

# Title VI Implementation Plan



**October 1, 2021**

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## **I. INTRODUCTION**

The Colorado Department of Transportation (CDOT)'s mission is to provide the best multi-modal transportation system for Colorado that most effectively and safely moves people, goods, and information. CDOT is committed to achieving full compliance with Title VI of the Civil Rights Act of 1964 and all related non-discrimination laws. Through its policies, assurances, and procedures, CDOT makes every effort to ensure that no person is excluded from participation in, denied the benefits of, or otherwise subject to discrimination in any CDOT program or activity on the basis of race, color, national origin, sex, disability or age.

The Civil Rights & Business Resource Center (CRBRC) works with CDOT program specialists and regional civil rights staff to implement and monitor compliance with Title VI nondiscrimination requirements. Questions about CDOT's Title VI Program may be directed to:

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## **II. POLICY STATEMENT**

It is the policy of CDOT to prohibit discrimination on the basis of race, color, national origin, sex, disability or age. This policy is documented in CDOT Policy Directive 604.0 which is available to all CDOT employees and the public. The CDOT Policy Directive 604.0 is attached as **Appendix A**.

CDOT also has a Title VI/Nondiscrimination Procedural Directive 604.1 in support of CDOT's Nondiscrimination policy and in commitment to Title VI compliance. This procedural directive is also available to all CDOT employees. The CDOT Title VI/Nondiscrimination Procedural Directive is attached as **Appendix B**.

## **III. STANDARD USDOT TITLE VI ASSURANCE**

The U.S. Department of Transportation (USDOT) Standard Title VI/ Non-Discrimination Assurances were signed by CDOT Executive Director Shoshana M. Lew on October 1, 2021. The assurance is attached as **Appendix C**.

## **IV. ORGANIZATION & STAFFING**

CDOT's Executive Director is ultimately responsible for assuring full compliance with the provisions of Title VI and has directed that non-discrimination is required of all agency employees. Pursuant to 23 CFR 200.9 (b) (1), CDOT has established an adequately staffed civil rights unit to fulfill Title VI statutory and regulatory requirements. This civil rights unit, located

at CDOT Headquarters, is known as the Civil Rights & Business Resource Center (CRBRC). The CRBRC is part of the Office of the Chief Engineer. Organizational charts of CDOT and the CRBRC are attached as **Appendix D**.

Pursuant to 23 CFR 200.9, the CRBRC has been delegated the responsibility for Title VI actions and its Director has been designated the CDOT Title VI Coordinator. The Title VI Coordinator has direct access to the Executive Director via an agreed upon memorandum of understanding. The Title VI Coordinator oversees CRBRC staff, including the Civil Rights Program Manager, the Nondiscrimination and Subrecipient Compliance Manager (who functions as the Title VI Specialist), and the Subrecipient Compliance Specialist. The Nondiscrimination and Subrecipient Compliance Manager and the Subrecipient Compliance Specialist prepare implementation plans, conduct annual assessments of pertinent CDOT program areas, make recommendations to enhance compliance, investigate and resolve Title VI complaints if designated to do so by FHWA, and prepare all necessary reports.

The Civil Rights & Business Resource Center, previously called the Center for Equal Opportunity, was created in 1994 to coordinate CDOT's civil rights programs and serve as a resource for CDOT staff. The CRBRC is responsible for developing and implementing CDOT's civil rights and non-discrimination programs in accordance with state and federal laws, and under the direction of CDOT's Transportation Commission and Executive Director. The mission of the CRBRC is to advocate civil rights by:

- Promoting a diverse contractor workforce;
- Promoting equal access to transportation improvements, maintenance and systems for Colorado residents; and
- Promoting and maintaining equal opportunity for small and disadvantaged construction contractors and consultants.

The CRBRC does this by providing the following services:

- Training and business development services for small and disadvantaged construction contractors and consultants;
- Training and job placement for entry-level highway construction workers;
- Civil rights complaint investigation and resolution;
- Facilitating Environmental Justice and Limited English Proficiency requirements in programs and reporting;
- Timely completion of DBE certification applications and renewals;
- Implementing updated Title VI plans, monitoring and reporting mechanisms; and
- Monitoring and offering guidance to CDOT staff to ensure access to facilities and services for persons with disabilities.

The Title VI Coordinator is responsible for:

- Establishing a formal program for monitoring and enforcement of non-discrimination laws and regulations;
- Staffing the program adequately in order to provide technical support and consultation to

- CDOT program areas; and
- Reporting CDOT's efforts and compliance with the law to FHWA on an annual basis.

The Title VI Specialist is responsible for:

- Developing procedures for the prompt processing and disposition of complaints;
- Investigating complaints, compiling a complaint log, and reporting to FHWA;
- Developing procedures for the collection and analysis of statistical data;
- Developing a program to conduct Title VI reviews of program areas;
- Conducting review of programs, grant applications and special emphasis areas, subrecipients and state program directives;
- Monitoring Title VI activities and reports to appropriate FHWA administrators;
- Providing training on Title VI to staff, contractors and subrecipients;
- Developing Title VI information for dissemination;
- Reviewing state program directives in coordination with state program officials and, where applicable, include Title VI and related requirements;
- Establishing procedures for resolving deficiency status and reducing to writing the remedial action agreed to be necessary; and
- Reviewing and providing input for the public participation plan.

**Title VI Coordinator**

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CDOT also has Regional Civil Rights Offices (RCROs) in each of its five transportation regions to provide quality control in civil rights programs under their jurisdiction. The RCROs set project specific DBE and OJT goals, conduct regional contract compliance reviews, ensure regional compliance with civil rights laws and regulations, investigate discrimination complaints in the region, and develop appropriate outreach activities.

