

LAS CRUCES METROPOLITAN PLANNING ORGANIZATION

RESOLUTION NO. 18-08

A RESOLUTION ADOPTING THE TITLE VI PLAN.

The Mesilla Valley Metropolitan Planning Organization (MPO) Policy Committee is informed that:

WHEREAS, the Mesilla Valley Metropolitan Planning Organization (MPO) is required to conduct a planning process in accordance with 23 CFR § 450.306.a.1-8; and

WHEREAS, preparation of a Title VI Plan is a requirement of the Federal Highway Administration (FHWA); and

WHEREAS, the Title VI Plan must be updated and renewed every five years; and

WHEREAS, the current draft attached as Exhibit "A" complies with the requirements; and

WHEREAS, the MPO Technical Advisory Committee recommended approval on October 4, 2018; and

WHEREAS, the MPO Bicycle and Pedestrian Advisory Committee recommended approval on August 21, 2018; and

WHEREAS, the Policy Committee has determined that it is in the best interest of the MPO for this Resolution adopting the Title VI Plan to be APPROVED.

NOW, THEREFORE, be it resolved by the Policy Committee of the Mesilla Valley Metropolitan Planning Organization:

(I)


THAT the Mesilla Valley Metropolitan Planning Organization's Title VI Plan is adopted as shown in Exhibit "A", attached hereto and made part of this resolution.

(II)

THAT staff is directed to take appropriate and legal actions to implement this Resolution.

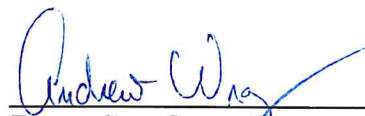
DONE and **APPROVED** this 10th day of October, 2018.

APPROVED:


Chair

Motion By:	Trustee Johnson-Burick
Second By:	Councilor Vasquez
VOTE:	
Chair Eakman	Yes
Vice Chair Rawson	Yes
Trustee Arzabal	Abs
Mayor Barraza	Yes
Mr. Doolittle	Yes
Trustee Johnson-Burick	Yes
Commissioner Rawson	Yes
Commissioner Solis	Yes
Councilor Sorg	Yes
Councilor Vasquez	Yes

ATTEST:


Recording Secretary

APPROVED AS TO FORM:

City Attorney



METROPOLITAN **P**LANNING **O**RGANIZATION

LAS CRUCES DOÑA ANA COUNTY MESILLA

Title VI Plan

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

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).

Mesilla Valley MPO Officer

Date

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

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

- 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

Organización de Planificación Metropolitana de Mesilla Valley

Formulario de queja del Título VI

Sección I	
Nombre:	
Dirección:	
Teléfono (Casa / Celular):	Teléfono (Trabajo):
Dirección de correo electrónico:	
Sección II	
¿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"/>	
Sección III	
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"/> Género	<input type="checkbox"/> Edad
	<input type="checkbox"/> Nacionalidad
	<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	

☐ 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

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: _____

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

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.

Mesilla Valley MPO Officer

Date

- 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.

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 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.)

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.*)