

**Title VI/Environmental Justice
Non-Discrimination Plan**

October 1, 2017 – September 30, 2018

**BACTS
12 Acme Road –Suite 104
Brewer, Maine 04412
(207) 974-3111**

Table of Contents

POLICY STATEMENT	2
AUTHORITIES	3
DEFINITIONS	4
ADMINISTRATION – GENERAL	6
SPECIAL EMPHASIS PROGRAM AREAS	8
LIMITED ENGLISH PROFICIENCY	9
FILING A COMPLAINT	10
INTERNAL COMPLAINT PROCESSING	12
INVESTIGATION	13
DISCRIMINATION COMPLAINT FORM	14

POLICY STATEMENT

The Bangor Area Comprehensive Transportation System is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants and, to ensuring that the public-at-large is afforded access to our programs and services.

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

BACTS conducts its Title VI/Environmental Justice Program in a team approach involving all BACTS personnel. The Director of BACTS is responsible for BACTS' compliance with the Title VI/EJ implementing regulations.

Inquiries concerning BACTS' policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI/Environmental Justice, may be directed to the Director, Bangor Area Comprehensive Transportation System, 12 Acme Road Suite 104, Brewer, ME 04412, telephone 207-974-3111.

This policy statement must be circulated throughout BACTS and be included by reference in all contracts, agreements, programs and services administered by BACTS.

September 30, 2017



Robert Kenerson, Jr.
BACTS Director

AUTHORITIES

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

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin (including Limited English Proficiency), or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21.5). Related statutes have broadened the grounds to include age, low income, and disability.

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

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

Age Discrimination Act of 1975, 42 USC 6106: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

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

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

USDOT Order 1050.2: Standard Title VI Assurances

EO 12250: Department of Justice Leadership and coordination of Non-discrimination Laws.

EO 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; and

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

EO 13166: Improving Access to Services for Persons with Limited English Proficiency.

DEFINITIONS

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

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

Significant Adverse Effects on Minority and Low-Income Populations – An adverse effect that:

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

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

Federal Assistance – Includes grants and loans of federal funds; the grant or donation of federal property and interests in property; the detail of federal personnel, Federal property of any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and any federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

Low Income – A person whose median household income is at or below the Department of Health and Human Services poverty guidelines (<http://aspe.os.dhhs.gov/poverty/poverty.htm>)

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

Minority – A person who is:

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

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

Noncompliance – A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all the requirements of Title VI/Environmental Justice and related statutes.

Persons – Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: White no of Hispanic origin; Black no of Hispanic origin; Hispanic; Asian or Pacific Islander; American Indian or Alaskan Native. Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

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

Recipient – Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentalit thereof, or any public or private agency, institution, or organization, or other entity, or5 any individual, in any stuate, territory, possession, the District of Columbia or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transperee thereof, but does not include any ultimate beneficiary under any such program.

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

ADMINISTRATION – GENERAL

The BACTS Director shall have lead responsibility for coordinating the administration of the Title VI/Environmental Justice (Title VI/EJ) and related statutes program, plan, and assurances. Special emphasis program areas for BACTS are Public Transit, Planning Assistance and Program Management. BACTS has developed a Public Involvement Process, which will be used in conjunction with the Title VI/Environmental justice program and is include by reference.

- Complaints

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

Complaints may also be filed directly with the Federal Highway Administration.

- Data Collection

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

Decennial census data and ACS data are extracted from the relevant website, and analyzed to see what level of minorities are present in the area, who would be vulnerable to the project, or unable to fully access the program. BACTS has no data of its own. The extracted census bureau data is mapped to help visualize the spatial distributions of sensitive populations.

- BACTS Reviews

Special emphasis program reviews will be conducted based on the annual summary of Title VI activities, accomplishments and problems. The reviews will be conducted by BACTS to assure effectiveness in their compliance of Title VI/EJ provisions. The BACTS Director will coordinate efforts to ensure the equal participation in all their programs and activities at all levels.

- Title VI/EJ Reviews on Sub-recipients

Title VI/EJ compliance reviews will be conducted annually by the BACTS Director. Priority for conducting reviews will be given to those recipients of federal (US Department of Transportation) funds with the greatest potential of impact to those groups covered by the act. The reviews will entail examination of the recipients' adherence to all Title VI/EJ requirements. The status of each review will be reported in the annual update and report to relevant US Department of Transportation (US DOT) modes (e.g. FHWA, Federal Transit Administration).

