

# **TITLE VI IMPLEMENTATION PLAN**

## **Bluegrass Area Development District BGADD**

**January 1, 2020-December 31, 2020**

**David Duttlinger, Executive Director**

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**Robert Casher, Public Administration Specialist, Title VI Coordinator**

**Natalie Flores-Esquivel, Transportation Planner, Title VI Coordinator**

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## I. GLOSSARY/DEFINITIONS

**Area Development Districts (ADD):** focus on developing and sustaining the fundamental building blocks for state, regions and local communities in today's rapidly changing global marketplace. Including but not limited to traditional emphasis on strategic planning and project funding for clean and safe drinking water systems, health care facilities, affordable housing, small business development and transportation improvements.

**Affirmative Action:** a good-faith effort to eliminate past and present discrimination in all federally assisted programs and to ensure future nondiscriminatory practices.

**African American (Black):** A person having origins in any of the black racial groups of Africa.

**American Indian or Alaska Native:** a person having origins in any of the original peoples of North and South America (including Central America) who maintains cultural identification through tribal affiliation or community attachment.

**Applicant:** an eligible public entity or organization that submits an application for financial assistance under a program administered on behalf of the State.

**Asian:** a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.

**Assurance:** a written "policy statement" or "contractual agreement" signed by the agency head in which a recipient agrees to administer federally assisted programs in accordance with civil rights laws and regulations.

**Beneficiary:** any person or group of people (other than states) entitled to receive benefits, directly or indirectly, from any federally assisted program (*i.e.*, relocated persons, impacted citizens, communities, etc.).

**Complaint:** a verbal or written allegation of discrimination that indicates that a federally assisted program is operated in such a manner that it results in disparity of treatment to persons or groups of persons because of race, color or national origin.

**Compliance:** a satisfactory condition wherein an applicant, recipient, or sub-recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good-faith effort toward achieving this end has been made.

**Contract:** a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and obligating the buyer to pay for them. Throughout this document, a lease is considered a contract.

**Contractor:** any person, corporation, partnership, organization, or incorporated association that participates, through a contract or subcontract, in any program or activity covered by this plan including lessees.

***Discrimination:*** involves any act or inaction, whether intentional or unintentional in any program or activity of a federal aid recipient, sub-recipient, or contractor, which results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, sex, national origin, age, disability or in the case of disability, failing to make a reasonable accommodation.

***Division:*** one of the administrative subdivisions of an office of the Bluegrass Area Development District.

***Executive Director:*** The BGADD Executive Director has authority to appoint Title VI Designee(s).

***Federal Assistance:***

- Grants and loans of federal funds
- The grant or donation of federal property and interests in property
- The detail of federal personnel
- The sale and lease of, and the permission to use (on other than a casual or transient basis), federal property or any interest in such property without
- Consideration or with nominal consideration, or with 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
- Any federal agreement, arrangement, or other contract that has, as one of its purposes, the provision of assistance

***Federal Highway Administration or FHWA:*** Agency within the U.S. Department of Transportation that supports State and local governments in the design, construction and maintenance of the Nation's highway system (Federal Aid Highway Program) and various federally and tribal owned lands (Federal Lands Highway Program).

***Grantee:*** any public or private agency, institution or organization to whom federal financial assistance is intended for any program.

***Hispanic or Latino:*** A person of Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race.

***Implementation plan*** means the Title VI implementation plan developed and maintained by Bluegrass Area Development District (BGADD) to ensure compliance with 42 U. S. C. § 2000d et. seq. and KRS 344.015.

***Indo-European:*** of or relating to a group of languages that includes many of the languages spoken in Europe, in the parts of the world colonized by Europeans, and in parts of Asia.

***Interpretation:*** The process of listening to something in one language and orally interpreting it in another. The mix of LEP services under the Oral Languages Services is as follows:

- Hiring bilingual staff
- Hiring staff interpreters
- Using telephone interpreter lines
- Using community volunteers

- Use of family members, friends, and other customers/passengers as interpreters

**Limited English Proficiency or LEP:** Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write or understand English can be limited English proficient.

**Metropolitan Planning Organization or MPO:** Policy board of an organization created and designated to carry out the metropolitan transportation planning process. MPOs are required to represent localities in all Urbanized Areas (UZA) of populations over 50,000, as determined by the US Census. MPOs designated by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law. When submitting the transportation improvement program (described below), to the State for inclusion in the statewide program, MPOs self-certify that they have met all federal requirements.

**Minority:** A person or groups of persons differing from others in some characteristics who may be subjected to differential treatment based on race, color or national origin. Includes *African Americans, Hispanics or Latinos, American Indian or Alaska Native, Asians and Native Hawaiian or Other Pacific Islander*.

**Native Hawaiian or Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**Non-compliance:** the condition wherein a recipient has failed to meet prescribed requirements and has shown a lack of good-faith effort in implementing all of the Title VI requirements.

**Non-minority or non-minority group people:** Caucasians

**Persons:** Where designation of persons by race, color or national origin is required, the following designations ordinarily may be used: "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.

**Public participation:** an open process in which the rights of the community to be informed to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

**Primary recipient:** KYTC or any department, division, or agency authorized to request federal assistance on behalf of sub-recipients and to distribute financial assistance to sub-recipients' contracts for carrying out a program.

**Program:** includes any highway, project, or activity that provides services, financial aid or other benefits to individuals, including 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 (i.e. Planning, Environment, Design, Right-of-Way, Construction, Safety, & Research).

