

TITLE VI/ENVIRONMENTAL JUSTICE NON-DISCRIMINATION COMPLIANCE PLAN

**Adopted by the City Council of the City of Essexville
November 15, 2004**

POLICY STATEMENT

The City of Essexville is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees, contractors and 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 City of Essexville program or activity on the grounds of race, color, national origin, income, sex, age or disability. City of Essexville assures all its programs and activities will be free from discrimination, whether those programs and activities are federally funded or not.

City of Essexville involves all of its employees in implementing its Title VI/Environmental Justice Program. The City Manager for City of Essexville is responsible to ensure City of Essexville's compliance with the Title VI/EJ implementing regulations.

Inquiries concerning City of Essexville's policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI/Environmental Justice may be directed to:

Dale J. Majerczyk, City Manager
City of Essexville
1107 Woodside Avenue
Essexville, Michigan 48732

989-893-7192
cmanager@essexville.org

This policy statement will be circulated throughout City of Essexville and be included by reference in all contracts, agreements, programs and services where by City of Essexville receives federal financial assistance from the U.S. Department of Transportation.

Date: _____
Dale J. Majerczyk, City Manager

CITY OF ESSEXVILLE TITLE VI ASSURANCE

City of Essexville HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-42 USC 2000d-4 (“the Act”) and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of gender, 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 City of Essexville receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the City of Essexville hereby gives the following specific assurances with respect to the Federal Aid highway program:

1. That each “program” and each “facility” as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the City of Essexville shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and, in adapted form, in all proposals for negotiated agreements:

“The City of Essexville, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, disability, race, color, or national origin in consideration for an award.”

3. That the City of Essexville shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.

4. That where the City of Essexville receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
5. That where the City of Essexville receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
6. That this assurance obligates the City of Essexville for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the City of Essexville or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; of (b) the period during which the City of Essexville retains ownership or possession of the property.
7. The City of Essexville shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom (s)he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the City of Essexville under the Federal Aid highway program and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid highway program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the City of Essexville.

Dated: _____

Dale J. Majerczyk, City Manager
City of Essexville

Summary of Applicable Legal Authority

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). 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 6101: 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 reason 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 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 B for additional discussion of "significant.")

- a. bodily impairment, infirmity, illness or death
- b. air, noise, and water pollution and soil contamination
- c. destruction or disruption of man-made or natural resources
- d. destruction or diminution of aesthetic values
- e. destruction or disruption of community cohesion or a community's economic vitality
- f. destruction or disruption of the availability of public and private facilities and services
- g. adverse employment effects
- h. displacement of persons, businesses, farms, or nonprofit organizations
- i. increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community
- j. denial of, reduction in, or significant delay in the receipt of benefits of City of Essexville programs, policies, or activities

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

- a. is predominately borne by a minority population and/or a 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 City of Essexville City of Essexville.

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 City of Essexville, or in recognition of the public interest to be served by such sale or lease to the City of Essexville; 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.hhs.gov/poverty/index.shtml>)

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 City of Essexville 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 American, 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 City of Essexville program, policy or activity.

Noncompliance – 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 uses: “White not of Hispanic origin,” “Black not 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 City of Essexville of federal financial assistance or provided by others through contracts or other arrangements with the City of Essexville.

Recipient -- any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, 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 transferee 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, educational institution, for example, that receives Federal Highway Administration (FHWA) funds through the State DOTs and not directly from the FHWA. Other agencies, local governments, contractors, consultants that receive these funds are all considered sub-recipients.

Administration – General

The City Manager shall have responsibility for coordinating the administration of the City of Essexville's Title VI/Environmental Justice (Title VI/EJ) and related statutes program, plan, and assurances. As a participant and member of the Bay City Area Transportation Study ("BCATS"), the City of Essexville utilizes special emphasis programs provided by BCATS such as planning assistance and program management. City of Essexville participates in the public involvement process developed and used by BCATS in conjunction with the Title VI/Environmental Justice program and is include by reference.

Complaints

If any individual believes that s/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, s/he may exercise their right to file a complaint with City of Essexville. Complaints may be filed with the City Manager. 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 City of Essexville programs, e.g., relocatees, impacted citizens, and affected communities, will be gathered and maintained by the City of Essexville. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI/EJ program.

City of Essexville Reviews

The City Manager will conduct the Title VI program reviews as required to assess the administrative procedures, staffing and resources available to Title VI compliance.

Annual Reports

As a member of BCATS the City of Essexville will participate in BCATS annual Self Certification Documentation inclusive of a review of Title VI accomplishments achieved during the year and a review of program areas. BCATS submits the report to the Michigan Department of Transportation.

Public Dissemination

The City of Essexville will disseminate Title VI/EJ Program information to City of Essexville employees and make such information available to the general public. Title VI/EJ Program information will be submitted to sub-recipients, contractors, and beneficiaries of Federal financial assistance. Public dissemination will include inclusion of Title VI/EJ language in contracts and publishing the Title VI/EJ Policy Statement on the City of Essexville's internet website.

Remedial Action

City of Essexville will be vigilant in monitoring 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 Programs

City of Essexville as a member of BCATS is actively involved in the BCATS Planning Assistance and Program Management initiatives including development of all state and federal transportation planning processes for our region and English Language Proficiency compliance. Accordingly, the City of Essexville is under BCATS umbrella of commitment and assurances with respect to Title VI/Economic Justice Program for these purposes.

Filing a Complaint

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 the City of Essexville's programs, activities and services as required by statute.

Purpose

The purpose of the discrimination complaint procedures is to describe the process used by City of Essexville for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

Roles and Responsibilities

The City Manager for City of Essexville has overall responsibility for the discrimination complaint process and procedures. The City Manager may, at her/his discretion, assign a capable person within City of Essexville 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.

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

Eligibility Any person who believes that s/he has been excluded from participation in, denied benefits or services of any program or activity administered by City of Essexville 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:

- City of Essexville
- The Michigan Department of Transportation
- The Federal Highway Administration
- The U.S. Department of Transportation

In all situations, City of Essexville employees must contact the City Manager, or his/her designee, 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 City of Essexville employee, or other person authorized to receive complaints on behalf of the City of Essexville, the City Manager, or his/her designee, 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.

Internal Complaint Processing

The City of Essexville will utilize BCATS and other applicable special emphasis program area representatives as resources to direct members of the public who wish to file a discrimination complaint under Title VI/EJ and related statutes.

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.

Complaint Review Process

The City Manager, or her/his designee, will review the complaint upon receipt to ensure that relevant information is provided, the complaint is timely, and meets jurisdiction.

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 reviewed under a jurisdiction other than City of Essexville. If this is the case, the complainant will be directed to the appropriate agency.

Upon determination that the complaint warrants a City of Essexville investigation, the complainant is sent a letter, acknowledging receipt of the complaint, and giving the name of the investigator.

The respondent – the person alleged to have committed the discrimination -- is notified by mail that s/he has been named in a complaint. The letter also includes the investigator's name and informs the respondent that s/he will be contacted for an interview.

Investigation Plan

The investigator shall prepare a written plan, which 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 s/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;
- 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 Policy Committee Chairman 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 Michigan 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.

COMPLAINT FORM
City of Essexville - 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: _____

APPENDICES TO STANDARD TITLE VI ASSURANCES

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

(1) Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter “DOT” Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitation for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the (Name of the appropriate administration) as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, City of Essexville shall impose such contract sanctions as it or the Michigan Department of Transportation may determine to be appropriate, including but not limited to:

- (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as City of Essexville or the Michigan Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such directions, the contractor may request City of Essexville to enter into such litigation to protect City of Essexville, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.