailto:Pieinc@tds.net">Pieinc@tds.net</a>
Purple Language Services. Co.	1-608-257-1346	
TSS – The Speech Source, Inc.	1-888-811-3497	<a href="mailto:info@thespeechsource.com">info@thespeechsource.com</a>
Western Bilingual	1-414-672-6088	<a href="mailto:info@westernbilingual.com">info@westernbilingual.com</a>

**TITLE VI**  
**NON-DISCRIMINATION PLAN**

**CITY OF ESCANABA**  
**410 LUDINGTON STREET**  
**ESCANABA, MI 49829**  
**(906) 786-9402**

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CITY OF ESCANABA

POLICY STATEMENT

The City of Escanaba is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants, and to ensuring that the residents of our City are afforded access to our programs and services.

To that end, no person shall be excluded from participation, be denied the benefits of, or be otherwise subjected to discrimination under any City of Escanaba program or activity on the grounds of race, color, national origin, income, sex, age, disability, or limited English proficiency. The City of Escanaba assures all its programs and activities will be free from discrimination, whether those programs and activities are federally funded or not.

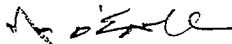
The City of Escanaba will include Title VI language in all written agreements and bid notices and will monitor compliance.

The City of Escanaba designates the City Manager as the Title VI Officer with the responsibility of ensuring that the City of Escanaba complies with the Title VI regulations.

The City Manager of the City of Escanaba will be responsible for initiating and monitoring Title VI activities, and all other responsibilities as required.

Inquiries concerning the City of Escanaba policies, investigations, complaints, compliance with applicable laws regulations, and concerns regarding compliance with Title VI may be directed to the City Manager, 410 Ludington Street, Escanaba, MI 49829 (906) 786-9402.

This policy statement will be circulated throughout the City of Escanaba and included by reference in all contract agreements, programs and services administered by the City of Escanaba.



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James V. O'Toole, City Manager

3/23/12

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Date

## CITY OF ESCANABA TITLE VI ASSURANCE

The City of Escanaba (hereinafter referred to as the City) hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-42 USC 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs for the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of gender, 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 City received Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and hereby gives assurances that it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7 (a) (1) and (b) of the Regulations.

More specifically and without limiting the above general assurance, the City hereby gives the following specific assurance with respect to the Federal Aid Highway Program:

1. That the City agrees that each “program” and each “facility” as defined in subsections 21.23 (e) and 21.23 (b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the City shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and, in adapted form, in all proposals for negotiated agreements:  
“The City of Escanaba in accordance with Title VI of the Civil Rights Act of 1964, 78 State. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, disability, race, color or national origin in consideration for an award.”
3. That the City shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That where the City receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and any facilities operated in connection therewith.
5. That where the City receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
6. That this assurance obligates the City for the period during the Federal financial assistance is extended to the program, except where the Federal financial assistance is to

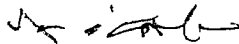
provide, or is in the form of, personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the City or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which 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 City retains ownership or possession of the property.

7. The City shall 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-grantees, contractors, sub-contractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
8. 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 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 shall provide for such methods of administration for the program as are found to give reasonable guarantee that it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the Act, 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 Act, the Regulations, and this Assurance.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the City under the Federal Aid Highway Program and is binding on it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the City.

Dated: 3/23/12

City of Escanaba



James V. O'Toole  
City Manager

## AUTHORITIES

**Title VI of the Civil Rights Act of 1964, 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h);**

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin (including Limited English Proficiency), or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21). Related statutes have broadened the grounds to include age, low income, and disability.

The Civil Rights Restoration Act of 1987 also broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

**Federal Aid Highway Act of 1973, 23 USC 324:** No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.

**Age Discrimination Act of 1975, 42 USC 6101:** No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

**Americans With Disabilities Act of 1990 PL 101-336:** No qualified individual with a disability shall, by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district or other instrumentality of a state or local government.

