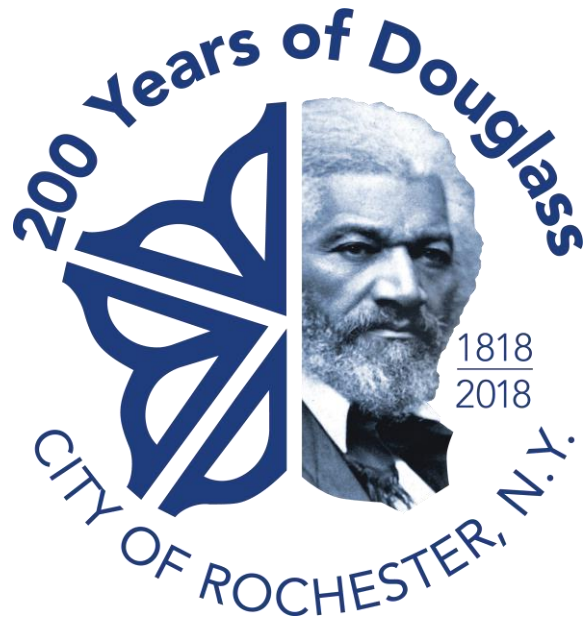


# City of Rochester



## TITLE VI NON-DISCRIMINATION PLAN

## City of Rochester Title VI Plan

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## **Title VI Non-discrimination Policy Statement**

The City of Rochester assures that no person shall on the grounds of race, creed, color, national origin, age, sex, disability marital status, source of income, gender, gender identity or expression, retaliation, or sexual orientation\*\* be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The City of Rochester further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

In the event that the City of Rochester distributes federal aid funds to another governmental entity, the City of Rochester will include Title VI language in all written agreements and will monitor for compliance. The City of Rochester's Contract Compliance Office is responsible for initiating and monitoring Title VI activities, preparing required reports and other City of Rochester responsibilities as required by federal, state, and local laws, and implementing regulations.

\*\* Applicable federal laws prohibit discrimination on the bases of the protected classes of race, color, national origin (including limited English proficiency), sex, age, and disability. Rochester Municipal Code §63, also includes as protected classes, creed, marital status, source of income, gender, gender identity or expression, and sexual orientation.

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### **Authorities and Citations Include:**

Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3; EO 13166.

Chapter 63 of the City's Municipal Code; Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, et seq.) and implementing regulations issued at 40 CFR Part 7 and 24 CFR Part 10 and 7; the Civil Rights Restoration Act of 1987 (102 Stat. 28); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794, et seq.) and implementing regulations at 24 CFR Part 8; the Age Discrimination Act of 1975 (42 U.S.C. Section 6101, et seq.) and implementing regulations at 24 CFR Part 146; Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et. seq.) and implementing regulations issued at 7 CFR Part 15 a; Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and implementing regulations issued at 24 CFR part 8; the Fair Housing Act (42 U.S.C. Section 3601, et seq.) and implementing regulations at 24 CFR Part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958--1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307 (Equal

Opportunity in Housing) and implementing regulations at 24 CFR Part 107; Executive Order 11246 (3 CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Part 60; Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. Section 1701u) and implementing regulations issued at 24 CFR Part 135; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971-1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise); other applicable federal non-discrimination laws, including but not limited to, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, 40 C.F.R. Part 7, 23 C.F.R. Part 200, and 49 C.F.R. Part 21; and related statutes and regulations in all programs and activities, as further stated in any project documents and agreements executed by and between the City and each successful applicant.

## **City of Rochester Title VI Coordinator Access and Program Specialists Designations**

The City of Rochester has appointed Affirmative Action Officer Rose M. Nichols as the City of Rochester's Title VI Non-Discrimination Coordinator.

The City is required to appoint a Coordinator under 23 CFR 200.9(b)(1) with easy access to the head of the agency. The Civil Service Job Specification expressly provides that the Affirmative Action Officer has direct access to all City Department Heads, the Mayor and the Mayor's immediate staff. The contact information for the City's Title VI Non-Discrimination Coordinator is as follows:

Rose M. Nichols  
Title VI Non-Discrimination Coordinator  
30 Church Street, Room 103A  
Rochester, NY 14614  
(585) 428-6509  
[Rose.Nichols@cityofrochester.gov](mailto:Rose.Nichols@cityofrochester.gov)