<b>CDOT Region 1</b> Patricia Bowling Regional Civil Rights Manager 2829 W. Howard Pl. Denver, CO 80204	<b>CDOT Region 2</b> Sara Rose Regional Civil Rights Manager 5615 Willis Blvd. Pueblo, CO 81008	<b>CDOT Region 3</b> Karl Lehmann Regional Civil Rights Manager 222 South 6th St. Grand Junction, CO 81501
<b>CDOT Region 4</b> Juliet Sheets Regional Civil Rights Manager 10601 W 10th Street Greeley, CO 80634	<b>CDOT Region 5</b> Jason Benally Regional Civil Rights Manager 3803 N. Main Ave. Durango, CO 81301	

## **V. PROGRAM AREA REVIEW PROCEDURES AND DESCRIPTIONS**

CDOT conducts program reviews of five areas: Statewide Planning, Environmental, Right of Way, Construction, and Safety. The objective of the review process is to understand the processes of each program area to ensure fairness and open access to all members of the public. The review process is also used to summarize and highlight efforts of each program area for conducting outreach and providing better access to CDOT's programs and activities for minority, low-income, and LEP populations.

As part of the program area review, the CRBRC meets a minimum of twice a year with program area representatives to discuss and get updates on Title VI, Environmental Justice, and LEP goals and progress toward accomplishing these goals. The CRBRC also requests Title VI-related data in the form of an assessment specific to that program area near the end of the federal fiscal year. The Title VI Specialist compiles information received by each program area, reviews meeting notes, and in coordination with each program area develops a list of goals for each program area. Program area staff then meet with the Title VI Specialist to discuss the proposed Title VI goals for the upcoming Federal Fiscal Year.

The following are descriptions of CDOT's five major program areas.

### **A. Statewide Planning Program**

The Division of Transportation Development (DTD) Multimodal Planning Branch consists of the Statewide Planning and Metropolitan Planning Organization (MPO) and Rural Transportation Planning Region (TPR) Liaison sections. The Statewide Planning Section is responsible for the development of long-range statewide and regional transportation plans, which outline a citizen-generated comprehensive multimodal transportation vision for Colorado. The statewide transportation plan sets forth the vision, goals, and strategies for transportation statewide, including highway, transit, freight and passenger rail, bicycle and pedestrian, and aviation improvements. The Statewide Transportation Plan, which includes a 10-year needs assessment, incorporates asset management, considers economic development and environmental sustainability and allows for future performance reporting to ensure sound investment in the transportation system.

A critical component of statewide planning is public involvement. DTD developed CDOT's public participation Plan that was last updated in January of 2016. DTD uses this plan as a guide to conduct public involvement during the creation and dissemination of the Statewide Transportation Plan. The public participation plan, *A Guide to the Transportation Planning and Programming Public Involvement Process*, was developed in consultation with local governments, MPOs, FHWA, and FTA. This plan can be found at [Transportation Planning Public Involvement Guide](#).

The most recent statewide planning document is the 2045 Statewide Transportation Plan. In May 2019, CDOT kicked-off a robust statewide and regional transportation and transit plan development process. The public engagement process for the 2045 Statewide Transportation

Plan utilized a range of various public engagement strategies. CDOT sought input from every corner of the state and many diverse communities, by attending local festivals, setting up tables at grocery stores, and joining a wide range of people at county fairs across the state. CDOT hosted telephone town hall conversations, reached out on social media, and spent hundreds of hours meeting with elected officials and local transportation experts. All of this engagement resulted in CDOT receiving over 9,000 online survey responses, over 16,000 telephone town hall participants, over 1 million social media impressions, and direct conversations with 3,500 people from all of the in-person public outreach events. The 2045 Statewide Transportation Plan was adopted by the Transportation Commission in August 2020. The next statewide planning process along with its concurrent public engagement process is anticipated to begin sometime in 2023 or 2024 for the 2050 Statewide Transportation Plan.

### Statewide Planning Program and Title VI

CDOT's *A Guide to the Transportation Planning and Programming Public Involvement Process* provides guidance on how to engage the public, in the planning process. A Title VI challenge inherent in the planning process is obtaining input from low-income and minority populations in the decision-making process. The guide contains a section that discusses common barriers that make public participation in transportation planning difficult for low-income and minority communities and identifies various techniques to combat those barriers. Also included is a Tribal Coordination Plan, which outlines the process for consulting with tribal governments on transportation planning and programming. Public involvement approaches specific to the development of the statewide transportation planning efforts are developed using this guidance document. These two planning documents are anticipated to be updated for the next statewide transportation planning cycle.

An additional Title VI challenge is ensuring diversity in representation on planning decision-making boards and committees. The Statewide Transportation Advisory Committee (STAC) advises CDOT on the needs of Colorado's transportation system and reviews and comments on all regional transportation plans. Meetings are hosted monthly to provide updates on planning activities including legislative and budget updates and emerging transportation issues. Recently DTD has implemented data collection procedures including collecting demographic data of the attendees at the STAC meetings.

The STAC is composed of representatives from both urban and rural areas of Colorado and voting representatives from the Southern Ute Indian Tribe and the Ute Mountain Ute Indian Tribe in southwest Colorado. CDOT staff provides STAC members and other interested parties with meeting notifications, as well as meeting minutes and materials via electronic mail (e-mail). Those without e-mail can receive meeting information via fax, mail or the [codot.gov](http://codot.gov) website.

