



**METROPOLITAN**  
**PLANNING ORGANIZATION**

LAS CRUCES DOÑA ANA COUNTY MESILLA

**Title VI Plan**

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## **I. Nondiscrimination Statement of Policy**

### **Title VI Policy Statement**

The Mesilla Valley Metropolitan Planning Organization (MPO) is committed to compliance with Title VI of the Civil Rights Act of 1964, 49 CFR, part 2, and all related regulations and directives. The Mesilla Valley Metropolitan Planning Organization assures that no person shall on the grounds of race, color, national origin, gender, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity under any MPO program, activity or service.

Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quantity, quality, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; Discrimination in any activities related to highway and infrastructure or facility built or repaired; and Discrimination in employment.

### **Declaración de Política del Título VI**

La Organización de Planificación Metropolitana de Mesilla Valley (MPO) se compromete a cumplir con el Título VI de la Ley de Derechos Civiles de 1964, 49 CFR, parte 2 y todas las regulaciones y directivas. La Organización de Planificación Metropolitana de Mesilla Valley asegura que ninguna persona, por motivos de raza, color, nacionalidad, sexo, edad o discapacidad, será excluida de la participación, se le negarán los beneficios o será objeto de discriminación bajo ningún programa o actividad bajo cualquier programa MPO, actividad o servicio.

La discriminación prohibida puede ser intencional o involuntaria. Los actos aparentemente neutrales que tienen impactos desiguales sobre las personas de un grupo protegido y carecen de una justificación legítima sustancial son una forma de discriminación prohibida. El acoso y las represalias también son formas prohibidas de discriminación.

Los ejemplos de tipos de discriminación prohibidos basados en la raza, el color, la nacionalidad, el sexo, la discapacidad o la edad incluyen: La negación a un individuo cualquier servicio, ayuda financiera, u otro beneficio; Las distinciones en la cantidad, calidad o manera en que se proporciona un beneficio; La segregación o tratamiento separado; La restricción en el placer de cualquier ventaja, privilegios u otros beneficios proporcionados; La discriminación en cualquier

actividad relacionada con carreteras e infraestructura o instalaciones construidas o reparadas; y La discriminación en el empleo.

### **Environmental Justice/Limited English Proficiency Policy Statement**

The Mesilla Valley Metropolitan Planning Organization is also committed to assure every effort will be made to prevent the discrimination of low-income and minority populations as a result of any impact of its programs or activities in accordance with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and in Low-Income Populations.

In addition, the MPO also assures every effort will be made to provide meaningful access to persons that have Limited English Proficiency, in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.

### **Definition of Federal financial assistance and recipients affected**

Federal financial assistance is defined as any Federal dollars that are assigned to the MPO to support any program and activity, by way of grant, loan or contract, other than a contract of insurance or guaranty.

### **Specific Forms of Discrimination Prohibited**

MPO efforts to prevent discrimination must address, but are not limited to:

- The denial of services, financial aid, or other benefits provided under a program.
- Distinctions in the quality, quantity, or manner in which the benefit is provided.
- Segregation or separation in any part of the program.
- Restriction in the enjoyment of any advantages, privileges, or other benefits provided to others.
- Different standards or requirements for participation.
- Methods of administration which directly or indirectly or through contractual relationships would defeat or impair the accomplishment of effective nondiscrimination.
- Discrimination in any activities related to a highway, infrastructure or facility built or repaired in whole or in part with Federal funds.
- Discrimination in any employment resulting from a program, the primary purpose of which is to provide employment.

### **Mesilla Valley Metropolitan Planning Organization programs and services covered by Title VI**

The Mesilla Valley Metropolitan Planning Organization Title VI Plan applies to all of the MPO programs, activities and services, regardless of funding source. Some sections deal with specific requirements (e.g. FTA funded programs).

## Authorities

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
2. Federal-Aid Highway Act of 1973 (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
3. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*) as amended, (prohibits discrimination on the basis of disability);
5. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability)
6. The Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended, 42 U.S.C. § 4601
7. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321;
8. 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department of Transportation-Effectuation of Title VI Of The Civil Rights Act of 1964*);
9. 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
10. 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On the Basis Of Handicap In Program Or Activities Conducted By The Department Of Transportation*);
11. 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
12. 23 C.F.R. Part 200 (FHWA's Title VI/Nondiscrimination Regulation);
13. 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
14. 28 C.F.R. Part 50.3 (DOJ Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964).