### **Appointment of Title VI Program Specialists**

In addition to appointing a Title VI Non-Discrimination Coordinator, the City of Rochester has proactively appointed several Title VI Program Specialists to annually monitor the City's emphasis program areas. The emphasis program areas are: 1) Planning, 2) Environment, 3) Design, 4) Right-of-Way, 5) Construction, 6) Maintenance, 7) Safety, and 8) Research. The mailing address for all such contacts is 30 Church Street, Room 300B, Rochester, NY 14614. The personal contact information for each Program Specialist is as follows:

#### Contract Compliance:

Rosalind Brooks-Harris, [Rosiland.Brooks-Harris@CityofRochester.Gov](mailto:Rosiland.Brooks-Harris@CityofRochester.Gov)

#### Engineering Services, including Design, Construction, Maintenance, and Right-of-Way:

Kamal Crues, [Kamal.Cruess@CityofRochester.Gov](mailto:Kamal.Cruess@CityofRochester.Gov)

#### Environmental Services and Safety:

Kamal Crues, [Kamal.Cruess@CityofRochester.Gov](mailto:Kamal.Cruess@CityofRochester.Gov)  
(Including Maintenance, Safety, and Research)

#### Planning and Research:

Erik Frisch, [Erik.Frisch@CityofRochester.Gov](mailto:Erik.Frisch@CityofRochester.Gov)

## **Special Emphasis Programs Administration and Title VI Non-Discrimination Coordinator Responsibilities**

As authorized by the Mayor, the Title VI Non-Discrimination Coordinator and Title VI Program Specialists are responsible for initiating, monitoring, and ensuring the City's compliance with Title VI requirements as follows:

1. Process, review and investigate Title VI complaints received by the City in accordance with the City of Rochester's Complaint Procedures. If any individual believes they or any other program beneficiaries have been subject to unequal treatment or discrimination as to the receipt of benefits and/or services, or on the grounds of race, creed, color, national origin, age, sex, disability, marital status, source of income, gender, gender identity or expression, retaliation, or sexual orientation, they may file a complaint with the City. It is the goal of the City to resolve complaints informally at the lowest City managerial level.
2. Collect statistical data (race, creed, color, national origin, age, sex, disability, marital status, source of income, gender, gender identity or expression, retaliation, or sexual orientation) of participants in and beneficiaries of, City highway programs (i.e., relocatee's, impacted citizens, and affected communities). Each of the Title VI special emphasis program areas will maintain data to be incorporated in the Title VI updates. Procedures will be reviewed regularly to ensure the data is sufficient in meeting the Title VI program administration requirements.
3. Review special emphasis program areas to determine the effectiveness of program area activities at all levels. In addition to the day-to-day monitoring, all special emphasis program areas will be reviewed annually to assure effectiveness in their compliance of Title VI provisions. The Title VI Non-Discrimination Coordinator and Title VI Program Specialists will coordinate efforts to ensure equal participation in their program areas and activities at all levels.
4. Conduct Title VI reviews when necessary of contractors and other recipients of federal aid highway funds.
5. Work with special emphasis program staff to ensure the respect of fundamental principles of Environmental Justice outlined below:
  - Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
  - Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.

-Prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

6. Develop Title VI and Limited English Proficiency (LEP) information for public dissemination. Ensure dissemination to the general public and, where appropriate, in languages other than English. The City will disseminate Title VI Program information to City employees, contractors, subcontractors, consultants, and subconsultants as well as the general public. Public dissemination will include posting of public statements and inclusion of Title VI language in contracts. The Title VI/Non-discrimination Policy Statement will be published on the City's website, in newspapers having a general circulation in the vicinity of proposed projects, and in announcements of hearings and meetings in minority publications.
7. Conduct pre-grant and post-grant approval reviews of City programs and applicants for compliance with Title VI requirements; i.e., highway location, design and relocation, and persons seeking contracts with the City.
8. Prepare an Annual Title VI Update Report. The update will report on any accomplishments and changes to the program occurring during the preceding year. The update will include goals and objectives for the upcoming year.
9. Schedule training for Title VI related statutes for City employees. The training will provide comprehensive information on Title VI provisions, its application to program operations, identification of Title VI issues and resolution of complaints. All directives providing operational guidelines to all subrecipients, and special emphasis program areas will be reviewed annually to include Title VI language and provisions and related requirements, where applicable.
10. Identify and eliminate discrimination when found to exist. Work with all City Offices and Departments to establish procedures for promptly resolving deficiencies. Procedures will be implemented to identify and eliminate discrimination when found to exist, including, but not limited to utilization of disadvantaged business enterprises, public involvement, and property acquisition.
11. Establish procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary within a period of 90 days. The City 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 irregularities occur in the administration of the program's operation, procedures will be implemented to resolve Title VI issues, and reducing to writing remedial action agreed necessary within a period of 90 days.

Subrecipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after their receipt of the deficiency letter, to voluntarily correct deficiencies.

The City will seek the cooperation of the subrecipient in correcting deficiencies found during the Title VI compliance reviews. The City will also provide the technical assistance and guidance needed to aid the subrecipient to comply voluntarily.

When a subrecipient fails or refuses to voluntarily comply with requirements within the allotted time frame, the City will submit a copy of the case file to NYSDOT's Office of Civil Rights or the FHWA and a recommendation that the subrecipient be found in noncompliance.

A follow-up review will be conducted within 180 days of the initial review to ensure that the subrecipient has complied with the Title VI Program requirements in correcting deficiencies previously identified.

12. Maintain updated legislative and procedural information regarding the City's Title VI Program. This will include federal laws, rules and regulations, NYSDOT guidelines, the City Plan and updates, and other resource information pertaining to Title VI issues.



## **Title VI Non-Employee Complaint Procedures**

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, (including its Disadvantaged Business Enterprises (DBE)), Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any transportation, Public Works program, or activity or program administered by the City, as well as to subrecipients, consultants, and contractors. These procedures apply to complaints filed against a program or activity funded by either the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Aviation Administration (FAA), or the Environmental Protection Agency (EPA).

Any person who files a complaint or testifies, assists, or participates in a discrimination complaint investigation, proceeding or hearing may not be intimidated or retaliated against by the City for the purpose of interfering with any right or privilege guaranteed by the Civil Rights Act of 1964, Section 504, or other civil rights statutes.

These procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination.

These procedures are part of an administrative process, which does not provide for remedies that include punitive damages or compensatory remuneration for the complainant. Every effort will be made to obtain early resolution of a complaint at the lowest managerial/administrative level possible. The option of informal mediation meeting(s) between the affected parties and the investigator may be used for resolution, at any stage of the process. The investigator will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

### **Complainant**

Any person who believes that they have been subjected to discrimination or retaliation in the administration of any programs or activities prohibited under Title VI, and §63 of Rochester Municipal Code, based upon race, creed, color, national origin, age, sex, disability, marital status, source of income, gender, gender identity or expression, retaliation, or sexual orientation, may file a written complaint with the City of Rochester.

If a discrimination complaint about a City program or service cannot be resolved informally, a complaint may be filed with the Title VI Non-Discrimination Coordinator using the below procedures.

### **Time Limits for Filing**

The complaint must be submitted to the Coordinator no later than 180 days after the date of the alleged discrimination.

## **Form and Content of a Complaint**

A Non-Employee Discrimination Complaint Form can be obtained by calling 311 or by downloading the form from our website at: [www.cityofrochester.gov](http://www.cityofrochester.gov). The following information is required on the complaint form or you may submit a signed written statement that contains all of the following written information:

- a. Your name, address and how to contact you (phone number, email address etc.)
- b. The basis of the alleged discrimination (race, creed, color, national origin, age, sex, disability, marital status, source of income, gender, gender identity or expression, retaliation, or sexual orientation).
- c. The date or dates on which the alleged discriminatory event or events occurred.
- d. A statement that describes how, why, when and where you believe you were excluded from participation in, were denied the benefits of, or were subjected to discrimination.
- e. Include the location, names and contact information of any witnesses.
- f. If a complaint has been filed with another agency or court, include the agency or court where it was filed with a contact name.
- g. You or your designee must sign your letter of complaint.

If the complainant is unable to write a complaint, the Coordinator should be contacted for assistance. The City of Rochester is committed to providing open access to its services to persons with limited ability to speak or understand English; if requested by the complainant, the Coordinator will provide language translation services.

The signed and dated complaint should be sent to the following address:

City of Rochester  
Department of Human Resource Management  
Attn: Non-Discrimination Coordinator  
30 Church Street, Room 103A  
Rochester, NY 14614  
Telephone: (585) 428-6509  
E-mail: [Rose.Nichols@cityofrochester.gov](mailto:Rose.Nichols@cityofrochester.gov)

## **Complaint Acknowledgement**

A letter acknowledging receipt of the complaint will be issued to the complainant within five (5) business days of its receipt by the Coordinator.

If the complaint is outside of the jurisdiction of the City, within ten (10) business days after receipt of the complaint the Coordinator will notify the complainant of the City's lack of jurisdiction to address the complaint. The complainant will be notified of the name and contact information for the appropriate agency with jurisdiction, if known.