**Section 504 of the Rehabilitation Act of 1973:** No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

**USDOT Order 1050.2:** Standard Title VI Assurances.

**EO12250:** Department of Justice Leadership and coordination of Non-discrimination Laws.

**EO12898:** Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; and

**28 CFR 50.3:** Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

**EO13166:** Improving Access to Services for Persons with Limited English Proficiency.

## DEFINITIONS

Adverse Effects – The totality of significant individual or cumulative human health or environmental effects including interrelated social and economic effects, which may include, but are not limited to: (See Appendix B for additional discussion of “significant”)

- Bodily impairment, infirmity, illness or death
- Air, noise and water pollution and soil contamination
- Destruction or disruption of man-made or natural resources
- Destruction or diminution of aesthetic values
- Destruction or disruption of community cohesion or community’s economic vitality
- Destruction or disruption of the availability of public and private facilities and services
- Adverse employment effects
- Displacement of person’s businesses, farms or non-profit organizations
- Increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community
- Denial of, reduction in, or significant delay in the receipt of benefits of the City programs, policies and activities

Significant Adverse effects on Minority and Low-Income Populations – An adverse affect that:

- a. is predominantly borne by a minority population and/or a low-income population, or
- b. will be suffered by the minority population and/or low-income population and is shown to be appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

Limited English Proficiency - Individuals with a primary or home language other than English who much, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in or benefit from any aid, service or benefit provided by the City.

Federal Assistance – Includes grants and loans of federal funds; the grant or donation of federal property and interests in property; the detail of federal personnel, federal property or any interest in such property 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 or lease to the recipient; and any federal agreement, arrangement or other contract which has, as one of its purposes, the provision of assistance.

Low-Income – A person whose median household income is at or below the Department of Health and Human Service Property guidelines. <http://aspe.hhs.gov/poverty/>

Low-Income Population – Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed City program, policy or activity.

Minority – A person who is:

- a. Black – A person having origins in any of the black racial groups of Africa;
- b. Hispanic – A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- c. Asian American – A person having origins in any of the original people of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands; or
- d. American Indian and Alaskan Native – A person having origins in any of the original people of North American and who maintains cultural identification through tribal affiliation or community recognition.

Minority Population – Any readily identifiable groups of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed City program, policy or activity.

Non-Compliance – A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all the requirements of Title VI and related statutes.

Persons – Where designation of persons by race, color or national origin is required, the following designation ordinarily may be used; “White not of Hispanic origin”, “Black not of Hispanic origin”, “Hispanic”, “Asian or Pacific Islander”, “American Indian or Alaskan Native”. Additional sub-categories based on national origin of primary language spoken may be used, where appropriate, on either a national or a regional basis.

Program – Includes any road or park project including planning or any activity for the provision of services financial aid or other benefits to individuals. This includes education or training, work opportunities, health welfare, rehabilitation, or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Recipient - Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof, but does not include any ultimate beneficiary under any such program.

Sub-Recipient – Any agency such as a council or governments, regional planning agency; education institution, for example, that received Federal Highway Administration (FHWA) funds through the State DOT and not directly from the FHWA. Other agencies, local governments, contractors, consultants that receive these funds are all considered sub-recipients.

## ADMINISTRATION – GENERAL

The City Manager shall have lead responsibility for coordinating the administration of the Title VI and related statutes program, plan and assurances.

**Complaints:** If any individual believes that he/she or any other program beneficiaries have been the object of unequal treatment or discrimination as to the receipt of benefits and/or service, or on the grounds of race, color, national origin (including Limited English Proficiency), sex, age or handicap, she/he may exercise his/her right to file a complaint with the City. Complaints may be filed with the City Manager. Every effort will be made to resolve complaints informally at the lowest level.

**Data Collection:** Statistical data on race, color, national origin, English language ability and sex of participants in, and beneficiaries of City programs; e.g., impacted citizens and affected communities will be gathered and maintained by the City. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI program.