**Program area officials:** the officials who are responsible for carrying out technical program responsibilities.

**Recipient:** Kentucky or any political subdivision or instrumentality thereof or any public or private agency, institution, or organization or other entity; or any individual in Kentucky to whom federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term “*recipient*” does not include any ultimate beneficiary under any such program. Examples of recipients include MPOs, Council of Governments (COG), towns, cities, counties, school districts or any sub-recipient.

**Responsible Official** means the person identified in Section IV, *infra*.

**Sub-grantee:** Any public or private agency, institution, or organization to whom federal financial assistance is intended (through another recipient) for any program.

**Sub-recipient:** Any public or private agency, institution, or organization to whom federal financial assistance is intended (through another recipient) for any program

**Translation:** Translation is the replacement of a written text from one language into an equivalent written text in another language.

**Transportation Improvement Programs or TIP:** Plan developed by Metropolitan Planning Organization cooperation with the State and public transit providers detailing a list of upcoming transportation projects, covering a period of at least four years. It should include capital and non- capital surface transportation projects, bicycle and pedestrian facilities and other transportation enhancements, Federal Lands Highway projects and safety projects included in the State’s Strategic Highway Safety Plan. The TIP should include all regionally significant projects receiving FHWA or FTA funds, or for which FHWA or FTA approval is required.

**Title VI Officer, Coordinator or Liaison:** refers to the responsible official in matters relating to Title VI. The Title VI Officer, Coordinator or Liaison reports to and assists the Executive Director of BGADD in carrying out the Title VI responsibilities of the Bluegrass Area Development District.

**Title VI Program:** the system of requirements developed to implement Title VI of the Civil Rights Act of 1964. When appropriate, the phrase “Title VI Program” also refers to the civil rights provisions of other federal non-discrimination authorities to the extent that they prohibit discrimination on the grounds of race, color, national origin, sex, age and disability, including income level and Limited English Proficiency in programs or activities receiving federal financial assistance.

**White:** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

## II. OVERVIEW AND POLICY STATEMENT

Title VI of the Civil Rights Act of 1964 is a non-discrimination statute. Specifically, Title VI provides that "no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance" (42 U.S.C. Section 2000d). Each federal department and agency, which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, federal personnel or any federal agreement contract is authorized and directed to make the provisions of Section 2000d of this title.

The BGADD Board of Directors is the governing body of Bluegrass Area Development District. As a recipient of federal funds through grant program(s), the BGADD is subject to Title VI of the Civil Rights Act of 1964. The BGADD works to ensure that nondiscriminatory services are offered throughout the region thereby enhancing both the quality of life and the economic vitality.

### **Non-Discrimination Authorities**

- Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.)
- Section 162 (a) of the Federal Aid Highway Act of 1973 (23 USC 324)
- Age Discrimination Act of 1975
- Section 504 of the Rehabilitation Act of 1973
- Americans With Disabilities Act of 1990
- Civil Rights Restoration Act of 1987
- 49 CFR Part 21
- 23 CFR Part 200
- U.S. DOT Order 1050.2
- Executive Order #12898 (Environmental Justice)
- Executive Order #13166 (Limited-English-Proficiency)



Bluegrass Area  
Development  
District

Address  
699 Perimeter Drive  
Lexington, Kentucky 40517

Contact  
ph: 859.269.8021  
fax: 859.269.7917

Web  
[www.bgadd.org](http://www.bgadd.org)

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## Title VI Policy Statement

Pursuant to and consistent with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-4, and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21. Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964

It is the policy of the Bluegrass Area Development District that no person, on the grounds of race, color, national origin, sex, age and disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the Bluegrass Area Development District, regardless of whether those programs and activities are Federally funded or not.

David Duttlinger  
Executive Director  
BGADD

Date  
March 25, 2021



### III. RESPONSIBLE OFFICIAL

David Duttlinger, Executive Director, has overall responsibility for implementation, compliance and reporting with respect to Title VI. Inquiries related to these activities should be directed to:

David Duttlinger, Executive Director  
699 Perimeter Drive  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[dduttlinger@bgadd.org](mailto:dduttlinger@bgadd.org)

Kim Fry, HR. Director, Title VI Coordinator  
699 Perimeter Dr.  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[kfry@bgadd.org](mailto:kfry@bgadd.org)

Robert Casher, Title VI Coordinator/PAS  
699 Perimeter Drive  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[bcasher@bgadd.org](mailto:bcasher@bgadd.org)

Natalie Flores-Esquivel, Transportation Planner, Title VI Coordinator  
699 Perimeter Dr.  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[nfesquivel@bgadd.org](mailto:nfesquivel@bgadd.org)

Kim Fry, Robert Casher and Natalie Flores-Esquivel are designated as the Title VI Coordinators and are responsible for the oversight and coordination of BGADD's compliance with Title VI and all related statutes, regulations and directives. The Title VI Coordinator has direct access to the BGADD's Executive Director. General responsibilities of the Title VI Coordinator include but are not limited to the following:

- Coordinating Title VI program development with Metropolitan Planning Organizations (MPOs), Local Public Agencies (LPAs) and division managers
- Establishing procedures for processing Title VI program reviews and/or sub-recipient/contractor reviews
- Coordinating training Title VI training for BGADD staff, sub-recipients/contractors and stakeholders
- Preparing required reports
- Providing guidance and advice on the Title VI Program to BGADD staff.
- Annually updating BGADD's Title VI Program Plan

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## Sub-Recipient Review Procedures

The BGADD, its Staff, any sub-recipients of federal funds under grants administered by the BGADD and all other parties involved with such grants are in compliance with all provisions of Title VI of the Civil Rights Act of 1964 (42 U. S. C. § 2000d).