Acceptance of a complaint will be determined by

- Whether the complaint is timely filed;
- Whether the allegations involve a covered basis such as race, creed, color, national origin, age, sex, disability, marital status, source of income, gender, gender identity or expression, retaliation, or sexual orientation,
- Whether the allegations involve a program or activity of a Federal-aid recipient, subrecipient, or contractor; or, in the case of ADA allegations, an entity open to the public;

A complaint may be dismissed for the following reasons

- The complainant requests the withdrawal of the complaint;
- The complainant fails to respond to a request for additional information needed to process complaint within 30 days;
- The complainant cannot be located after reasonable attempts.

**Complaint Investigation**

Complaints, within the City of Rochester's jurisdiction, will be investigated promptly and impartially; a preponderance of the evidence standard will be applied to the complaint investigation. Reasonable measures will be taken to preserve any information that is confidential. At a minimum, the investigation will:

- a. Identify and review all relevant documents, practices, and procedures.
- b. Identify and interview persons with knowledge of the allegations of discrimination—for example, the person making the complaint, witnesses, or anyone identified by the complainant or respondent, anyone who may have been subjected to similar activity, or anyone else with relevant information.

The Coordinator will review the complaint and may solicit additional information from the complainant. If the additional information is requested and not received within thirty (30) days, the case may be closed. The case may be closed if the complainant no longer wishes to pursue the case.

In cases where the complaint is against one of the City's subrecipients, the Coordinator will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days from the date of the City's written notification of acceptance of the complaint to furnish their response to the allegations. The Coordinator will follow-up and investigate and information provided in the response as appropriate and relevant.

Upon completion of the investigation, the Coordinator will prepare a final report for the Mayor or the Mayor's designee. The investigation process and final report should be completed within 90 days of receipt of the complaint. When a Title VI violation is found to exist, corrective action will be taken immediately. The complainant and respondent will receive a copy of the final report with all required corrective actions.

### **Specific Procedures for Cases Involving Federal Highway Funds:**

In cases where the complaint is against one of the City's subrecipients of federal highway funds, the City will assume jurisdiction and will investigate and adjudicate the case. Complaints against the City, as recipient of federal highway funds, will be referred to the New York State Department of Transportation's Office of Civil Rights for proper disposition. In special situations warranting intervention to ensure equity, the NYSDOT Office of Civil Rights may assume jurisdiction and either complete or obtain services to review or investigate matters.

Within **40** calendar days of the acceptance of the complaint, the City Coordinator or NYSDOT investigator will prepare an investigative report for the Mayor or the Mayor's designee. The report will include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition. The Mayor or the Mayor's designee will have 10 calendar days to review and provide comments to the investigator.

Once the Coordinator or investigator addresses any comments to the preliminary investigative report, the report and its findings will be forwarded to the City Law Department for review. The Law Department attorneys will review the report and associated documentation and will provide input within 10 calendar days.

Any comments or recommendations from the City Law Department will be reviewed by the Mayor. There will be a period of 10 calendar days for the Mayor to discuss the report and any recommendations with the City's Title VI Coordinator, and to have the Coordinator address any modifications before the report's release to the corresponding United States Department of Transportation (USDOT) modality (FHWA, FTA, FAA).

The City of Rochester's final investigative report and a copy of the complaint will be forwarded to either NYSDOT, FHWA, FTA, or FAA, within 60 calendar days of the acceptance of the complaint.

The City of Rochester will notify the parties of its preliminary findings which are subject to the corresponding USDOT modality's concurrence.

The corresponding USDOT modality will issue the final decision to the City of Rochester based on the City's investigative report.

USDOT will analyze the facts of the case and will issue its conclusion to the complainant according to their procedures. Once the corresponding USDOT modality issues its final decision, the City of Rochester will notify all parties involved about such determination. USDOT's final determination is not subject to an appeal.

## **Special Emphasis Program Areas**

### **Planning**

#### **Planning and Program Development**

Develop near-term and long-term strategies to maintain and enhance the quality and safety of City transportation and infrastructure.