- Annual Reports
An annual report will be required by August 1 or each year. The BACTS Director will be responsible for coordination and compilation of these reports and submitted by September 1 to the Maine Department of Transportation. These reports will review Title VI/EJ accomplishments achieved during the year and goals for the next year.
- Title VI/EJ Plan Updates
An annual update of the Title VI implementing plan will be submitted by October 1 to the Federal Highway Division Administrator for approval or disapproval.
- FTA Title VI Compliance Reviews
In August, a report will be submitted to FTA at least every three years in accordance with FTA Circular 4702.1, Title VI Program Guidelines for Federal Transit Administration recipients. The report may be submitted more often should conditions warrant.
- Public Dissemination
BACTS will disseminate Title VI/EJ program information to BACTS employees and to the general public. Title VI/EJ program information will be submitted to sub-recipients, contractors, and beneficiaries. Public dissemination will include inclusion of Title VI/EJ language in contracts and publishing the Title VI/EJ Policy Statement on BACTS' Web site.
- Remedial Action
BACTS will actively pursue the prevention of Title VI/EJ deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective action(s). The period to determine corrective action(s) and put it (them) in writing to effect compliance may not to exceed 90 days from the date deficiencies are found.

SPECIAL EMPHASIS PROGRAM AREAS

Planning

Develop the Metropolitan Planning Organization's (MPO) input into the Maine Department of Transportation's Annual Capital Improvement Work Plan. The MPO is also responsible for developing a 20-Year Plan and the Transportation Improvement Program (TIP) to meet present and future needs for safe, adequate, and efficient transportation. Planning also encompasses clean air issues, safety, pavement management, transportation analysis, transportation reporting, inventory, research, mapping, major project studies and training and technical assistance for communities.

→ BACTS will:

- Ensure that all aspects of the planning process operation, including environmental impact reviews, comply with Title VI/EJ.
- Serve as a resource person helping to ensure participation of a cross section of people representative of the affected population, including various and diverse social, economic, and ethnic interest groups are represented in the planning process.
- Provide the annual report on Title VI/EJ accomplishments for the previous year and goals for the next year.
- Ensure equal opportunity for participation on Advisory Committees.
- Ensure Title VI/EJ language is included or incorporated by reference in every sub-recipient contract.

Transit

Coordinates passenger-related functions including bus, van pool, car pool, air, rail, and marine transportation and pedestrian and bicycle programs. Develops transportation alternatives that are environmentally sound, cost effective and politically acceptable.

→ BACTS will:

- Ensure that all aspects of passenger-related functions/programs/contracts/grant programs comply with Title VI/EJ.
- Provide the annual report on Title VI/EJ accomplishments for the previous year and goals for the next year. (See Appendix C: "FTA Circular 4702.1 data collection and reporting requirements")
- Ensure Title VI/EJ language is included, or incorporated by reference, in every sub-recipient contract.
- Perform reviews as needed of sub-recipients to ensure Title VI/EJ adherence.

LIMITED ENGLISH PROFICIENCY

Compliance with Title VI includes Limited English Proficient (LEP) persons. Language barriers prohibit people who are LEP from obtaining services and information relating to transportation services and programs. Because people who are LEP are not able to read instructions or correspondence written in English and may not understand verbal information, they often are not aware of regulatory requirements and legal implications of the services they seek.

It is essential that the BACTS personnel, transportation providers, professionals, and other sub-recipients of federal funds become informed about their diverse clientele from a linguistic, cultural and social perspective. These individuals should become culturally competent so they can encourage vulnerable LEP minority populations to access and receive appropriate transportation services with more knowledge and confidence.

U.S. DOT guidelines require that recipients of federal financial assistance provide “meaningful access to programs and activities” by giving LEP persons adequate and understandable information and allowing them to participate in programs and activities, where appropriate. The recipient has to take “reasonable steps” to remove barriers for LEP individuals.

Reasonable steps will depend on:

- The number and proportion of LEP persons potentially served by the recipient’s programs or activities and the variety of languages spoken in the recipient’s service area.
- The frequency with which LEP individuals are affected by the program or activity.
- The importance of the effect of the recipient’s program on LEP individuals.
- The resources available to the recipient and whether the recipient has budgeted for provision of special language services.
- The level of services provided to fully English proficient people.
- Whether LEP persons are being excluded from services or provided a lower level of services.
- Whether the recipient has adequate justification for restrictions, if any, on special language services or on speaking languages other than English.
- BACTS will list in any public announcement of a BACTS public meeting that *“Accommodations will be made for persons with disabilities. Auxiliary aids will be provided upon advanced notice. BACTS will bring a language card to each public meeting so anyone needing translation services can be accommodated.”* BACTS has an account with LanguageLine Solutions to provide over-the-phone translation services. Anyone needing sign language interpreting must give BACTS at least 24 hours advanced notice, and we will use Bangor Interpreting Agency of Hampden to fulfill these needs.