A. Each sub-recipient of federal funds under grants administered by the BGADD shall have agreed in writing to adopt BGADD's Title VI plan, or

B. If the sub recipient's Title VI plan differs from the BGADD's plan, the sub-recipient's Title VI plan shall be available for review from the Responsible Official.

The BGADD shall periodically review all programs funded through federal assistance for those sub-recipients who have been found by the BGADD to be in non-compliance with Title VI. Employees or grant sub-recipients who refuse to voluntarily comply with Title VI or to take corrective actions required by the BGADD shall face disciplinary action, or in the case of grant sub-recipients, may face termination or suspension of the contractual relationship with BGADD. The conduction of the sub-recipient review process follows either the program or complaint review procedures dependent on the cause of the review.

## Standard Title VI Assurance

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The Bluegrass Area Development District (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, or any other Federal agency, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252,42 U.S.C. 2000d-4, (herein after referred to as the "Act", and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21 Nondiscrimination in Federally Assisted Program of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and any other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration or any other Federal Department, and hereby gives assurance that it will promptly take any necessary measures 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 Recipient hereby gives the following specific assurances with respect to its Federal Highway Program as well as any other Federally funded program:

1. The Recipient agrees that each "facility" and each "program" as defined in subsections 21.23 (b) and 21.23 € of the Regulations will be (with regard to a "facility" operated in compliance with all requirements imposed by or pursuant to the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal-aid Highway program and, in an adapted form in all proposals for negotiated agreements.

#### Construction Proposals

The BGADD in accordance with the provisions of the Title VI of the Civil Rights Act of 1964, (78 Stat. 252) and the regulations of the Federal Department of Transportation (49 CFR, Part 21), issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability.

Agreement for Other Services

Compliance with Regulations: The Consultant shall comply with the regulations of the BGADD relative to nondiscrimination in Federally Assisted Programs of BGADD which are herein incorporated by reference and made a part of this contract.

3. That the Recipient shall insert one of these nondiscrimination clauses in every contract subject to the Act and Regulations.
4. That the Recipient shall also insert into every relevant contract a clause stating that the contractor will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, these assurances shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form of, or for the acquisition of real property, these assurances shall extend to rights to space on, over, and under such property.
7. That these assurances obligate the Recipient 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, real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance was extended, or for another purpose involving the provision of similar services or benefit; or (b) the period during which the Recipient retains ownership or possession of the property.
8. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the delegated authority, to give a reasonable guarantee that it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Act, the Regulations and these assurances.
9. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations and these assurances.

These assurances are given in consideration of and, for the purpose of, obtaining any and all Federal grants, loans, contracts, property, discounts, and/or other Federal financial assistance extended after the date hereof, to the Recipient, by the U.S. Department of Transportation under the Federal-aid Highway Program. The person whose signature appears below is authorized to sign these assurances on behalf of the Recipient.

Signed and approved this 25th day of March, 2021



David Duttlinger  
Executive Director  
BGADD

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## **BGADD TITLE VI NOTICE TO THE PUBLIC**

**The Bluegrass Area Development District (BGADD) hereby gives notice that it is the policy of the agency to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 and related Nondiscrimination authorities in all program and activities. It is BGADD's policy that no person in the United States of America shall, on the grounds of race, color, national origin, sex, age, disability, low-income or Limited English Proficiency be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of our programs or activities receiving Federal financial assistance.**

**Any person who believes they have been subjected to discrimination under the Title VI and related Nondiscrimination authorities has the right to file a complaint.**

**To request or receive additional information on its discrimination obligations, including its complaint procedures the person listed below or visit the administrative office at the address listed below:**

**Bluegrass Area Development District  
Title VI Coordinator  
699 Perimeter Dr.  
Lexington, KY40517  
Telephone: 859-269-8021  
Website: <https://bgadd.org>**

## **BGADD TÍTULO VI NOTIFICACIÓN AL PÚBLICO**

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**El Bluegrass Area Development District (BGADD) informa que la política de la agencia es asegurar el cumplimiento total del Título VI de la Ley de Derechos Civiles de 1964, la Ley de Restauración de los Derechos Civiles de 1987 y las autoridades antidiscriminatorias relacionadas en todos los programas y actividades. Es política de KYTC que ninguna persona en los Estados Unidos de América, por motivos de raza, color, origen nacional, sexo, edad, discapacidad, bajos ingresos o dominio limitado del inglés sea excluida de la participación en, se le negarán los beneficios. de, o estar sujeto a discriminación en cualquiera de nuestros programas o actividades que reciben asistencia financiera federal.**

**Cualquier persona que crea que ha sido objeto de discriminación en virtud del Título VI y las autoridades antidiscriminatorias relacionadas tiene derecho a presentar una queja.**

**Para solicitar o recibir información adicional sobre sus obligaciones de discriminación, incluidos sus procedimientos de queja, la persona que se detalla a continuación o visite la oficina administrativa en la dirección que se detalla a continuación:**

**Bluegrass Area Development District**

**Coordinador del Título VI**

**699 Perimeter Dr. - Lexington, KY 40517**

**Teléfono: 859-269-8021**

**Sitio web: <https://bgadd.org>**

**Para presentar una queja por discriminación, la queja por escrito debe enviarse a la dirección antes mencionada dentro de los 180 días de la supuesta discriminación. Las quejas por escrito también pueden enviarse**



## IV. PROGRAM REVIEW PROCEDURES

The BGADD is responsible for the following under Title VI:

- Collecting and analyzing data on minority and low- income populations to determine the potential impact of proposed plans, programs and projects
- Ensuring all contract documents contain the appropriate Title VI provisions
- Consulting with the Title VI Officer, Coordinator or Liaison and the OCRSBD Executive Director when complaints are received, or issues arise during a public hearing/meeting
- Ensuring that all people are treated equitably regardless of race, color or national origin
- Monitoring Title VI accomplishments, notifying the Title VI Officer, Coordinator or Liaison of problem areas and summarizing activities for inclusion in the Title VI Plan Update
- Developing and updating internal policies and procedures to ensure Title VI compliance during all phases of projects and activities
- Ensuring that all business pertaining to the selection, negotiation, and administration of consultant contracts and agreements is accomplished without discrimination based on race, color or national origin
- Ensuring that efforts are made to include minority and women owned businesses in consideration for contracts
- Ensuring that internal and external publications and all other relevant communications disseminated to the public include the Title VI policy reference
- Providing reasonable accommodations, information in the appropriate language or interpreters as needed for individuals with disabilities and LEP persons

### A. Programs or Activities Subject to Title VI

U.S. Housing and Urban Development's Community Development Block Grant (CDBG), U.S Federal Highway Administration funding, U.S. Department of Labor's Workforce Innovation and Opportunity Act (WIOA), funding and U.S. Health and Human Services, Administration for Community Living programs. Funds are designated for the following program areas:

- Housing
- Community Projects
- Public Services
- Public Facilities
- Economic Development
- Community Emergency Relief Fund
- U.S. Department of Labor WIOA
- Transportation
- Administration for Community Living

The U.S. Department of Housing and Urban Development (HUD) funded Community Development Block Grant (CDBG) program for DLG, Federal Highway Administration, Department of Labor, WIOA, and Health

and Human Services, Administration for Community Living to provide assistance to communities for use in revitalizing neighborhoods, expanding affordable housing and economic opportunities, providing infrastructure and/or improving community facilities, providing workforce development to the Bluegrass region, and the provision of services for our Senior Citizens.

The Land and Water Conservation Fund (LWCF) provides federal grant funds to protect important natural areas, to acquire land for outdoor recreation and to development or renovate public outdoor recreation facilities such as campgrounds, picnic areas, sports & playfields, swimming facilities, boating facilities, fishing facilities, trail, natural areas and passive parks.

Potential Beneficiaries: Cities and counties, state and federal agencies are eligible to apply for funding. The maximum grant amount is \$75,000. The minimum amount is \$5,000. It is a 50% matching reimbursement program.

The Recreational Trails Program provides grant funds to develop and renovate recreation trails for both motorized and non-motorized use. It does not fund equipment such as mowers and gators.

Potential Beneficiaries: Eligible applicants are city and county governments, state and federal agencies, and non-profit organizations.

The ARC is a federal-state economic development program. To assist in the economic development of Appalachia through a diversity of projects in the areas of public infrastructure (water, sewer, solid waste, housing, and telecommunications), human resource development (education/workforce development, affordable/accessible healthcare, and leadership development) and business/entrepreneurial development.

Potential Beneficiaries Local governments, special districts, and non-profit entities that include Kentucky's 51 most eastern and south-central Counties are eligible to apply for the grant dollars. Thirty-two "distressed" counties also have access to a separate restricted allocation of funds.

The National Forest Receipts program provides "pass-through" funds to counties. The State Local Finance Officer receives notice of wire transfer from the US Department of Agriculture Forest Service for funds to be distributed annually to various counties.

Potential Beneficiaries: Counties.

The Flood Control Receipts program provides "pass-through" funds to counties. The State Local Finance Officer receives a check annually from the US Army Corps of Engineers. The check is deposited with the KY State Treasurer, authorization for payment to Counties is processed and checks are then prepared to send this money to the Counties in accordance with the statement from the federal government which was enclosed with the check.

Potential Beneficiaries: Counties.

The Kentucky Infrastructure Authority administers two federal grant programs from the Environmental Protection Agency:



1. Capitalization Grants for Clean Water State Revolving Funds provides assistance for: (1) construction of publicly owned wastewater treatment works; and (2) nonpoint source management activities. Funds are loaned to local government entities.
2. Capitalization Grants for Drinking Water State Revolving Funds provides assistance for infrastructure improvement projects that are needed to achieve or maintain compliance with Safe Drinking Water Act requirements, protect public health, and assist systems with economic need. Funds are loaned to local government entities.

All BGADD employees received Title VI training in the month of October. A video recommended by KYTC was used. The next training is set for October 2021.

### **B. Special Emphasis Program Areas<sup>[1]</sup>**

The assessments conducted by the BGADD in FY18 revealed the BGADD needs additional support in the area of Title VI compliance review and outreach. The BGADD has included a Title VI Liaison to assist in all related areas of Title VI and public outreach.

## **V. DATA COLLECTION/REPORTING ANALYSIS**

Statistical data on race, color, national origin, sex, age, disability, and LEP of participants in and beneficiaries of the BGADD's programs, (i.e., affected populations, and participants) will be gathered, analyzed, and maintained by the BGADD to determine the benefits and burdens to the population, including minority and low-income populations. Data gathering procedures will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of Title VI program administration. Analysis of the data collected by the program emphasis areas may include:

- The race, color, national origin, sex, age, disability, income and LEP of the population eligible to be served
- Socioeconomic Assessment to evaluate project's potential impacts to the human environment
- Persons to include in the decision-making process
- Percent of benefits allocated to persons below the poverty line vs. persons above the poverty line
- Distribution of benefits (dollars, facilities, systems, projects) to groups and communities
- Projected population increases versus planned facilities and types of facilities
- Language needs assessment

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<sup>[1]</sup> See page 55 "Compliance and Noncompliance reporting" for details regarding KYTC's procedures for identifying special emphasis program areas and how non-compliance is addressed.