The most recent topic covered regularly at STAC, has included the major stakeholder outreach efforts related to the passage of SB 21-260 Sustainability of the Transportation System by the Colorado State Legislature in June of 2021, that has resulted in scheduling nine public hearings also supported by Statewide Planning Section staff. The public hearings relate to revisions to the *Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions, 2 CCR 601-22*. These proposed revisions are intended to reduce greenhouse gas



emissions resulting from Colorado's transportation system. More information about this process is available at: [Greenhouse Gas Emissions Reduction Opportunities](#).

Related to Title VI, the GHG emission reduction mitigation measures being developed are to consider "*measuring and prioritizing localized impacts to communities and Disproportionately Impacted Communities*" with Disproportionately Impacted Communities defined as per "§ 24-38.5-302(3), C.R.S. as a community that is in a census block group, as determined in accordance with the most recent United States Decennial Census where the proportion of households that are low income is greater than forty percent (40%), the proportion of households that identify as minority is greater than forty percent (40%), or the proportion of households that are housing cost-burdened is greater than forty percent (40%)."

Also related to the current GHG rulemaking process, several of the Metropolitan Planning Organizations (MPOs) have conducted workshops to discuss the proposed revisions to the *Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions, 2 CCR 601-22* and to organize regarding how member jurisdictions and the MPOs will submit comments during the 60-day public review period that extends from August 13 through October 12, 2021. Statewide Planning Section staff have participated and supported these workshops.

The Statewide Planning Section is also responsible for oversight of MPOs. The Civil Rights and Business Resource Center (CRBRC) and the planning unit work together to provide information to MPOs and ensure MPO compliance with Title VI requirements. The CRBRC collects and reviews Title VI plans from all MPOs to ensure compliance with Title VI. MPO's are also subject to site visits, which include Title VI reviews in accordance with CDOT's Division of Transit and Rail procedures.

In addition, the Statewide Planning staff works with the CRBRC to identify training needs for the program area and identify Title VI concerns, and CRBRC staff attends the Statewide Planning monthly meetings as necessary.

## **B. Environmental Program**

CDOT's Environmental Programs Branch (EPB) and regional staff are responsible for the execution of procedures in accordance with the National Environmental Policy Act (NEPA) for all proposed CDOT and local agency transportation projects that constitute a federal action. Federal actions are projects, activities, or programs that are approved or funded in whole or in part under the direct or indirect jurisdiction of a federal agency. The purpose of the NEPA process is to provide a systematic, interdisciplinary approach to decision-making when actions may affect the quality of the human environment. The human environment includes both natural and social/economic resources. CDOT's NEPA Manual sets forth uniform criteria and procedures for determining the applicability of NEPA requirements to specific projects and establishes procedural requirements for assuring compliance. Work is typically completed by a private contractor with direct oversight by the CDOT regional environmental staff. EPB supports regional staff with technical oversight and assistance.

## Environmental Planning and Title VI

A required component of all NEPA evaluations is an analysis of whether the project satisfies the requirements of Environmental Justice, a federal policy derived from Title VI. Environmental Justice is the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies. Environmental Justice requires the evaluation of whether the project has potential to cause disproportionately high and adverse human health or environmental effects on minority and low-income populations. Chapter 9.15 of the NEPA Manual describes how to analyze Environmental Justice and its relation to Title VI. The CDOT NEPA Manual is available at <https://www.codot.gov/programs/environmental/nepa-program>.

An additional critical component of NEPA is public involvement. Project teams are required to document public involvement efforts during the NEPA process. Project teams are also required to identify LEP communities within the project area and provide necessary language assistance during the public involvement process. Chapter 7 of the NEPA Manual also addresses topics involving LEP, minority and low-income populations in the NEPA process. All data collection procedures developed by Environmental staff related to public involvement have been included in the most recent version of the NEPA manual. These public involvement processes have been entirely virtual in the past year, but necessary documents and meetings were translated.

The Environmental staff work together with the CRBRC coordinate to identify and address training needs for the program area and identify Title VI concerns.

### **C. Right of Way Program**

CDOT's Right of Way (ROW) Program acquires real property for CDOT's state and federally funded highway projects and provides oversight of acquisitions on behalf of FHWA on local public agency projects affecting a state highway or interstate in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 as amended (Uniform Act). CDOT's ROW Program also ensures Uniform Act and Title VI compliance for the relocation of residences, businesses and personal property for CDOT projects and local agency projects subject to CDOT oversight.

CDOT is responsible for facilitating the provisions of statewide policies and guidelines, conducting quality assurance, providing training and development and technical assistance to the regional right of way offices. Guidelines and processes for the ROW program is contained in CDOT's Right of Way Manual. Each of the five-region right of way managers are responsible for all right of way acquisition and relocation work in their region, as well as property management in some regions.

Regional engineering staff and right of way managers coordinate staff resources and hire specialty consultants as necessary to procure title work, surveys, final right of way plans, appraisal, and acquisition/relocation services. The region right of way managers then manage the contact with the real property owners, tenants and personal property owners who will have their real property rights purchased and might be temporarily or permanently displaced. Region

right of way managers are responsible for all processes that lead up to and follow property acquisition and relocation of owners, tenants and personal property. Early contact with owners is only to discuss design issues and is not for negotiation, which must wait until the Chief Engineer has authorized acquisition of the property rights to be acquired.

Parcels or portions of parcels selected for acquisition are identified in the environmental planning phase of a project, which is analyzed during a review process mandated by the National Environmental Policy Act (see previous section). Once parcels have been identified, ROW is responsible for performing or procuring title research to determine the ownership of each parcel to be affected by the project. Surveys of the project area include delineation of private properties, which are also included on the ROW plans. ROW plans are prepared at the Region level, and then sent to headquarters for the Chief Engineer's approval of the land acquisition request (per State law).