#### **Title VI Responsibilities**

- Ensure that all aspects of the transportation planning process comply with Title VI.
- Ensure participation of a cross section of various social, economic, and ethnic interest groups are represented in the planning process by disseminating program information to minority media and ethnic organizations and participating in roundtable meetings in minority and low-income communities when applicable.
- Assist the Title VI Coordinator in gathering and organizing information for internal annual Title VI Update Reports.
- Review the Program Development work program and other directives to ensure compliance with Title VI program requirements.
- Ensure equal participation on Citizens Advisory Committees (CAC) by requesting the CAC provide information regarding their selection process for members and to furnish information on membership make up (e.g., race, gender, and position within the organization) for evaluation.
- Visit CAC and public meetings to verify the level of participation of Title VI protected group members when offered in predominantly minority or low-income communities.
- Gather statistical data on program participation regarding race, color and national origin.

### **Environmental Services**

#### **Consultant Contracts Administration**

Identify the needs for each project, ensure they are met in the contract, and ensure consultant compliance to the satisfaction of the City.

#### **Authorities:**

48 CFR 31; 23 CFR 172

National Environmental Policy Act of 1969, 42-USC-4321

23 CFR Part 771

40 CFR Part 1500

49 CFR Part 622

EO 12898

#### **Consultant Selection Process**

Utilizing the request for proposal and competitive bidding processes, the City selects the appropriate contractors and vendors for the project. Title VI nondiscrimination provisions will be incorporated into all written contracts and materials in this process.

### **Environmental Process**

Work with neighborhood stakeholders and community groups to ensure that all affected residents have opportunities to participate in the planning, design, and construction of transportation projects.

### **Environmental Justice Outreach**

Public Involvement in the area of Environmental Justice will be achieved through outreach measures that assure meaningful involvement of minority and low-income populations. This will be achieved through a variety of measures, including but not limited to:

- Obtaining U.S. Census Data and data from the Rochester City School District to identify minority and low-income populations to determine impacts during the initial stages of project planning. Further analyze this data using additional sources, including area community, religious, and business associations, school districts, senior citizen groups, and economic development organizations.
- Inviting a cross section of the populace from social, economic, and ethnic groups in the planning process through written information in local newspapers and where possible, minority news media. Create notices that attract attention and are in layman's terms.
- Holding meetings at a variety of times during the day and providing various locations to facilitate access and participation by target populations.
- When necessary, translate documents, notices and hearings for limited English-speaking populations.
- Obtaining demographic data at applicable community meetings and public hearings. Data will be gathered through the use of voluntary self-reporting forms which include race, gender, and national origin. Copies of these forms will be sent to the Title VI Coordinator after each meeting.
- Document all evidence to support conclusions regarding Environmental Justice issues. Detail all efforts taken to identify minority or low-income populations affected by transportation planning activities.

### **Limited English Proficiency (LEP) Strategies**

Strategies to provide meaningful access to LEP persons to ensure that they can communicate effectively will be achieved by measures including but not limited to:

- Applying the "four factor analysis" process provided as a guideline from the U.S. Department of Justice to determine LEP needs. This process includes determining the number and proportion of LEP individuals within the population, the frequency with which LEP individuals will come in contact with the program, the nature and importance of the program to people's lives, and the resources available to provide translation services. The results of this analysis will be used for outreach and to engage LEP persons in the transportation planning process.

- Developing a demographic assessment for the impacted area to determine if there is a 5% or more minority population requiring special language assistance, and address the needs.
- Developing a written policy to ensure the implementation of LEP measures that identify and assess the language needs of its LEP population. Provide for a range of language assistance options, including notices to LEP persons in a language they can understand regarding their right to free language assistance.
- Training to ensure that staff are knowledgeable and aware of LEP policies and procedures, and are trained to work effectively in the facilitation of the process.
- Providing translation services for public documents and competent interpreters at public hearings.
- Increasing opportunities for public involvement, particularly by historically underserved populations including LEP individuals, by advertising in local and local minority newspapers.
- Monitoring the program to ensure that LEP persons have meaningful access to the transportation planning and implementation process.
- *See also* the City of Rochester's *Language Access Plan*, available on the City's website.

#### **Title VI Responsibilities**

- Monitor compliance with Title VI requirements in all aspects of the environmental process, including Environmental Justice and Limited English Proficiency requirements.
- Conduct meetings to review the project impact.
- Disseminate to the public their right to call or write the department to view plans and discuss environmental problems.
- Ensure DBE goal attainment.
- Coordinate the gathering of environmental information for the Annual Title VI Update Report including awards to DBE firms.
- Notify protected group residents of public meetings or hearings regarding a proposed project. Ensure time and location for public meetings or hearings is accessible.
- Maintain mechanisms to identify population affected by a project.
- Ensure participation of all segments of the impacted population in the location selection process.
- Ensure that all federally funded consultant contracts administered by this section have the appropriate Title VI Appendix enclosed.
- Review guidelines and procedures to ensure Title VI compliance.
- Maintain and update necessary data and documentation, including demographic data mapping ethnicity by area as required for completion of the department's internal annual Title VI Update Report.