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Mesilla Valley MPO Officer

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Date

## II. Title VI and Environmental Justice – The Public Participation Plan (PPP)

The Mesilla Valley Metropolitan Planning Organization Public Participation Plan (PPP) describes how the MPO communicates and distributes information to the public as well as how the public can interact and provide comments to our organization. The needs of those traditionally underserved by the existing system will be sought and considered by the MPO.

Through its public involvement efforts, the MPO will strive to achieve the following Title VI and Environmental Justice (EJ) goals:

- To 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.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Title VI states that no person shall, on the ground of race, color, or national origin be excluded from participation in, denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The MPO will ensure that the input and feedback from all people will be considered in the development of MPO planning documents and activities.

EJ concerns and goals should be considered throughout all public engagement efforts, from project planning through construction and operation. This includes public outreach conducted during transportation planning and during the environmental reviews required by the National Environmental Policy Act (NEPA).

The following actions related to Environmental Justice and Title VI are meant to reduce the barriers for participation in the decision-making process by low income, minority or disabled individuals.

1. When possible, public meetings will be held in locations that are convenient to low and moderate income neighborhoods and accessible to disabled populations. Such locations include community centers, senior centers and schools. Where possible, members of our organization will meet at the locations of businesses, neighborhood groups, stakeholders, and other agencies.
2. Upon request, all of our organization's work products and documents will be made available in alternative formats, including Braille, large type and languages other than English.
3. The following statement will be included in all of our organization's documents:  
The MVMPO does not discriminate on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, or disability in the provision of services.

4. The following statement will be included in all meeting announcements:  
The MVMPO will make reasonable accommodation for a qualified individual who wishes to attend this public meeting. Please notify the MVMPO at least 48 hours before the meeting by calling 528-3043 (voice) or 1-800-659-8331 (TTY) if accommodation is necessary. This document can be made available in alternative formats by calling the same numbers list above. *Este documento está disponible en español llamando al teléfono de la Organización de Planificación Metropolitana de Mesilla Valley: 528-3043 (Voz) o 1-800-659-8331 (TTY).*
5. Agencies and organizations that represent low income, minority and disabled populations will be identified and included in our organization's mailings. Our staff will maintain an active listing of contacts for these organizations.
6. Our organization will evaluate Environmental Justice actions and Title VI requirements on an annual basis to ensure effectiveness of public involvement. This document will be reviewed and updated in conjunction with the Public Participation Plan.

### **Communication and Notification to the Public**

All members of the public are ensured protections against discrimination which are afforded to them by Title VI. To ensure open communication with the public, the MPO will adhere to the following requirements:

- The Mesilla Valley Metropolitan Planning Organization will disseminate agenda and public meeting information to members of the public via accessible printed and electronic media, including postings on the MPO website and in the Las Cruces Sun News. Documents and agendas will be available at the MPO office 700 N. Main, Suite 3100, Las Cruces, NM 88004 and at other locations identified in the Public Participation Plan.
- Public notices of Mesilla Valley MPO meetings will be posted at the location of the meeting site.
- In appropriate documents, the MPO will include a statement that the organization complies with Title VI by assuring that no person shall on the grounds of race, color, national origin, gender, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity under any MPO program, activity, or service.

Section VI of this plan describes the procedures on how members of the public can request additional information regarding the Mesilla Valley Metropolitan Planning Organization Title VI obligation. This section also identifies the procedures to be followed by members of the public to file a discrimination complaint against the Mesilla Valley Metropolitan Planning Organization.

### **III. Title VI and Environment Justice – Mesilla Valley Metropolitan Planning Organization Planning Requirements**

The Mesilla Valley Metropolitan Planning Organization is responsible for ensuring Title VI compliance for the following planning activities:

### **Data Collection**

Census and other statistical data will be collected by the MPO as a means of identifying low income and minority populations within the MPO. The data will be maintained for the purpose of planning projects and programs that serve various population groups. The data collection process will be reviewed regularly to ensure sufficiency in meeting Title VI requirements.

- Mesilla Valley Metropolitan Planning Organization Actions
  - Collect, maintain, and update databases of low income and minority concentrations within the MPO area
  - Utilize the data when developing plans and studies
  - Develop demographic profile maps to help identify neighborhoods with high concentrations of low income and minority populations
  - Use these maps in various planning documents

### **Unified Planning Work Program**

The Mesilla Valley Metropolitan Planning Organization Unified Planning Work Program (UPWP) is the biannual list of projects and activities that are expected to be completed by MPO Staff. In this document, MPO Staff will identify projects, studies, and other activities that will provide more transportation options to disadvantaged populations.