After the ROW plans have been approved, the regional acquisition/relocation staff notifies all of the affected property owners of CDOT's intent to acquire their property interests, provide an overview of the project, and advise the property owners of the steps to be taken toward acquisition and, if necessary, relocation. This includes informing each property owner about valuation processes for the property rights to be acquired, and that they will be invited to accompany the appraiser on a property inspection if the appraisal process is used. CDOT representatives personally contact property owners again to advise them of the project and to invite the property owner to accompany the appraiser on the appraisal site visit.

### *Valuation and Acquisition*

The region ROW manager determines whether to use the federal appraisal waiver value process or a more traditional appraisal. Waiver valuation may be used in lieu of an appraisal on parcels with an estimated value of up to \$25,000, however, waiver valuations expected to exceed \$10,000 in value may only be performed upon written waiver from the landowner. Otherwise, CDOT must obtain an appraisal. Separation of functions between the negotiator and person preparing the waiver valuation must also be followed when a waiver valuation exceeds \$10,000 per federal regulations.

For parcel acquisitions with a value of \$5,000 or more, the acquisition agent will be required to offer the property owner the option of hiring an appraiser paid for by CDOT (Colorado law). As long as the \$5,000 minimum is met, property owners are entitled to an agency-reimbursed appraisal regardless of whether CDOT performs an appraisal or a waiver valuation. The appraisal must meet specified requirements to be eligible for reimbursement.

All appraisals and waiver valuations are reviewed for quality assurance prior to the region ROW manager's signature, although the processes are somewhat different.

The region ROW manager, their designee or the assigned region appraiser reviews and signs waiver valuations. Local public agencies are permitted to participate in the use of waiver valuations on property with an estimated value up to \$10,000 (inclusive), and may perform waiver valuations up to \$25,000 if they have written approval from their CDOT region ROW manager.

This approval may be given on a project or parcel basis at the discretion of the region ROW manager.

CDOT-qualified staff or qualified contract review appraisers review appraisals. CDOT review appraisers review most appraisal reports made in connection with proposed ROW acquisitions, including reports done for CDOT and reports done independently for the property owner. When CDOT experiences a high volume of appraisals awaiting review, consulting review appraisers are employed. Finally, from among the appraisals reviewed, the review appraiser will recommend the appraisal that overall best supports the value and compensation conclusions as basis for fair market value and compensation for the acquisition.

The region ROW manager is the signing authority for CDOT's adoption of the compensation offer amount to the owner for the proposed acquisition. If CDOT and the property cannot voluntarily agree on a sale amount, CDOT may proceed with condemnation after authorization by the Transportation Commission (TC). The TC must determine that initiation of an eminent domain action is in the public interest and will enter a resolution upon its minutes authorizing CDOT to initiate and conduct an eminent domain action.

### *Relocation*

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted programs or projects.

CDOT acquisition and relocation agents assist all property owners and tenants who will be displaced on an individual, family or business basis to locate a new home or business location. Agents will also assist for any items of personal property which will be displaced. The agents explain the federal benefits for which the displacees are eligible. CDOT agents coordinate the actual search for the new location, move, and any applicable reimbursable business reestablishment expenses. Any person scheduled to be displaced is furnished with a general written description related to eligibility requirements, advisory services and assistance, payments, and the appeal process. CDOT staff provides notification that the displaced person(s) are not required to move without at least 90 days advance written notice.

Quarterly, a few region acquisition and relocation staff members review randomly selected acquisition and relocation files from another region, looking for adherence to the required processes and procedures, and to learn about new processes and best practices. The results of these systematic reviews are presented at the ROW Managers' meetings as learning and sharing opportunities. Starting in 2019, HQ ROW staff began to make quality assurance field visits to displaced businesses at the replacement locations to view relocated personal property and interview displacees.

CDOT right of way staff are charged with responsibility for oversight of local agency projects in their respective regions. Oversight duties include reviewing work, making corrections, and settling disputes. CDOT is legally responsible to FHWA for the quality of right of way projects that are part of a project that receives federal funding in any phase.

Local public agencies choosing to use right of way consultants must select these consultants from CDOT's pre-approved lists of acquisition agents, relocation agents, appraisers and review appraisers. When displaced on local public agency projects file relocation appeals or contact CDOT management or their legislative representatives for assistance, CDOT right of way staff must intervene and remain closely involved in the balance of the project.

#### CDOT Right of Way and Title VI

CDOT staff must acquire property interests in a manner that ensures that the property owners are treated fairly and consistently, in accordance with Title VI. The CDOT right of way staff and their consultants strive to ensure that all persons and property displaced as a result of the project are treated fairly consistently and equitably so that they will not suffer disproportionate injuries as a result of projects designed for the benefit of the public. CDOT staff and consultants accomplish this by complying with the mandates of the Uniform Act, Federal and State laws, and the CDOT ROW Manual. All consultant acquisition and relocation work is performed under uniform master contracts which specify these requirements. For example, the CDOT ROW Manual states that relocation notices shall be written in plain, understandable language. Persons who are unable to read and understand the relocation notice and Limited English Proficiency (LEP) persons must be provided with appropriate translation and counseling. Relocation benefits are provided to all eligible persons regardless of race, color, religion, sex, or national origin.

It is CDOT's policy that all reasonable efforts shall be made to acquire property through negotiation and not by condemnation. The CDOT ROW Manual states that the negotiator should strive to attain rapport with the property owner, inspire confidence in the correctness of the acquisition process and the fairness of the offer being made. Awareness of cultural sensitivities is important to achieving this goal. Communicating with LEP persons is also vital for ensuring those impacted by the ROW Program understand their rights under the Uniform Act. CDOT translates many of its ROW forms and brochures and hires or uses proficient staff interpreters when necessary. Relocation benefits under the Uniform Act, to which each eligible owner or tenant may be entitled, are determined on an individual basis and explained to them in detail by an agent.