- Transportation needs of all persons within boundaries of plans or projects
- Strategies to address impacts
- The manner in which services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination
- The location of existing or proposed facilities connected with the program and related information for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination
- The present or proposed membership, by race, color, national origin, sex, disability and age, in any planning or advisory body which is an integral part of the program
- Strategies to disseminate information

#### A. Complaints

1. The Title VI Coordinator will maintain a log of all complaints filed with the BGADD.
2. Grant personnel will certify annually that all sub-recipients have been notified of the Title VI implementation plan and complaint procedures.
3. The Title VI Coordinator will maintain copies of complaint forms and will ensure that they are available for use.

#### B. Reporting

1. Changes in the Title VI implementation plan will be provided to employees and sub-recipients as changes are made.
2. Changes in the Title VI implementation plan will be forwarded to the KYTC and other appropriate Cabinets as necessary, as changes are made.
3. Grant personnel will maintain records of all sub-recipients in order that the BGADD can determine if eligible parties are participating in the grants.

- C. The changes made in sections VIII and IX of this plan are incorporated herein as part of BGADD's recordkeeping and reporting procedures.

## **Environmental Justice (EJ)**

Executive Order (E.O. 12898) was issued to focus federal attention on the environmental and human health conditions, in minority and low-income communities, to promote non-discrimination in federal programs substantially affecting human health and the environment and to provide minority and low-income communities access to public information on and an opportunity for public participation in matters relating to human health or the environment.

The BGADD will utilize the US Census Bureau data, the American Community survey data, and the following checklist to identify targeted populations:

- a. Make a list of potential demographic groups to consider for the region or start with the required EJ populations defined by the Executive Order and supportive guidance
- b. Consider groups that are underrepresented in typical public involvement and transportation decision making processes, have limited access to the full benefits of the transportation system or have encountered disproportionate impacts from past transportation decisions
- c. Decide on the level of detail required for identifying groups spatially and identifying data sources to use to conduct a spatial demographic profile
- d. Engage leaders and representatives of demographic groups to help identify target populations, spatially and non-spatially

## **Categorical Exclusion (CE)**

Per 40 C.F.R 1508.4 categorical exclusion means a category of actions, which do not individually or cumulatively have a significant effect on the human environment and for which, therefore neither an environmental assessment nor an environmental impact statement, is required.

Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and based on experience with similar actions do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area, do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns and do not otherwise, either individually or cumulatively have any significant environmental impacts (23 C.F.R. 771.117(a)).

Any action normally classified as a CE, but could involve unusual circumstances, will require the Administration, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include (23 CFR 771.117(b)):

1. Significant environmental impacts
2. Substantial controversy on environmental grounds
3. Significant impact on properties protected by Section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act
4. Inconsistencies with any federal, state, or local law, requirement or administrative determination relating to the environmental aspects of the action

A specific list of CEs that normally do not require any NEPA documentation or FHWA approval is set forth in 23 CFR 771.117(c). Other projects, pursuant to 23 CFR 771.117(d), may also qualify as CEs if appropriately analyzed, documented and approved by FHWA at the Division level.

## **VI. COMPLAINT PROCEDURES**

### **Synopsis**

This Title VI Implementation Plan requires immediate notification to management of any complaint or allegation of discrimination and assigns the responsible program office with the primary responsibility for evaluation and resolution of a complaint. Investigators and BGADD personnel will seek to informally resolve the complaint at every opportunity during the investigation.

This plan is for acknowledgment and investigation of an inquiry, comment, or complaint of discrimination received by the BGADD.

### **Purpose**

To explain the process utilized by BGADD to investigate complaints, while ensuring due process for complainants. The process does not preclude the responsible office or other authorized BGADD personnel from attempting to resolve complaints informally.

### **Applicability**

The complaint procedures outlined herein apply to the BGADD for the investigation of external complaints of discrimination. The procedures do not preclude the responsible staff of any agency from attempting to informally and independently resolve complaints.

### **Nondiscrimination Policy**

#### **A. Filing of Complaints**

##### ***Persons Eligible to File:***

Any person who believes that he/she or any specific class of persons has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities, based upon race, color, sex, age, national origin, sexual orientation, income, LEP status or disability may file a written complaint. The affected individual or a representative may file the complaint.

##### ***Timeframe for Filing Complaints and Contact Information:***

Complaints should be filed within 180-calendar days from the date of the alleged discriminatory act. Complaints should be submitted in writing and signed and may be filed via mail, fax, in person, or email (which includes a copy of the signed/dated complaint as an attachment);<sup>2</sup> for any

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person requiring a reasonable accommodation to the contact address listed below:

Attn: Kim Fry, Robert Casher or Natalie Flores-Esquivel -Title VI Coordinator  
Bluegrass Area Development District  
699 Perimeter Dr., Lexington, KY 517  
Phone: 859-269-8021 Fax: 859-269-7917

Allegations of discrimination received by fax or e-mail will be acknowledged and processed.

Allegations received by phone will be reduced to writing and provided to the complainant for confirmation or revision before processing.