- Mesilla Valley Metropolitan Planning Organization Actions
  - Identify planning activities that will encourage involvement by all populations
  - Analyze the benefits and impacts that planning studies might have on low income and minority populations
  - Create maps highlighting socio-economic groups and their geographical relationship to jobs, housing, and transportation options for all modes

### **Transportation Improvement Program**

The Transportation Improvement Program (TIP) is the short term program of projects that are expected to be designed, engineered, and constructed within the next four years. Projects should be reviewed to assess the benefits and impacts they might have on various aspects of the population.

- Mesilla Valley Metropolitan Planning Actions
  - Work with the entities to identify transportation projects that serve areas of the MPO with low income and minority populations
  - Provide opportunity for all populations to provide input into project identification



## **Metropolitan Transportation Plan**

The Metropolitan Transportation Plan (MTP) is the long range, comprehensive plan that identifies the projects, programs, and policies needed in the next 20 years to meet the transportation needs of this area. Using various data collected by the MPO, the MTP can estimate growth patterns of disadvantaged populations and address the benefits and burdens that future transportation projects might have.

- Mesilla Valley Metropolitan Planning Organization Actions
  - Develop demographic profile maps that project growth in disadvantaged populations over at least a 20-year planning horizon
  - Give all populations opportunity to provide input into project identification
  - Assess the effects that future land use decisions and transportation projects might have on the neighborhoods, the environment, and the economy
  - Ensure that the benefits and impacts of future transportation systems are equally distributed among all areas of the MPO

## **Transit Planning**

The Mesilla Valley Metropolitan Planning Organization has two transit service providers within its planning area: RoadRUNNER Transit and the South Central Regional Transit District. RoadRUNNER Transit is the transit service provider for the City of Las Cruces and the South Central Regional Transit District provides service to rural Doña Ana County as well as connecting to Otero County.

- Mesilla Valley Metropolitan Planning Organization Actions
  - Using demographic profile maps, ensure that transit routes and stops fully serve those neighborhoods with high concentrations of low income and minority populations.
  - Work with RoadRUNNER Transit and the South Central Regional Transit District to identify necessary changes to routes
  - Ensure bus stop locations are fully accessible for all users, both at the site and in the vicinity

## **IV. Title VI Related Training**

The Mesilla Valley Metropolitan Planning Organization shall ensure that staff is trained and familiar with MPO related Title VI policies and procedures.

## **V. Title VI Complaint Procedures**

The Mesilla Valley Metropolitan Planning Organization is committed to ensuring that all residents have equal access to all transportation services. It is further the intent of the MPO that all

residents are aware of their rights to such access. Any person believing he or she has been excluded from, denied participation in, denied the benefits of, or otherwise has been subjected to discrimination under any transportation service, program or activity (whether Federally-funded or not) due to that person's race, color, national origin, gender age, disability, economic status, or limited English proficiency has the right to file a complaint.

The complaint procedures cover the following:

- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Civil Rights Restoration Act of 1973
- Civil Rights Restoration Act of 1987
- Americans with Disabilities Act of 1990
- Executive Order 12898
- Executive Order 13166

Any individual, group of individuals or entity may file a formal Title VI complaint. ***Complaints must be submitted to the MPO Officer in writing, signed and dated, within 180 days of the alleged discriminatory act (or latest occurrence).*** The complaint should be submitted to the following address:

Mesilla Valley Metropolitan Planning Organization  
c/o Andrew Wray, Acting MPO Officer  
P.O. Box 20000  
Las Cruces, NM 88004

The complaint should include the name, address, phone number and signature of complainant. The formal complaint should describe the alleged discriminatory act that violates Title VI in detail.

Title VI complaints may also be filed directly with the New Mexico Department of Transportation (NMDOT), United States Department of Transportation (USDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA) or the Federal Railroad Administration (FRA) within the 180-day period of the alleged discriminatory act (or latest occurrence).