The CRBRC and ROW staff work together to assess training needs in this program area and improvements to Title VI compliance.

#### **D. Construction Program**

The Construction Program includes the administration of all phases of highway design and construction contracts including prequalification of contractors, advertisement, competitive bid letting or proposal selection, award of contract, change orders, contract modifications, inspection and acceptance of work, and payment.

CDOT awards pre-construction professional services work through a Brooks Act compliant, most qualified selection process. All consultants, including subconsultants, must be prequalified and have an established Master Pricing Agreement in order to be eligible for award. CDOT staff oversee the selection process to ensure that it is fair to all participants. CDOT headquarters

provides training and review for consistent application of selection criteria, principles, and process.

CDOT awards construction projects through a low apparent bid process. In order to be eligible to bid on a CDOT construction project, a prime contractor must be financially prequalified to bid at the contract amount. Prequalification criteria is documented in CDOT's Rules for Prequalification and Bidding which are available on the CDOT website at <https://www.codot.gov/business/bidding/documents/rules-governing-construction-bidding-2-ccr-601-10>. CDOT's prequalification application is available at <https://www.codot.gov/business/bidding/documents/prequalification-application>. Prequalification is currently handled electronically through a system called B2GNow and in 2015, the bidding process went entirely online through an online system called Bid Express. As a result, CDOT no longer accepts paper bids. CDOT advertises its projects on a regular schedule, however there may be frequent changes due to funding availability.

### Construction Program and Title VI

CDOT utilizes both its DBE and Emerging Small Business (ESB) program to promote diversity on contracts. In order to increase the capacity of DBE firms, the CDOT CRBRC conducts outreach and provides supportive services to small businesses through Connect2DOT, CDOT's DBE Supportive Services program. Connect2DOT collaborates with partners like the State Minority Business Office and the Small Business Development Center Network to help small businesses in the transportation industry become more competitive and successful in bidding and contracting with CDOT and other local transportation agencies. For example, Connect2DOT's Bid Matching Service informs registered firms of CDOT project opportunities based on the types of work those firms perform. A Connect2DOT program overview is provided here as **Appendix E**.

CDOT also administers programs designed to increase small business participation through mentor-protégé relationships, low-dollar construction/consultant contracts restricted to bidding/proposing by ESB certified firms, and bonding support for ESB prime contractors.

Every federally-assisted CDOT contract is evaluated for a Disadvantaged Business Enterprise (DBE) contract goal. In order to be eligible for award, the proposer or bidder must sign an affidavit committing to make good faith efforts to meet the contract goal.

On pre-construction professional service contracts, CDOT awards points using a scoring rubric that evaluates strategic small business participation plans as well as small business certifications of the proposer. Most professional service contracts are not fund-encumbered and CDOT issues task orders that require a Civil Rights approval process in order to encumber funds and commence work. Task orders cannot be awarded until the consultant demonstrates good faith efforts to meet the DBE goal and the targets they committed to at time of award. A more detailed explanation of CDOT's DBE requirements/program can be found in the CDOT DBE program manual at <https://www.codot.gov/business/civilrights/smallbusiness/assets/cdot-dbe-program-manual-revised-2016.pdf>.

Each federally-assisted construction project also includes the Form FHWA 1273, “Required Contract Provisions,” which notifies contractors of their Title VI obligations. All contracts include the following requirements: U.S. Dept. of Labor Davis-Bacon Minimum Wages (Colorado Highway Construction), the Affirmative Action/Equal Employment Opportunity Requirements, as well as the Standard Special Provisions for the On-the-Job Training and Disadvantaged Business Enterprise (DBE) programs. Additionally, CDOT maintains a current webpage dedicated to required bulletin board postings for construction job sites: <https://www.codot.gov/business/bidding/bulletin-board-postings>.

Once a project has been awarded, the Region Civil Rights Office is responsible for oversight of the contractor’s compliance with all civil rights contract requirements. CDOT-administered professional services, construction, and alternative delivery projects are being tracked in B2GNow for prompt payment monitoring. Civil rights complaints from contractors and sub-contractors can be submitted to the CRBRC or the Regional Civil Rights Office. All complaints will be forwarded to the Title VI coordinator or designee and sent to FHWA, pursuant to the Nondiscrimination Procedural Directive 604.1 and the FHWA Discrimination Complaints Memo dated June 13, 2018.

## **E. Transportation Safety Program**

Transportation safety at CDOT involves several units including the Governor’s Representative for Highway Safety, the Traffic Safety and Engineering Branch (TSE), the Office of Transportation Safety (OTS), and the Transportation Regional Directors.

The Highway Safety Office (HSO), within the OTS, is responsible for developing and administering behavioral programs that improve traffic safety in Colorado by reducing the number and severity of traffic crashes. In support of this mission, the HSO works closely with Colorado communities, law enforcement, and traffic safety experts to design and implement projects to proactively address the state’s emerging and persistent traffic safety challenges.

The HSO provides grant oversight, administration, and financial management of federal funds and state funds for Highway Safety initiatives and programs. HSO manages National Highway Traffic Safety Administration (NHTSA) funds to address traffic safety issues such as impaired driving, occupant protection, motorcycle safety, speed control and enforcement, young and older drivers, pedestrian and bicycle safety, and distracted driving education and enforcement. In addition, the HSO supports 15 Statewide Impaired Driving enforcement periods.