# **Engineering Services**

## **Engineering Services**

Engineering services assess the City's infrastructure and prepares plans for construction, design, and repair. Special efforts will be made to inform members of minority communities of public hearings and other public involvement activities. These efforts include public notices in minority newspapers and selection of accessible location and time for public hearings or meetings.

## **Authorities**

The following is an abbreviated list of statutes and regulations that Engineering Services must follow in the conduct of its work: Title VI of the Civil Rights Act of 1964, Civil Rights Restoration Act of 1987, Americans with Disabilities Act (ADA), National Environmental Protection Act (NEPA), National Historic Preservation Act, New York State Environmental Quality Review Act (SEQRA), Clean Air Act Amendment 1990, New York State Historic Preservation Act, New York State Smart Growth Public Infrastructure Policy Act, Executive Order 12898 Environmental Justice in Minority Populations, Executive Order 13045 Protection of Children from Environmental Health Risks and Safety Risks, New York State Fire Code, Manual of Uniform Traffic Control Devices (MUTCD), New York State Vehicle & Traffic Law, Municipal Code of the City of Rochester; Title 23, U.S.C 109(d), 14(a), 217, 315 and 402(a); 23 CFR 1204.4; 23 CFR 771; 40 CFR Part 7; EO 12898; 49 CFR 1.48(b)(33) and 1.48(c)(2); among others.

## **Design Process**

Economic, social, topographic, and environmental impacts of a proposed project are key factors weighed in the location consideration. Special efforts in the area of Environmental Justice will be made to inform members of minority communities of public hearings and other public involvement activities. These efforts include public notices in minority newspapers and selection of accessible location and time for public hearings or meetings.

## **Construction Engineering**

Construction engineering deals with the designing, planning, construction, and management of infrastructures such as highways, bridges, airports, railroads, buildings, and utilities. Special efforts will be made to inform members of minority communities of public hearings and other public involvement activities. These efforts include public notices in minority newspapers and selection of accessible location and time for public hearings or meetings.

## **Authorities**

The following is an abbreviated list of statutes and regulations that Engineering Services must follow in the conduct of its work: Title VI of the Civil Rights Act of 1964, Civil Rights Restoration Act of 1987, Americans with Disabilities Act (ADA), National Environmental Protection Act (NEPA), National Historic Preservation Act, New York State Environmental Quality Review Act (SEQRA), Clean Air Act Amendment 1990, New York State Historic Preservation Act, New York State Smart Growth Public Infrastructure Policy Act, Executive Order 12898 Environmental Justice in Minority Populations, Executive Order 13045 Protection of Children from Environmental Health Risks and Safety Risks, New York State Fire Code,



Manual of Uniform Traffic Control Devices (MUTCD), New York State Vehicle & Traffic Law, Municipal Code of the City of Rochester, among others.

### **Construction Process**

Construction Engineering is responsible for new construction and maintaining City roads and bridges by using the resources of contractors, equipment, and materials in the most economic way. Construction Engineering provides guidance and oversight for the administration of transportation construction projects. Special efforts will be made to inform members of minority communities of public hearings and other public involvement activities. These efforts include public notices in minority newspapers and selection of accessible location and time for public hearings or meetings.

### **Title VI Responsibilities**

- Ensure that all aspects of the location selection process comply with the Title VI requirements.
- Consult and seek input from affected populations.
- Develop mechanisms to identify affected populations.
- Assure public participation in the selection process.
- Provide notice of public meetings in minority newspapers and newsletters when appropriate.
- Maintain required Title VI compliance documentation and statistical data. Gather statistical data on race, color & national origin for program requirements.
- Monitor program components for compliance with the Title VI requirements.
- Review activities associated with public hearings to enhance the participation of targeted communities.
- Develop and update operational manuals and guidelines to ensure the inclusion of Title VI language and provisions.
- Gather program area data to be included in the internal annual Title VI Update Report.

## **Right-of-Way**

### **Right-of-Way Programming**

Right-of-way programming involves monitoring and administering construction and obstructions in the right-of-way. Right-of-Way programming is handled by the Permitting Department of DES and involves inspections and compliance measures in the right-of-way.