***Submitting Complaints and Receipt of Complaints***

Complaints should be submitted in the following format with the listed information:

- A signed (by the complainant or the complainant's representative) written explanation of what has happened
- The complainant's contact information
- Identification of the respondent, i.e. agency/organization alleged to have discriminated
- Sufficient information regarding the facts that led the complainant to believe that discrimination has occurred
- Date(s) of the alleged discriminatory act(s)
- Signature of the complainant or the complainant's representative

After receipt of the complaint, the Title VI Officer, Coordinator or Liaison shall acknowledge the receipt in writing to the complainant. The acknowledgement shall include notification that an investigation will be conducted within 10 business days.

The Title VI Officer, Coordinator or Liaison shall conduct a full investigation, when warranted, and furnish a preliminary written report, including recommendations for resolution to BGADD Executive Director for a final determination. Personnel trained in compliance investigations will conduct investigations.

Executive Director shall notify the complainant of the final decision within 10 business days of completion of the investigation.

Executive Director shall further notify the complainant of his or her right to appeal to the BGADD Executive Board. Appeals should be made in writing and forwarded to the address below:

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Accept complaints in alternate forms

Bluegrass Area Development District  
Executive Board  
699 Perimeter Dr.  
Lexington, KY 40517

The entire procedure as outlined shall be completed within 60 days.

Records pertaining to complaints, inquiries and investigations will be maintained by the Title VI Coordinator

## **B. Processing Complaints**

Complaints filed with the BGADD in which BGADD is named as the Respondent, shall be forwarded to KYTC to the attention of: Melvin Bynes.

Complaints received by HCR filed against federal aid sub-recipients and contractors will be sent to KYTC for investigation.

Complaints filed with BGADD against its sub-recipients shall be processed by KYTC in accordance with FHWA approved procedures as required pursuant to 23 CFR 200.

Complaints filed with a sub-recipient shall be forwarded to KYTC within three days of receipt.

### ***Complaints filed with Sub-recipients***

Complaints filed with a sub-recipient shall be forwarded to the KYTC- OCRSBD to the attention of: Title VI Officer, Coordinator or Liaison for processing.

In special cases warranting intervention to ensure justice, the FHWA may assume jurisdiction and either complete or obtain services to review or investigate a matter. Materials already obtained by State investigators may be relied upon or supplemented or the matter may be reinvestigated.

In accordance with the regulations at 23 CFR 200.9(b)(3), a copy of the complaint, together with a copy of KYTC report of the investigation, shall be forwarded to the FHWA Division Office within 60 days of the date the complaint was received by KYTC. An extension of an additional 60 days may be granted by the FHWA for justifiable reasons. KYTC will forward the complaint, through the FHWA Division Office to HCR for review and issuance.

## **C. Acceptance and/or Dismissal of Complaints**

When any element of BGADD receives an inquiry, comment or complaint, which alleges or implies discrimination as addressed by Title VI of the Civil Rights Act of 1964, a copy is forwarded immediately to the Title VI Coordinator.

The BGADD Executive Director and Title VI Coordinator discuss the matter to determine if it constitutes a Title VI complaint. If it is determined that the issues do not meet a Title VI complaint, the BGADD Executive Director will submit the appropriate response to Complainant.

If it is determined that the issues constitute a Title VI complaint, the BGADD Executive Director or

the Title VI Officer, Coordinator or Liaison will determine responsibility and the need for additional information. The Title VI Coordinator or designee may request additional information and/or clarification. BGADD shall maintain a log of complaints filed with and investigated by BGADD.

**The BGADD Executive Director will respond in writing, acknowledging receipt of complaint within 10 days from date of receipt.** After reviewing the complaint, the BGADD Executive Director may recommend dismissal of a complaint for any of the following reasons:

1. The complaint filed in an untimely manner
2. The complaint does not allege a basis covered by the statutes for which KYTC is responsible
3. The complaint does not allege any harm with regard to covered programs or statutes
4. The complainant requests the withdrawal of the complaint
5. The complainant fails to respond to repeated requests for additional information needed to process the complaint
6. The complainant cannot be located after reasonable attempts
7. The complainant fails to accept a reasonable resolution.
8. The complainant has filed a legal action in Federal District Court with the same basis and issue(s) involved in the complaint
9. The same complaint's allegations have been filed with another federal, state, or local agency

Acceptance of a complaint will be determined by the following:

1. Timely filing of the complaint
2. If the allegations involve a covered basis such as race, color, sex, age, national origin, disability, or retaliation
3. If the allegations involve a program or activity of a federal aid recipient, sub - recipient, or contractor

All complaints received by KYTC will be logged for tracking purposes.

## **D. Withdrawal of a Complaint**

The complainant may withdraw his or her complaint at any time after filing and prior to the issuance of a determination or resolution by the BGADD. The complainant must submit a written withdrawal to the following:

Executive Director  
Bluegrass Area Development District  
699 Perimeter Drive



Lexington, KY 40517

## **E. Appeal Process**

If a complaint cannot be resolved by the BGADD to the satisfaction of the complainant, the complainant may appeal, in writing, to the following:

BGADD Executive Board  
699 Perimeter Drive  
Lexington, KY 40517

This procedure does not deprive the complainant his or her right to file a complaint:

- The U.S. Department of Transportation: [www.dot.gov](http://www.dot.gov)
- The U.S. Department of Justice: [www.usdoj.gov](http://www.usdoj.gov)
- Federal Highway Administration: [www.fhwa.dot.gov](http://www.fhwa.dot.gov)

## **F. Final Agency Reports**

The Headquarters BGADD will issue all Final Agency Decisions (FADs) and dismissals.

The Department of Justice's Civil Rights Division takes the position that a Title VI finding of violation or no violation is a federal decision that cannot be delegated. Although a state recipient can conduct a Title VI investigation of its sub-recipients or contractors and make a recommendation to the federal decision-making authority, KYTC must submit its proposed dispositions to FHWA for a Final Agency Decision. The HCR may request that further investigation be undertaken if the record of evidence is incomplete.