In order to direct its funds to the highest and best use, the HSO relies on the results of the annual Problem Identification Report based on data from the Traffic Records Unit (TRU) and other data sources. The Problem Identification Report incorporates Fatality Analysis Reporting System (FARS) data, annual observed seat belt use survey results, crash data and Vehicle Miles Traveled (VMT) data. Other data sources include behavioral risk surveys (Healthy Kids Colorado, Youth Risk Behavior Survey) and the Colorado Health Information Dataset.

The HSO offers the majority of the funds it administers through competitive grant opportunities to agencies, organizations, and tribal governments within Colorado that address the above safety

issues. Grant applications are reviewed by a committee of two or three project managers who award the grants based on the needs of the population. Oversight of the day-to-day operations of grants to local contractors is managed by the five project managers within the HSO.

The HSO is responsible for developing the annual Highway Safety Plan (HSP) and reporting annually to NHTSA and FHWA regarding its goals and performance measures. The HSP includes CDOT's goals, objectives, and strategies for improving traffic safety as well as performance measures to evaluate CDOT's progress. It outlines specific highway safety projects and programs and respective funding for 2021. Additionally, the HSP reflects the Strategic Transportation Safety Plan (STSP) and articulated goals for fatality and serious injury crash reductions

### Transportation Safety Program and Title VI

The HSO has also hired a community-based traffic safety program manager. This position serves as the staff authority and subject matter expert on the topic of community inclusion and engagement in order to improve traffic safety throughout Colorado. This is accomplished by ensuring those most affected are engaged in programmatic decision-making processes. This position leads the development and implementation of the community based and community inclusion in traffic safety interventions, within identified areas, overrepresented in serious motor vehicle injuries and fatalities. The position ensures and/or directly provides training, consultation, and coaching to support state and local traffic safety partners in effectively identifying, engaging and evaluating their strategies for community engagement/inclusion.

This position, in collaboration with the Colorado Department of Public Health and Environment (CDPHE), will provide statewide outreach to diverse communities. Diverse community outreach is executed by strategically targeting communities with low seat belt compliance and other highway safety related concerns. They will partner with bilingual community organizations to implement projects and to deliver services in these communities in a culturally sensitive manner. As some diverse communities can be resistant to government assistance or interference, they assist in approaching potential partners in a more culturally relevant fashion so that they are more receptive to State and Federal grant assistance and the related requirements once funding is received.

The CRBRC and the Safety staff work together to identify Title VI implications in all programs and activities for the Safety unit. All grant applications involving Federal safety funds will contain non-discrimination language.

## **VI. SPECIAL EMPHASIS PROGRAM AREA REVIEW PROCEDURES**

A Special Emphasis Program Area is a program area in which FHWA has identified a trend or pattern of discrimination. A program cannot be considered a Special Emphasis Program by CDOT unless prior approval has been received from FHWA. If a Special Emphasis Program Area is identified and FHWA has approved this designation, the CRBRC Manager will notify the Chief Engineer and a plan will be drafted on how best to remedy the trend or pattern of discrimination. The Special Emphasis Program Area will be reported to the Executive Director



who will ensure that the program area complies with the remediation plan. As they are identified, Special Emphasis Areas will be outlined in the Annual Goals and Accomplishments report.

## **VII. SUBRECIPIENT REVIEW PROCEDURES**

In compliance with 23 CFR section 200.9(b)(7) and FHWA guidance, CDOT reviews and monitors subrecipients that receive FHWA funding through CDOT for compliance with Title VI requirements. Prior to receiving FHWA funding, subrecipients must sign an Intergovernmental Agreement with CDOT, including assurances of nondiscrimination in accordance with USDOT Order 1050.2A.

CDOT requires subrecipients to submit a Title VI plan that aligns with FHWA Title VI requirements and guidance. CDOT provides assistance to subrecipients in creating and updating Title VI plans, including one-on-one technical assistance. In 2020, CDOT updated its FHWA Title VI information and guidance on its website, as well as its Title VI template for FHWA subrecipients, which can be found as **Appendix F**. CDOT requires subrecipients to include the following information in their Title VI plans: a nondiscrimination policy statement, standard DOT Title VI assurances, a designated Title VI coordinator, a description of primary program areas, program review, compliance and enforcement procedures, data collection and analysis, staff training procedures, complaint procedures (including routing Title VI complaints to FHWA), dissemination of Title VI information procedures, a statement of review of local directives, and a language assistance plan.

As part of CDOT's Title VI subrecipient review procedures, CDOT conducts desk reviews of subrecipient Title VI plans. During this process, CDOT coordinates with subrecipients and their Title VI coordinators to collect Title VI plans and related documents. If subrecipient Title VI plans do not comply with FHWA requirements and guidance, CDOT provides constructive comments and technical support. Once a subrecipient Title VI plan satisfies the requisite elements, CDOT will issue a concurrence letter. Title VI plans are then due again to CDOT in three years with any updates. CDOT electronically stores subrecipient Title VI plans and concurrence letters.

CDOT is currently working with its Office of Financial Management and Budget staff to maintain accurate and up-to-date records of FHWA subrecipients. At this time, CDOT is prioritizing reviewing subrecipients who have higher amounts of FHWA funded projects with CDOT. The Title VI Specialist coordinates with CDOT's grant managers who manage FHWA-funded grants to ensure Title VI awareness and requirements are included in the pre-award stage in documents such as Notice of Funding Opportunity and Call for Applications. Additionally, CDOT's CRBRC has been meeting and coordinating with its regional local agency coordinators to raise more awareness about subrecipient Title VI requirements.