### **Authorities:**

The following is an abbreviated list of statutes and regulations that Engineering Services must follow in the conduct of its work: Title VI of the Civil Rights Act of 1964, Civil Rights Restoration Act of 1987, Americans with Disabilities Act (ADA), National Environmental Protection Act (NEPA), National Historic Preservation Act, New York State Environmental Quality Review Act (SEQRA), Clean Air Act Amendment 1990, New York State Historic Preservation Act, New York State Smart Growth Public Infrastructure Policy Act, Executive Order 12898 Environmental Justice in Minority Populations, Executive Order 13045 Protection of Children from Environmental Health Risks and Safety Risks, New York State Fire Code,

Manual of Uniform Traffic Control Devices (MUTCD), New York State Vehicle & Traffic Law, Municipal Code of the City of Rochester, 23 CFR 130, 49 CFR 24, among others.

### **Acquisition Process**

The guidelines in the Right-of-Way Manual are followed for property acquisition as well as all applicable laws and regulations, including Title VI and Section 504. The right of way acquisition process entails appraisal of property, negotiation of terms and conditions for acquisition, and assistance in the relocation of displaced individuals, businesses, farm operations, nonprofit organizations, and property management.

### **Title VI Responsibilities**

Ensure equal opportunity for disadvantaged businesses to participate in Personal Services Contracts. The contracts are typically appraisal contracts but can cover all services of real estate including negotiation, relocation, and property management. Ensure equal opportunity for disadvantaged business appraisers to participate by using current directories identifying fee appraiser organizations and the NYSDOT's list of certified fee appraisers. Apprise all affected property owners, tenants, and others involved of their rights and options regarding negotiation, relocation, condemnation and other aspects of the acquisition process.

- Conduct annual implementation reviews of Title VI provisions within the real estate acquisition process.
- Incorporate Title VI language and assurance statements in all surveys of property owners and tenants after the conclusion of all business. Coordinate the preparation of deeds, permits and leases to ensure the inclusion of the appropriate clauses, including Title VI Assurances.
- Ensure that appraised values and communications associated with the appraisal and negotiation operations result in equitable treatment.
- Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process.
- Maintain statistical data including race, color, national origin, and sex on all relocatees affected by federally funded projects, and provide detailed demographic data quarterly to the Title VI Coordinator.
- Gather the statistical data required for completion of City's Annual Title VI Update Report including awards to minority and female appraisers.

## **Contract Compliance**

### **Contract Compliance**

Contract compliance ensures that that the City is complying with standards regarding nondiscrimination and equal opportunity employment. It includes provisions that the City may not discriminate in any programs or services on the basis of any protected class; must accept applications from women and minorities; must solicit bids for contract work from minority-and-women-owned businesses; and follow fair hiring, retention, and promotion policies.

**Authorities:**

The following is an abbreviated list of statutes and regulations that Engineering Services must follow in the conduct of its work: Title VI of the Civil Rights Act of 1964, Civil Rights Restoration Act of 1987, Americans with Disabilities Act (ADA), National Environmental Protection Act (NEPA), National Historic Preservation Act, New York State Environmental Quality Review Act (SEQRA), Clean Air Act Amendment 1990, New York State Historic Preservation Act, New York State Smart Growth Public Infrastructure Policy Act, Executive Order 12898 Environmental Justice in Minority Populations, Executive Order 13045 Protection of Children from Environmental Health Risks and Safety Risks, New York State Fire Code, Manual of Uniform Traffic Control Devices (MUTCD), New York State Vehicle & Traffic Law, Municipal Code of the City of Rochester, among others.

**Title VI Responsibilities**

- Review all projects for application of DBE goals. Gather statistical data on DBE utilization.
- Include DBE general special provisions in those projects with goals. Include Title VI language in contract award letters to encourage utilization of DBE firms. Award of construction contracts shall be granted on the basis of the lowest responsive bidder including DBE requirements.
- Ensure through reviews that prime contractors with DBE requirements award previously committed work to proper DBEs and that DBEs actually perform commercially useful functions on contracts.
- Review activities to ensure maintenance and construction efforts and resources are applied uniformly and fairly.
- Maintain program documentation necessary for internal annual Title VI updates.

## Appendix 1

### PUBLIC NOTICE OF NON-DISCRIMINATION

The City of Rochester, does not discriminate on the basis of race, creed, color, national origin, age, sex, disability, marital status, source of income, gender, gender identity or expression, retaliation or sexual orientation, in the administration of its programs or activities, as is required by applicable laws, regulations and executive orders.