### **1. How a complaint shall be filed:**

Complaints in relation to alleged discrimination under Title VI of the Civil Rights Act of 1964 may be filed using the forms attached in the Appendix. If an individual refuses to submit a written complaint, the compliance officer shall record the information orally from the individual and shall provide a copy to the individual with a request that the information be confirmed by the complainant. A complaint may be filed by anyone who believes that the BGADD has discriminated against a participant, beneficiary, or a class of beneficiaries on the basis of race, color, or national origin. Complaints must be filed within one hundred eighty (180) days of the activity which prompts the filing of the complaint.

### **2. Where to file a complaint:**

Complaints in relation to alleged discrimination under Title VI of the Civil Rights Act of 1964 may be filed with the BGADD's Title VI compliance officer and/or the Title VI Coordinator:

David Duttlinger, Executive Director  
699 Perimeter Drive  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[dduttlinger@bgadd.org](mailto:dduttlinger@bgadd.org)

Kim Fry, HR. Director, Title VI Coordinator  
699 Perimeter Dr.  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[kfry@bgadd.org](mailto:kfry@bgadd.org)

Robert Casher, Title VI Coordinator/PAS  
699 Perimeter Drive  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[bcasher@bgadd.org](mailto:bcasher@bgadd.org)

Natalie Flores-Esquivel, Transportation Planner,  
Title VI Coordinator  
699 Perimeter Dr.  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[nfesquivel@bgadd.org](mailto:nfesquivel@bgadd.org)

3. Time frame within which the complaint shall be processed by the agency; and upon receipt of a written complaint, the compliance officer shall review the complaint and shall file, within seven (7) days, a concise statement with the Responsible Official regarding the nature of the complaint and the steps to be taken to investigate or resolve the complaint

#### 4. Withdrawal of a complaint:

A complainant may withdraw a complaint at any time before final action by filing with the compliance officer a written statement of his or her desire to withdraw the complaint.

### A. INVESTIGATIONS, REPORT OF FINDINGS, HEARINGS AND APPEALS.

#### 1. Investigations

Upon receipt of the complaint by an individual or at the time the compliance officer becomes independently aware of actions which may constitute a violation of Title VI, the compliance officer and/or the Title VI Coordinator shall take necessary action within thirty (30) days to investigate and recommend specific actions to resolve the complaint. A report shall be filed by the compliance officer with the Responsible Official within that period.

#### 2. Report of Findings

The complainant shall be notified in writing of the results of the investigation and any actions taken.

The BGADD shall attempt to maintain the confidentiality of the complaint and the name of the complainant.

The complainant shall be notified in writing, within 30 days of the resolution of a complaint, by the Responsible Official or the Title VI compliance officer of the resolution of a complaint. A

statement of corrective action shall include specific statements of actions to be taken or prohibited actions and shall include a timetable for implementation.

### 3. Hearings and Appeals

A complainant may file a written appeal from the Responsible Official's resolution of the complaint within 30 days of the receipt of the written notice of resolution. Appeals shall be directed to the BGADD Executive Director and shall be set forth in writing. The complainant shall be notified of the final resolution of the complaint within 60 days of the Executive Director's receipt of the appeal.

A complainant filing a written appeal may request an in-person hearing before the BGADD Executive Director. Such request shall be set forth in writing and shall be submitted contemporaneously with the written appeal. The complainant shall be notified of the date, time and place of the hearing within 15 days of the BGADD's receipt of the request.

## COMPLIANCE

A. The BGADD shall make every effort to regulate, monitor, review, and report on the federal programs to assure compliance.

B. Upon a finding by the BGADD of noncompliance, BGADD shall take the following actions with regard to:

### 1. Processing

The compliance officer shall immediately notify the Responsible Official in writing of the violations held to constitute noncompliance with Title VI and of the steps necessary to correct these violations.

### 2. Reporting

The compliance officer shall notify the sub-recipient or employee found to be in noncompliance, in writing within 30 days of the compliance officer's report of noncompliance, of the violations and corrective measures necessary to remedy the violations.

### 3. Resolution

The BGADD shall attempt to secure voluntary compliance with Title VI. In the event that efforts to secure voluntary compliance are not secured within a reasonable period of time, the compliance officer will notify the Responsible Official, in writing, of the recommended corrective action.

### 4. Enforcement of corrective actions

The Responsible Official shall implement corrective actions within thirty (30) days of receipt and acceptance of the notification of recommended corrective action.

Employees or grant sub-recipients who refuse to voluntarily comply with Title VI or to take corrective actions required by the BGADD shall face disciplinary action, or in the case of grant sub-recipients, may face termination or suspension of the contractual relationship with BGADD.

#### 5. Monitoring of programs

The BGADD shall undertake to periodically monitor all programs funded through federal assistance for those sub-recipients who have been found by the BGADD to be in non-compliance with Title VI.

## TITLE VI TRAINING

The Title VI implementation plan will be disseminated to all BGADD employees along with complaint procedures. Sub-recipients of federal grants will be notified of the Title VI implementation plan and complaint procedures at the time of any grant award.

The BGADD held Title VI a training seminar on October 30, 2020 for all employees. Supervisors attended training semi-annually on June 24, 2020 and December 16, 2020. Future training dates include an all-employee training on October 29, 2021 and supervisor trainings on June 30 and December 17, 2021. Training videos recommended by the KYTC were used to allow employees to train in Title VI virtually during the Covid-19 pandemic and may be used for virtual training in the future should it be needed. All new employees shall receive a copy of BGADD's Title VI plan as part of the orientation process. As with all policies they will be encouraged to direct questions to their supervisor or the Human Resources Director.