**City Reviews:** Special emphasis program reviewed will be conducted based on the annual summary of Title VI activities accomplishments and problems. The reviews will be conducted by the City to assure effectiveness in their compliance of Title VI provisions. The City Manager will coordinate efforts to ensure the equal participation in all their programs and activities at all levels. The City does not have any special emphasis programs at this time.

**Title VI Reviews on Sub-Recipients:** Title VI compliance reviews will be conducted annually by the City Manager. Priority for conducting reviews will be given to those recipients of federal (U.S. Department of Transportation) funds with the greatest potential of impact to those groups covered by the act. The reviews will entail examination of the recipients' adherence to all Title VI requirements. The status of each review will be reported in the annual update and reported to relevant U.S. Department of Transportation (USDOT) modes upon request.

**Annual Reporting Form:** An annual report will be required August 1<sup>st</sup> of each year. The City Manager will be responsible for coordination, compilation and submission of this information and provide the data to the Michigan Department of Transportation, Office of Civil Rights Program and Federal Highway Administration via the Sub-Recipient Annual Certification Form (MDOT form #0179) by September 1<sup>st</sup>.

**Title VI Plan Updates:** If updated, a copy of Title VI program will be submitted by October 1<sup>st</sup> to the Michigan Department of Transportation.

**Public Dissemination:** The City will disseminate Title VI Program information to City employees and to the general public. Title VI Program information will be submitted to sub-recipients, contractors and beneficiaries. Public dissemination will include inclusions of Title VI language in contracts and publishing the Title VI policy Statement on the City internet website, [www.escanaba.org](http://www.escanaba.org).

**Remedial Action:** The City, through the City Manager will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective action(s). The period to determine corrective action(s) and put it/them in writing to effect compliance may not exceed 90 days from the date the deficiencies are found.

## LIMITED ENGLISH PROFICIENCY

The City of Escanaba provides to persons with Limited English Proficiency (LEP) services that are in compliance with Title VI of the Civil Rights Act of 1964, 42 USC 2000d, et seq, and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

With regards to encountering LEP persons, we have developed a plan. This plan is posted on the City's website at [www.escanaba.org](http://www.escanaba.org).

## ENVIRONMENTAL JUSTICE

Compliance with Title VI includes ensuring that no minority or low income population suffers "disproportionately high and adverse human health or environmental effect" due to any "programs, policies and activities" undertaken by any agency receiving federal funds. This obligation will be met by the City of Escanaba in the following ways:

When planning specific programs or projects, identifying those populations that will be affected by a given program or project.

If a disproportionate effect is anticipated, following mitigation procedures.

If mitigation options do not sufficiently eliminate the disproportionate effect, discussing and, if necessary, implementing reasonable alternatives.

Disproportionate effects are those effects which are appreciably more severe for one group or predominately borne by a single group. The City of Escanaba will use U.S. Census data to identify low income and minority populations.

Where a project impacts a small number or area of low income or minority populations, the City of Escanaba will document that:

Other reasonable alternatives were evaluated and were eliminated for reasons such as the alternatives impacted a far greater number of people or did greater harm to the environment, etc.

The project's impact is unavoidable.

The benefits of the project far out-weigh the overall impacts and mitigation measures are being taken to reduce the harm to low income or minority populations.

If it is concluded that no minority and/or low income population groups are present in the project area, the City of Escanaba will document how the conclusion was reached. If it is determined that one or more of these population groups are present in the area, the City of Escanaba will administer potential disproportionate effects test.



The following steps will be taken to assess the impact of project on minority and/or low income population groups:

**STEP ONE:** Determine if a minority of low income population is present within the project area. If a conclusion is that no minority and/or low income population is present within the project area, document how the conclusion was reached. If the conclusion is that there are minority and/or low income population groups present, proceed to Step Two.

**STEP TWO:** Determine whether project impacts associated with the identified low income and minority populations are disproportionately high and adverse. If it is determined that there are disproportionately high and adverse impacts to minority and low income populations, proceed to Step Three.