## **VIII. DATA COLLECTION**

CDOT is required by federal regulation to collect statistical data on the race, color, and national

origin of participants in and beneficiaries of its programs. *See* 23 CFR 200.9(b)(4). CDOT civil rights staff works with program area staff (environmental, planning, right of way, etc.) on collecting and analyzing data. This requirement is also addressed in CDOT's Title VI Nondiscrimination Procedural Directive 604.1.

Data collection efforts specific to each program area are described on an annual basis in CDOT's Goals and Accomplishment Report to FHWA. The following is a brief description of data collection efforts conducted by CDOT:

Right of Way: During the interview/intake process, CDOT ROW staff will ensure that demographic information is collected voluntarily and inform impacted person of the reasons for collecting the demographic data. Additionally, ROW staff will disseminate Customer Service Surveys that include demographic information questions and provide to all relocatees and persons impacted by ROW activities.

More information regarding the new data collection procedures can be found in these forms and be found in section 4.20 of the Right of Way Manual. New demographic data collection procedures can be found in Appendix H of the Goals and Accomplishments report.

Environmental Planning: CDOT collects and analyzes U.S. Census and other data as a part of the Environmental Justice analysis, regarding populations expected to be impacted by CDOT projects. Race, low-income, and language data is collected during the environmental review process. CDOT's process for identifying possibly impacted minority and low-income communities is described in chapter 9.15 of the CDOT NEPA Manual, which is available at <https://www.codot.gov/programs/environmental/nepa-program>. Additionally, Environmental staff will begin a new process of collecting voluntary demographic data during public meetings. This process will be piloted on select projects and assessed accordingly. Environmental staff also plan to begin analyzing this data to identify whether public feedback involves impacted minority and low-income communities.

Statewide Planning: As part of the Statewide Planning Process, CDOT staff analyze how well projects that were developed as a part of the statewide transportation planning process served underrepresented populations and if transportation investment equitably distributed throughout the state. That full analysis can be found here: [Statewide Transportation Plan Environmental Justice Appendix](#). Additionally, demographic data is collected at all public meetings that DTD host and at all statewide plan related stakeholder meetings.

Language Assistance: CRBRC provides funding for translation and interpretation services for CDOT generally and for certain types of requests from CDOT's program areas. CRBRC is assessing the range of interpretation services available in order to ensure that the appropriate language assistance services (different language interpretations as well as ASL, etc) are readily available if requested, especially since many meetings are now held virtually through video conferencing. In the reassessment, CRBRC is working to have more accurate tracking of translation and interpretation requests through the vendor. In addition to CRBRC's funding of translation services, other program areas at CDOT provide their own language assistance through translations and interpreters. For example, CDOT is currently going through

rulemaking on greenhouse gas emission reductions and is providing information in both English and Spanish for the rulemaking hearings and its associated materials.

## **IX. TRAINING PROCEDURES**

The CRBRC coordinates with program area staff to find Title VI, LEP and Environmental Justice training opportunities tailored for that specific program area. If the annual assessment reveals that program areas are lacking understanding in Title VI, the CRBRC will tailor training in order to increase the knowledge of program area staff.

The Title VI Specialist meets every other month with the regional civil rights managers and provides them with Title VI program updates. The Title VI Specialist also attends other regularly occurring meetings held by other program areas in order to provide updates on Title VI requirements to educate employees on CDOT responsibilities.

Additionally, the Title VI Specialist meets with each program area at a minimum twice a year to assess training needs and develop ways to incorporate training with existing program area staff meetings. In FFY2020, CRBRC implemented an online Title VI training course that is mandatory for all CDOT employees. By the end of FFY2021, CDOT had over 90% of its employees successfully complete the online Title VI training.

## **X. COMPLAINT PROCEDURES**

CDOT's Discrimination Complaint Procedure and Complaint Form were updated in January 2020. Both forms are available in English and Spanish on the CRBRC website at <https://www.codot.gov/business/civilrights/your-rights>.

The English version of the complaint procedure is attached as **Appendix G** and the Spanish version is attached as **Appendix H**. The English version of the complaint form is attached as **Appendix I** and the Spanish version is attached as **Appendix J**.

## **XI. DISSEMINATION OF INFORMATION**

The CRBRC disseminates Title VI information in a variety of ways, including through its website, <https://www.codot.gov/business/civilrights>, which received updates in 2020. The website contains important Title VI-related information for the public, as well as CDOT's Title VI implementation plan.

The CRBRC website informs member of the public of their rights against discrimination under Title VI. This includes CDOT's Title VI notice, procedures for filing a discrimination complaint, and information on how to request language assistance services and ADA accommodations. The website also provides Spanish versions of CDOT's Title VI notice, complaint procedures, and complaint form. The English version of CDOT's Title VI notice is attached as **Appendix K** and the Spanish version is attached as **Appendix L**. CDOT also disseminates its Title VI notice of rights to the public on posters at its five regional offices.

CDOT staff conducts public involvement with guidance from CDOT's *A Guide to the Transportation Planning and Programming Public Involvement Process* which can be found at <https://www.codot.gov/programs/planning/documents/planning-process/PubInvolvementGuide2015.pdf>. This guidance document integrates the principles of Title VI, environmental justice, and access for LEP persons into CDOT's public involvement processes. The guidance document addresses specific barriers for minority, low-income, and LEP persons to the transportation planning process. Examples of methods discussed in the guidance document for overcoming cultural and language barriers include cultural training for staff, connecting with local community leaders, and providing web content and documents in Spanish.

## **XII. LIMITED ENGLISH PROFICIENCY**

As a recipient of federal financial assistance, CDOT must assure that Limited English Proficient (LEP) individuals have meaningful access to CDOT programs and activities. LEP individuals are those individuals for whom English is not their primary language and have a limited ability to speak, read, write, and understand English. Failure to provide meaningful access to such individuals may result in national origin discrimination, which is prohibited by Title VI.