### **Complaint Process Overview**

1. When a complaint is received by MPO Staff, the complaint form will be checked for completeness and then if complete will be logged into a database.
2. The Mesilla Valley MPO Officer will complete an initial review of the complaint to determine if the complaint meets the basic required criteria:
  - Basis of alleged discrimination (race, religion, color, national origin, sex, age, or disability)

- Determination that the complaint was filed within the 180-day time period
  - Determination that the Mesilla Valley MPO is the appropriate contact for filing the complaint
3. Within 10 working days of the receipt of the complaint, the MPO will send notice to the complainant confirming receipt of the complaint; if needed notice will be sent requesting additional information, notify complainant that the activity was not related to MPO programs or activities, or does not meet the appropriate deadline. Also, if the Mesilla Valley Metropolitan Planning Organization is directly named in the complaint, notice will be sent within 10 working days to the New Mexico Department of Transportation for investigation.
  4. The MPO Officer will confer with the City of Las Cruces Community Development Director and New Mexico Department of Transportation to determine the most appropriate fact finding process to ensure that all available information is collected in an effort to reach the most informed conclusion and resolution of the complaint. The type of investigation techniques used may vary depending on the nature and circumstances of the alleged discrimination. An investigation may include but is not limited to:
    - Internal meetings of MPO Staff and legal counsel
    - Consultation with state and federal agencies
    - Interviews with complainant(s)
    - Review of documentation (i.e. planning, public involvement, and technical program activities)
    - Interviews and review of documentation with other agencies involved
    - Review of technical analysis method (if applicable)
    - Review of demographic data
  5. An investigation must be completed within 60 days of receiving the complete complaint, unless facts and circumstances warrant otherwise. The determination will be made based on the information obtained.
  6. Within 10 working days of the completion of the investigation, the MPO Officer will notify the complainant in writing of the final determination of the investigation. The notification will notify the complainant of their right of appeal to state and federal agencies if they are dissatisfied with the final decision. The letter and a report of the findings will be submitted to the New Mexico Department of Transportation

Federal law prohibits retaliation against individuals because they have filed a discrimination complaint or otherwise participated in a discrimination investigation. Any alleged retaliation should be reported in writing to the investigator.

Title VI complaints may also be filed directly with the following agencies as stated above:

New Mexico Department of Transportation  
Construction and Civil Rights Bureau  
Attn. Title VI Coordinator  
1570 Pacheco St. Suite A-10

Santa Fe, NM 87505  
Phone: (505) 470-9668

or

Federal Highway Administration, New Mexico  
Attn. Civil Rights Coordinator  
4001 Office Court Dr. Suite 801  
Santa Fe, NM 87507  
Phone: (505) 820-2021

or

New Mexico Human Rights Bureau  
1596 Pacheco St., Suite 103  
Santa Fe, NM 87505

# Organización de Planificación Metropolitana de Mesilla Valley

## Formulario de queja del Título VI

<b>Sección I</b>		
Nombre:		
Dirección:		
Teléfono (Casa / Celular):	Teléfono (Trabajo):	
Dirección de correo electrónico:		
<b>Sección II</b>		
¿Está presentando esta queja usted mismo?: Sí <input type="checkbox"/> No <input type="checkbox"/>		
*Si contestó "sí" a esta pregunta, vaya a la sección III.		
Si respondió "no", por favor ingrese el nombre y la relación con la persona en cuyo nombre está presentando la queja:	Nombre:	
	Parentesco:	
Si está presentando una queja como un tercero, explique por qué en el espacio a continuación:		
¿Ha obtenido el permiso de la parte agraviada si está presentando una declaración en nombre de un tercero?: Sí <input type="checkbox"/> No <input type="checkbox"/>		
<b>Sección III</b>		
Creo que la discriminación que experimenté se basó en (marque todos los que apliquen):		
<input type="checkbox"/> Raza	<input type="checkbox"/> Color	<input type="checkbox"/> Nacionalidad
<input type="checkbox"/> Género	<input type="checkbox"/> Edad	<input type="checkbox"/> Discapacidad
Fecha de presunta discriminación (mes, día, año):	Fecha:	
Explique, lo más claramente posible, qué sucedió y por qué cree que fue discriminado. Describa a todas las personas que estuvieron		

involucradas. Incluya el nombre y la información de la persona (s) a contactar que lo discriminó (si lo conoce), así como los nombres y la información de contacto de los testigos. Si se necesita más espacio por favor adjunte hojas adicionales a este formulario:

#### **Sección IV**

¿Ha presentado anteriormente una queja del Título VI)? Sí  No

#### **Sección V**

¿Ha presentado esta queja ante cualquier otra agencia federal, estatal o local, o ante cualquier tribunal federal o estatal? Sí  No

Si es así, por favor marque y nombre todo lo que corresponda:

Agencia Federal: \_\_\_\_\_

Tribunal Federal: \_\_\_\_\_

Agencia Estatal: \_\_\_\_\_

Tribunal Estatal: \_\_\_\_\_

Agencia Local: \_\_\_\_\_

Proporcione información sobre la persona a contactar en la agencia / tribunal donde se presentó la queja.