FILING A COMPLAINT

I. Introduction

The Title VI/Environmental Justice and Related Statutes complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding BACTS' programs, activities and services as required by statute.

II. Purpose

The purpose of the discrimination complaint procedures is to describe the process used by the Office of Human Resources (OHR) for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

III. Roles and Responsibilities

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

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

In cases where the complainant is unable or incapable of providing a written statement, the complainant will be assisted in converting the verbal complaint into a written complaint. All complaints, however, must be signed by the complainant and/or by the complainant's representative.

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

IV. Filing Complaints

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

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

Time Limitation and Filing Options Title VI/EJ complaints of discrimination may be filed with:

- BACTS
- Maine Department of Transportation
- Federal Highway Administration
- U.S. Department of Transportation

In all situations, the BACTS employees must contact the BACTS Director immediately upon receipt of a Title VI/EJ complaint.

Complaints must be filed no later than 180 days after:

- The date of the alleged act of discrimination; or
- The date the person became aware of the alleged discrimination; or
- Where there has been a continuing course of discriminatory conduct, the date on which the conduct was discontinued.

Complaints must be in writing and must be signed by the complainant and/or the complainant's representative. The complaint must set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event a person makes a verbal complaint of discrimination to a BACTS employee, or other person authorized to receive complaints on behalf of BACTS, shall interview the person. If necessary, the authorized person will assist the person in writing the complaint for the person or the person's representative to sign.

Designated BACTS special emphasis area operating elements will require the sub-recipients they serve to forward to the Director any complaint of discrimination made to them about their own actions or actions of sub-grantees or contractors.

INTERNAL COMPLAINT PROCESSING

Initial contact

Special emphasis program area representatives serve as BACTS' resources for members of the public who wish to file a discrimination complaint under Title VI/EJ and related statutes. As resources, they will provide complainants with:

1. An explanation of their filing options;
2. The discrimination complaint process; and
3. A Title VI/EJ and Related Statutes Discrimination Complaint Form.

Use of the Complaint Form is not necessary for the complainant. Rather, it is intended to help the complainant provide enough information to begin processing the complaint.

The Complaint Review Process

1. The Director or her/his designee, reviews the complaint upon receipt to ensure that relevant information is provided, the complaint is timely, and meets jurisdiction.
2. The complaint shall be investigated, unless:
 - The complaint is withdrawn.
 - The complainant fails to provide required information.
 - The complaint is filed beyond the 180-day timeframe.
 - The complainant is not part of a protected group.
 - The complaint is determined to be more appropriately under a jurisdiction other than BACTS. If this is the case, the complainant will be directed to the appropriate agency.
3. Upon determination that the complaint warrants a BACTS investigation, the complainant is sent a letter, acknowledging receipt of the complaint, and giving the name of the investigator.
4. The respondent – the person alleged to have committed the discrimination -- is notified by mail that she/he has been named in a complaint. The letter also includes the investigator's name and informs the respondent that she/he will be contacted for an interview.

INVESTIGATION

Investigation Plan

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

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

Conducting the Investigation

- The investigation will address only those issues relevant to the allegations in the complaint.
- Confidentiality will be maintained as much as possible.
- Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case.
- A chronological contact sheet is maintained in the case file throughout the investigation.

Investigation Reporting Process

- Within 40 days of receiving the complaint, the investigator prepares an investigative report and submits the report and supporting documentation to the Human Resources Director or her/his designee for review.
- The Director or designee reviews the file and investigative report. Subsequent to the review, the Director makes a final determination of “probable cause” or “no probable cause” and prepares the final decision letter.

Reporting Requirements to an External Agency

A copy of the complaint, together with a copy of the investigation report and the Director’s final decision letter, is forwarded to the Federal Highway Administration Maine Division Office within 60 days of the date the complaint was received.

Records

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

DISCRIMINATION COMPLAINT FORM

**BANGOR AREA COMPREHENSIVE TRANSPORTATION SYSTEM
Title VI/Environmental Justice and Related Statutes**

1. Name:
2. Address:
3. Telephone Number:
4. Name of person charged with discrimination (respondent):
5. Date of alleged discriminatory act:
6. Type of discrimination:

7. Please write a summary of the facts supporting your complaint (use additional pages as necessary):

8. Names of witnesses to the alleged discriminatory act:

9. What do you want as a remedy for the alleged discrimination?

Signed: _____

Date: _____