CDOT uses the following criteria, known as the four factors, to determine what steps need to be taken to provide meaningful access for LEP individuals:

1. **Number or proportion** of LEP persons likely to be encountered by CDOT.
2. **Frequency** with which LEP persons come into contact with CDOT.
3. **Importance** of the program, activity, or service provided.
4. **Resources** available to CDOT and the costs.

The CRBRC has compiled U.S. Census data of LEP people in Colorado (people who speak English "well, not well, or not all"). The data is attached as **Appendix M** and is broken down by county and CDOT region. LEP persons make up 5.37% of Colorado's overall population. The largest LEP group in the state is Spanish speakers, which is 3.73% of Colorado's overall population in the state.

Vital CDOT information that is meant for a statewide audience is translated into Spanish. For example, the CDOT website has a page in Spanish that notifies the public of its rights against discrimination and provides information about requesting ADA and language accommodations. The page also provides links to the Spanish version of CDOT's Discrimination Complaint Form and Discrimination Complaint Procedure. The Spanish page is available at <https://www.codot.gov/business/civilrights/your-rights>. For other activities that do not have a statewide audience, each CDOT program area determines the appropriate level of language assistance and outreach based on the four factors. CRBRC has funding available for translation and interpretation services for members of the public and works with CDOT's program areas when the need for language services arise. The following is a summary of CDOT program areas whose work may include a particular LEP emphasis and how those areas communicate with LEP persons.

**Planning:** The Division of Transportation Development (DTD) Multimodal Planning Branch uses *A Guide to the Transportation Planning and Programming Public Involvement Process* as a guide for public involvement. The guide discusses common barriers that make public participation in transportation planning difficult for low-income and minority communities and identifies various techniques to combat those barriers.

**Environmental:** CDOT collects and analyzes LEP data regarding populations expected to be impacted by CDOT projects through the NEPA environmental review process. CDOT's process for identifying LEP populations within a project's impacted area is described in chapter 9.15 of the CDOT NEPA Manual, which is available at <https://www.codot.gov/programs/environmental/nepa-program>. When developing a public involvement strategy, project teams determine whether language assistance measures are needed to ensure meaningful access to the process. Efforts to ensure meaningful access to LEP individuals are documented in the public participation section of the NEPA document. Language assistance measures include translation of vital information such as flyers for public hearings and providing interpretation services at public meetings held in communities with large LEP populations.

**Right of Way:** CDOT staff must acquire property interests in a manner that ensures that the property owners are treated fairly and consistently. Persons who are unable to read and understand their rights during CDOT's relocation process are provided with appropriate translation and counseling. CDOT translates many of its Right of Way forms and hires interpreters when necessary. For example, its relocation information booklets have been translated into Spanish and Korean.

**Construction:** The CDOT Communications Office assists CDOT regional staff on disseminating public information related to construction projects. The Communications Office uses a multicultural consulting firm on projects that require information to be translated or for other language assistance needs. Construction projects that impact LEP communities are identified through the NEPA environmental review process.

**Safety:** The Highway Safety Office uses a multicultural consulting firm to help identify, contact, and engage LEP populations for CDOT public safety campaigns. Press releases, posters, and billboards for impaired driving and occupant protection campaigns are translated into Spanish. The Highway Safety Office also funds entities that work in diverse communities where English may not be the primary language. The HSO ensures that all funded projects working within these communities have Title VI policies in place, are aware of the need to assess LEP needs and are made aware of interpreter and translation services that can be provided. The funded entity working in these communities provide traffic safety messaging in languages other than English to ensure all individuals have access to the messaging.

### **XIII. ENVIRONMENTAL JUSTICE**

Environmental Justice is the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies. Executive Order 12898 directs federal agencies to identify and address the

disproportionately high and adverse human health or environmental effects of their actions on minority or low-income populations. As a recipient of federal funding, CDOT complies with the federal government's Environmental Justice Policy.

Federally assisted CDOT projects are analyzed for potential impacts to minority and low-income communities during the environmental review process. Chapter 9.15 of the CDOT NEPA Manual describes how CDOT staff analyzes Environmental Justice issues during the NEPA environmental review process. The CDOT NEPA manual is available at <https://www.codot.gov/programs/environmental/nepa-program>.

To help ensure compliance with Environmental Justice and Title VI, the Civil Rights & Business Resource Center coordinates closely with CDOT NEPA staff.

#### **XIV. REVIEW OF CDOT DIRECTIVES**

Given the new FHWA guidance from September 9, 2014, the CRBRC will review CDOT policy directives and procedural directives for possible Title VI implications. If a directive is deemed to have potential discriminatory results, the issue will be discussed with the Office of Policy & Government Relations office, brought to the Chief Engineer and possibly to the Colorado Transportation Commission for revision of the directive.

#### **XV. COMPLIANCE AND ENFORCEMENT PROCEDURES**

Trends or patterns of discrimination can be identified through outreach and education, yearly program area review, sub-recipient reviews, analyzing Title VI-relevant data or discrimination complaints. The CRBRC will continue to meet with each program area a minimum of twice a year to ensure compliance and assess progress towards program area Title VI goals.

If deficiencies are identified within a program area and efforts have not been made to resolve the deficiencies, a memorandum listing the deficiencies will be emailed to the program area manager and the Chief Engineer, with a request that a corrective action plan is submitted to the CRBRC within 45 days of receiving the memo. The timeframe for completion of the corrective action is dependent on the nature of the deficiency and should be included in the corrective action plan. The CRBRC will support program area corrective action plans through education and training.