Nombre: \_\_\_\_\_

Título: \_\_\_\_\_

Agencia: \_\_\_\_\_

Dirección: \_\_\_\_\_

Teléfono: \_\_\_\_\_

### **Sección VI**

El nombre de la agencia que usted tiene queja:

Persona a contactar:

Título:

Número de teléfono:

Firma: \_\_\_\_\_

Fecha: \_\_\_\_\_

Por favor presente este formulario en persona en la dirección abajo o por correo a:

Mesilla Valley Metropolitan Planning Organization  
c/o Andrew Wray, Interim MPO Officer  
P.O. Box 20000  
Las Cruces, NM 88004

# Mesilla Valley Metropolitan Planning Organization

## Title VI Complaint Form

<b>Section I</b>	
Name:	
Address:	
Telephone (Home/Cell):	Telephone (Work):
Email Address:	
<b>Section II</b>	
Are you filing this complaint on your own behalf: Yes <input type="checkbox"/> No <input type="checkbox"/>	
*If you answered "yes" to this question, go to Section III.	
If you answered "no" please enter the name and relationship of the person you are filing the complaint against:	Name:
	Relationship:
If you are filing a complaint as a third party, please explain why in the space below:	
Have you obtained permission of the aggrieved party if you are filing on behalf of a third party: Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Section III</b>	
I believe the discrimination I experienced was based on (check all that apply): <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin	
Date of Alleged Discrimination (Month, Day, Year):	Date:
Explain, as clearly as possible, what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as the names and	



contact information of any witnesses. If more space is needed please attach additional sheets to this form:

#### **Section IV**

Have you previously filed a Title VI complaint)? Yes  No

#### **Section V**

Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court? Yes  No

If yes, please check and name all that apply:

Federal Agency: \_\_\_\_\_

Federal Court: \_\_\_\_\_

State Agency: \_\_\_\_\_

State Court: \_\_\_\_\_

Local Agency: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Agency: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

**Section VI**

Name of agency complaint is against:

Contact person:

Title:

Telephone number:

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

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

Please submit this form in person at the address below, or mail form to:

Mesilla Valley Metropolitan Planning Organization  
c/o Andrew Wray, Interim MPO Officer  
P.O. Box 20000  
Las Cruces, NM 88004

## Appendix A

### FHWA Assurances for Title VI and Other Nondiscriminatory Statutes

The Mesilla Valley Metropolitan Planning Organization (hereafter referred to as the "Recipient") HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

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

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

#### General Assurances

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

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

#### Specific Assurances

More specifically and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted programs and activities:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient shall insert the following notification in all solicitations for bids, Request For Proposals for work, or material subject to the Acts and the Regulations and made in

connection with the Federal Aid Highway Program, and in adapted form, in all proposals for negotiated agreements regardless of funding source:

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

3. The Recipient will insert the clauses of Appendix B and F of this Assurance in every contract or agreement subject to the Act and Regulations.
4. The Recipient shall insert the clauses of Appendix C of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend the right to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix D and Appendix E of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties.
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired, or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the project, except where the Federal assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.

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

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

The Mesilla Valley Metropolitan Planning Organization gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under Federal-Aid Highway Program. This ASSURANCE is binding on it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest and other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

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**Mesilla Valley MPO Officer**

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**Date**

## Appendix B

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. 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.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of the 49 CFR Part 21.
3. **Solicitations 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 will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the New Mexico Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Mesilla Valley Metropolitan Planning Organization or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor’s non-compliance with the nondiscrimination provisions of this contract, the Mesilla Valley Metropolitan Planning Organization will 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. cancelling, terminating or suspending the contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Mesilla Valley Metropolitan Planning Organization or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Mesilla Valley Metropolitan Planning Organization to enter into any litigation to protect the interests of the Mesilla Valley Metropolitan Planning Organization. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## **Appendix C**

### **Covenant Running with the Land Assurance**

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the State of New Mexico 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 Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation 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 New Mexico all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### **(Habendum Clause)**

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

The State of New Mexico, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and]\* (2) that the State of New Mexico will use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation,



Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department shall have a right to enter or re-enter said lands and facilities on said land, and the above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

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

## Appendix D

### Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the State of New Mexico, pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  1. In the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) and never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the State of New Mexico 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 make clear the purpose of Title VI.)

## Appendix E

### Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the State of New Mexico pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to the deeds, in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico will there upon revert to and vest in and become the absolute property of the State of New Mexico and its assigns.\*

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

## Appendix F

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

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (29 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the program or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high

and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your program (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (U.S.C. 1681 *et seq.*)