**STEP THREE:** Propose measures that will avoid, minimize and/or mitigate disproportionately high and disproportionate adverse impacts and provide offsetting benefits and opportunities to enhance communities, neighborhoods and individuals affected by proposed project.

**STEP FOUR:** If after mitigation, enhancements and off setting benefits to the affected populations, there remains a high and disproportionate adverse impact to minority or low income populations, then the following questions must be considered:

Question 1: Are there further mitigation measures that could be employed to avoid or reduce the adverse effect to the minority or low income population?

Question 2: Are there other additional alternatives to the proposed action that would avoid or reduce the impacts to the low income or minority populations?

Question 3: Considering the overall public interest, is there a substantial need for the project?

Question 4: Will the alternatives that would satisfy the need for the project and have less impact on protected populations (a) have other social economic or environmental impacts that are more severe than those of the proposed action (b) have increased costs of extraordinary magnitude?

**STEP FIVE:** Include all findings, determinations or demonstrations in the environmental document prepared for the project.

## **FILING A COMPLAINT**

### **I. Introduction**

The Title VI complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding the City programs, activities and services as required by statute.

## II. Purpose

The purpose of the discrimination complaint procedures is to describe the process used by the City for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

## III. Roles and Responsibilities

The City Manager has overall responsibility for the discrimination complaint process and procedures. The City Manager may, at his/her discretion assign a capable person to investigate the complaint.

The designated investigator will conduct an impartial and objective investigation, collect factual information and prepare a fact-finding report based upon information obtained from the investigation.

## IV. Filing a Complaint

The complainant shall make him/herself reasonably available to the designated investigator, to ensure completion of the investigation within the timeframes set forth.

Applicability: The complaint procedures apply to the beneficiaries of City programs, activities and services, including but not limited to: the public, contractors, sub-contractors, consultants, and other sub-recipients of federal and state funds.

Eligibility: Any person who believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by the City or its sub-recipients, consultants and contractors on the basis of race, color, national origin (including Limited English Proficiency), sex, age or disability may bring forth a complaint of discrimination under Title VI.

Time Limitation on Filing Complaints: Title VI complaints may be filed with the City of Escanaba's City Manager.

In all situations, the City of Escanaba employees must contact the City Manager immediately upon receipt of Title VI related statutes complaints.

Complaints must be filed within 180 days of the alleged discrimination. If you could not reasonably be expected to know that the act was discriminatory within the 180 day period, you have 60 days after you became aware to file your complaint.

Complaints must be in writing, and must be signed by the complainant and/or the complainant's representative. The complaint must set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In cases where the complainant is unable or incapable of providing a written statement, the complainant will

be assisted in converting the verbal complaint into a written complaint. All complaints, however, must be signed by the complainant and/or by the complainant's representative.

Items that should not be considered a formal complaint: (unless the items contain a signed cover letter specifically alleging a violation of Title VI) include but are not limited to:

1. An anonymous complaint that is too vague to obtain required information
2. Inquiries seeking advice or information
3. Courtesy copies of court pleadings
4. Newspaper articles
5. Courtesy copies of internal grievances

## V. Investigation

Investigation Plan: The investigator shall prepare a written plan, which includes, but is not limited to the following:

- Names of the complainant(s) and respondent(s)
- Basis for complaint
- Issues, events or circumstances that caused the person to believe that he/she has been discriminated against
- Information needed to address the issue
- Criteria, sources necessary to obtain the information
- Identification of key people
- Estimated investigation time line
- Remedy sought by the complainant(s)

### Conducting the Investigation:

- The investigation will address only those issues relevant to the allegations in the complaint.
- Confidentiality will be maintained as much as possible.
- Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case.
- A chronological contact sheet is maintained in the case file throughout the investigation.
- If a Title VI complaint is received on a MDOT related contract against the Road Commission, MDOT will be responsible for conducting the investigation of the complaint. Upon receipt of a Title VI complaint filed against the Road Commission, the complaint and any pertinent information should immediately be forwarded to the MDOT Office of Civil Rights Programs.