The City's Non-Discrimination Coordinator is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements of Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; Title II of the Americans with Disabilities Act of 1990, and other applicable federal non-discrimination laws, including but not limited to, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, 40 C.F.R. Part 7, 23 C.F.R. Part 200, 49 C.F.R. Part 21, and Rochester Municipal Code §63.

If you have questions about this notice or any of the City's non-discrimination programs, policies or procedures, you may contact:

**Rose M. Nichols**

Title VI Non-Discrimination Coordinator

City of Rochester

30 Church Street, Room # 103A

Rochester, New York 14618

(585) 428 -6509

[Rose.Nichols@cityofrochester.gov](mailto:Rose.Nichols@cityofrochester.gov)

If you believe that you have been discriminated against with respect to a City program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at [www.cityofrochester.gov](http://www.cityofrochester.gov) to learn how to file a complaint of discrimination.

## **Appendix 2**

### **The City of Rochester's Title VI DOT Required Assurances**

The City of Rochester (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, Environmental Protection Agency, or other federal agency 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, Nondiscrimination in Federally Assisted Programs of 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 race, color, sex, 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, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This Assurance is required by Subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances:

1. That the Recipient 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 Recipient shall insert the following or substantively equivalent notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal Aid Highway Program, and in adapted form in all proposals for negotiated agreements:

The City of Rochester, in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d-d4 and 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 issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that 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 race, color, sex, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix 1 of this Assurance in every contract subject to the Act and the Regulations.

4. That the Recipient shall insert the clauses of Appendix 2 of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall 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 shall extend rights to space on, over or under such property.

7. That the Recipient shall include the appropriate clauses set forth in Appendix 3 of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal Aid Highway Program.

8. That this Assurance obligates the Recipient for the period during which federal financial assistance is extended to the program, 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 shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom she/he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, 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.

10. The Recipient agrees that the United States has a right to seek judicial endorsement 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 Recipient by the Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person whose signature appears below is authorized to sign this Assurance on behalf of the Recipient.

## **Appendix 3 - For Contractors, Subcontractors, Suppliers, and Manufacturers**

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 the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter DOT), 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.

### **2. Nondiscrimination**

The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, creed, color, national origin, age, sex, disability, marital status, source of income, gender, gender identity or expression, retaliation, or sexual orientation in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

### **3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment**

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

### **4. Information and Reports**

The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by The City of Rochester or the NYSDOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. 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 City, or the New York State Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

### **5. Sanctions for Noncompliance**

In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, The City of Rochester and the NYS Department of Transportation shall impose such contract sanctions as it, or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the contractor under the contract until the contractor complies, and/or;

2. Cancellation, termination, or suspension of the contract, in whole or in part.

**6. Incorporation of Provisions**

The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the City 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 City enter into such litigation to protect the interests of the City and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.



## Appendix A

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

### GRANTING CLAUSE

NOW, THEREFORE, The City of Rochester, as authorized by law, and upon the condition that the state of Washington will accept title to the lands and maintains the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway 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 USC 2000d to 2000d--4) does hereby remise, release, quitclaim, and convey unto Pierce City all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

### HABENDUM CLAUSE

*Pursuant to the provisions of Title VI Assurances:* The purchaser, for itself, himself or herself, its, his or her heirs, personal representatives, successors in interest and assigns does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated on the property being purchased, for a purpose for which a United States Department of Transportation (USDOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, the purchaser shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, USDOT Subtitle A, office of the Secretary, part 21, Non-discrimination in federally assisted programs of the USDOT-Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

The purchaser, for itself, himself or herself, its, his or her heirs, personal representatives, successors in interest and assigns does hereby covenant and agree that (1) no person, on the grounds of race, color, sex or national origin shall be excluded from participation in, be 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 furnishings of services thereon, no person, on the grounds or race, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the purchaser shall use the premises in compliance with all requirements imposed by, or pursuant to Title 49, Code of Federal Regulations, USDOT Subtitle A, office of the Secretary, part 21, Non-discrimination in federally assisted programs of the USDOT-Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

## **Appendix B**

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the City of Rochester pursuant to the provisions of Assurances, number 7.

The LESSEE, or their heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree 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 lease, 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 LESSEE 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, as said Regulations may be amended. That in the event of breach of any of the above non-discrimination covenants, the City shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the City of Rochester pursuant to the provisions of Assurances, number 7.

The LESSEE, or their personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex or national origin shall be excluded from participation in, be 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 furnishing of services thereon, no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises 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.

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