### Investigation Reporting Process:

- Within 40 days of receiving the complaint, the investigator prepares an investigative report and submits the report and supporting documentation to the office of the City Manager for review.

- The City Manager reviews the file and investigative report. Subsequent to the review, the City Manager makes a determination of "probable cause" or "no probable cause" and prepares the decision letter.

### **Reporting Requirements to an External Agency**

A copy of the complaint, together with a copy of the investigation report and final decision letter will be forwarded to the Michigan Department of Transportation Office, Office of Civil Rights Program within 60 days of the date the complaint was received.

### **Records**

All records and investigative working files are maintained in a confidential area. Records are kept for three years.

**APPENDIX A. [To be inserted in all Federal-aid contracts]**

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 shall comply with Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

Further, on any federal assisted contract, the Contractor and sub-contractor agree to comply with the Equal Employment Opportunity provisions cited in CFR 23, Subpart D – Construction Contract Equal Employment Opportunity Compliance Procedures, CFR 49 – Non-Discrimination in Federally-assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, E.E. 11246, Title VII of the Civil Rights Act of 1964, Michigan's Persons With Disabilities Act of 1976, and the Michigan Elliot-Larsen Civil Rights Act of 1976.

2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of subcontractors, including procurements of materials in the discrimination prohibited by Section 21.5 of the Regulation, including employment practices when the contractor covers a program set for in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations, or directives issues pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Highway Department of the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State Highway Department or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event the contractor's noncompliance with the nondiscrimination provisions of this contract, the State Highway Department shall impose such contract sanctions as it or the Federal Highway 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. Cancellation, termination or suspension of the contract, in whole or in part.
  
6. **Incorporation of Provisions:** The contractor shall include provisions of paragraphs (1) through (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the State Highway Department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State Highway Department to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## APPENDIX B. TRANSFER OF PROPERTY

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

### (GRANTING CLAUSE)

NOW THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the State of Michigan, will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) 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 State of Michigan all the right, title and interest of the Department of Transportation in and to said lands described Exhibit "A" attached hereto and made a part hereof.

### (HABENDUM CLAUSE)\*

TO HAVE AND TO HOLD said lands and interests therein unto the State of Michigan, and its successors forever, subject, however, the covenant, 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 shall be binding on the State of Michigan, its successors and assigns.

The State of Michigan, 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 shall on the grounds of race, color, 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 State of Michigan shall 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, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and

the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this deed.

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the State of Michigan pursuant to the provisions of the Civil Rights Act of 1964.

The (grantee, licensee, lessee, permittee, etc., as appropriated) for himself, his heirs, personal representatives, successors in interests, 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.,) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

(Include in licenses, lease, permits, etc.)

That in the event of breach of any of the above nondiscrimination covenants, the State of Michigan, shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Michigan and its assigns.

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.



## APPENDIX C. PERMITS, LEASES AND LICENSES

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the Michigan Department of Transportation, pursuant to the provisions of Assurance 7(a).

The grantee, licensee, lessee, permittee, etc., (as appropriate) for himself, his heirs, personal representative, 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall remain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)\*

That in the event of breach of any of the above nondiscrimination covenants, the Michigan Department of Transportation shall have the right to terminate the license, lease, permit, etc., and to re-enter and repossess said land and the facilities thereon, and hold the same as if said license, lease, permit, etc., had never been made or issued.

(Include in deeds)\*

That in the event of breach of any of the above nondiscrimination covenants, the Michigan Department of Transportation shall have the right to re-enter lands and facilities hereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Michigan Department of Transportation and its assigns.

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of the Title VI of the Civil Rights Act of 1964 and the Civil Rights Act of 1987.

APPENDIX D. TITLE VI COMPLAINT FORM

CITY OF ESCANABA  
TITLE VI NON-DISCRIMINATION COMPLAINT FORM

This form may be used to file a complaint with the City of Escanaba based on violations of Title VI of the Civil Rights Act of 1964. You are not required to use this form; a letter that provides the same information may be submitted to file your complaint.

Complaints should be filed within 180 days of the alleged discrimination. If you could not reasonably be expected to know the act was discriminatory within 180 day period, you have 60 days after you became aware to file your complaint.

If you need assistance completing this form due to a physical impairment, please contact James V. O'Toole, City Manager at (906) 786-9402, or e-mail [jotoole@escanaba.org](mailto:jotoole@escanaba.org).

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

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ (home) \_\_\_\_\_ (work)

Individual(s) discriminated against, if different than above (use additional pages, if needed).

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

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ (home) \_\_\_\_\_ (work)

Please explain your relationship with the individual(s) indicated above: \_\_\_\_\_  
\_\_\_\_\_

Name of agency and department or program that discriminated:

Agency or department name: \_\_\_\_\_

Name of individual (if known): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Date(s) of alleged discrimination:

Date discrimination began \_\_\_\_\_ Last or most recent date \_\_\_\_\_

**ALLEGED DISCRIMINATION:**

If your complaint is in regard to discrimination in the delivery of services or discrimination that involved the treatment of you by others by the agency or department indicated above, please indicate below the basis on which you believe these discriminatory actions were taken.

\_\_\_\_ Race      \_\_\_\_ Religion      \_\_\_\_ Color      \_\_\_\_ National Origin      \_\_\_\_ Sex

\_\_\_\_ Age      \_\_\_\_ Disability

Explain: Please explain as clearly as possible what happened. Provide the name(s) of witness(es) and others involved in the alleged discrimination. (Attach additional sheets, if necessary, and provide a copy of written material pertaining to your case).

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

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

Return the complaint form to City of Escanaba, Attn: James V. O'Toole, City Hall/Library Complex, 410 Ludington Street, Escanaba, MI 49829. Phone (906) 786-9402. Fax (906) 786-4755 or via e-mail [hr@escanaba.org](mailto:hr@escanaba.org).

*Note: The City of Escanaba prohibits retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by policies of the City. Please inform the City Manager if you feel you were intimidated or experience perceived retaliation in relation to filing this complaint.*

**APPENDIX E. Program Compliance/Review Goals for Current Plan Year**

1. The City Title VI Plan will be communicated to each City Department Head who will review the Policy with appropriate departmental employees.
2. The City Title VI Plan will be published on the City of Escanaba's Website.
3. Appendix A will be included in all City contracts as outlined in the Title VI Plan.
4. The language in Number 2 of the City of Escanaba Title VI Assurance will be included in all solicitations for bids for work or material subject to the Regulations and in all proposals for negotiated agreements.
5. A procedure for responding to individuals with Limited English Proficiency will be implemented.
6. All City employees will be trained or made aware of the LEP procedure and the Title VI complaint procedure.
7. A review of City facilities will be conducted in reference to compliance with the American Disabilities Act.
8. The following data will be collected and reviewed by the City Manager and included, where appropriate, in the annual report submitted to MDOT.
  - a. **Boards and Commissions:** The number of vacancies; how vacancies are advertised and filled; the number of applicants; the representation of minorities will be evaluated.
  - b. **Public Meetings:** The number of open meetings. How meeting dates and times communicated to the general public and to individuals directly affected by the meeting.
  - c. **Construction Projects:** The number of construction projects, number of minority contractors bidding and the number selected; Verification that Title VI language was included in bids and contracts for each project.
  - d. **LEP Needs:** How many requests for language assistance were requested or required and the outcome of these requests.
  - e. **Complaints:** The number of Title VI complaints received; nature of the complaints; resolution of the complaints.
  - f. **Timeliness of Services:** Number of requests for services; Amount of time from request to when service was delivered; Number of requests denied.
  - g. **Right of Way/Imminent Domain:** Numbers of such actions and diversity of individual affected.
  - h. **Program Participants:** Racial Data of program participants where possible.