## GOALS AND ACCOMPLISHMENTS

The BGADD endeavors to reevaluate its Title VI goals on an annual basis, as part of the process of reviewing the agency's Title VI plan. The plan shall, each year, set forth BGADD's current goals and the process for evaluating and revising those goals and the agency's progress towards those goals.

### A. Goals

1. Report compliance activities in a timely manner.
2. Respond to and investigate all complaints within the timeframe and in accordance with the procedures outlined in Section VII.
3. Obtain information from employees to determine if the plan is adequate to address their needs and the requirements of Title VI.

### B. Evaluation of Goals

1. The Advisory Committee shall, at each meeting, review the agency's goals and its progress towards these goals, and evaluate the effectiveness of the plan's provisions as they relate to these goals.
2. The Advisory Committee shall, at each meeting, establish a timeline for achievement of goals, and implement a process for monitoring the progress towards these goals.
3. The Advisory Committee shall, at each meeting, promulgate a written report of the agency's progress towards the identified goals.
4. The Advisory Committee shall, at each meeting, discuss and evaluate whether any corrective procedures are necessary to bring the BGADD closer to its accomplishments.

## TITLE VI COMPLAINT PROCEDURES IN SPANISH

### **Procedimientos de quejas del Título VI de la BGADD**

Cualquier persona que crea que él o cualquier clase específica de personas ha sido objeto de discriminación o represalia prohibida por cualquiera de las autoridades de Derechos Civiles, basado en la raza, color, origen nacional, sexo, edad, religión, orientación sexual, identidad de género, estado de veterano, discapacidad, dominio limitado del inglés, o bajos ingresos puede presentar una queja por escrito. La queja puede ser presentada por la persona afectada o un representante.

#### **Plazo para presentar quejas e información de contacto:**

Las quejas deben presentarse en un plazo de 180 días a partir de la fecha del presunto acto discriminatorio. Las quejas deben presentarse por escrito y firmadas y pueden presentarse por correo, fax, en persona o correo electrónico (que incluye una copia de la queja firmada/fechada como archivo adjunto); para cualquier persona que requiera una adaptación razonable a la dirección de contacto que se indica a continuación:

David Duttlinger, Executive Director  
699 Perimeter Drive  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[dduttlinger@bgadd.org](mailto:dduttlinger@bgadd.org)

Kim Fry, HR. Director, Title VI Coordinator  
699 Perimeter Dr.  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[kfry@bgadd.org](mailto:kfry@bgadd.org)

Robert Casher, Title VI Coordinator/PAS  
699 Perimeter Drive  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax

Natalie Flores-Esquivel, Transportation  
Planner, Title VI Coordinator  
699 Perimeter Dr.  
Lexington, KY 40517  
(859) 269-8021

[bcasher@bgadd.org](mailto:bcasher@bgadd.org)

(859) 269-7917 fax  
[nfesquivel@bgadd.org](mailto:nfesquivel@bgadd.org)

Las denuncias de discriminación recibidas por fax o correo electrónico serán reconocidas y procesadas.

Las denuncias recibidas por teléfono se reducirán a por escrito y se proporcionarán al reclamante para su confirmación o revisión antes de procesarlas.

### **Presentación de quejas y recepción de quejas**

Las reclamaciones deben presentarse en el siguiente formato con la información indicada:

- Una explicación escrita firmada (por el reclamante o el representante del reclamante) de lo que ha sucedido
- Información de contacto del denunciante
- Identificación del demandado, por ejemplo, agencia/organización presuntamente discriminada
- Información suficiente sobre los hechos que llevaron al reclamante a creer que se ha producido discriminación
- Fecha(s) del presunto acto (s) discriminatorio(s)
- Firma del reclamante o del representante del reclamante

Después de recibir la queja, el Coordinador del Título VI deberá confirmar el recibo por escrito al reclamante. El reconocimiento incluirá la notificación de que se llevará a cabo una investigación dentro de 10 días. Cualquier persona que crea que él / ella o cualquier clase específica de personas ha sido objeto de discriminación o represalia prohibida por cualquiera de las autoridades de derechos civiles, basado en la raza, color, origen nacional, sexo, edad, religión, orientación sexual, identidad de género, estado de veterano, discapacidad, dominio limitado del inglés, o bajos ingresos puede presentar una queja por escrito. La queja puede ser presentada por la persona afectada o un representante.

### **Plazo para presentar quejas e información de contacto:**

Las quejas deben presentarse en un plazo de 180 días a partir de la fecha del presunto acto discriminatorio. Las quejas deben presentarse por escrito y firmadas y pueden presentarse por correo, fax, en persona o correo electrónico (que incluye una copia de la queja firmada/fechaada como archivo adjunto); para cualquier persona que requiera una adaptación razonable a la dirección de contacto que se indica a continuación:

David Duttlinger, Executive Director  
699 Perimeter Drive  
Lexington, KY 40517

(859) 269-8021  
(859) 269-7917 fax  
[dduttlinger@bgadd.org](mailto:dduttlinger@bgadd.org)

Las denuncias de discriminación recibidas por fax o correo electrónico serán reconocidas y procesadas.

Las denuncias recibidas por teléfono se reducirán a por escrito y se proporcionarán al reclamante para su confirmación o revisión antes de procesarlas.

### **A. Presentación de quejas y recepción de quejas**

Las reclamaciones deben presentarse en el siguiente formato con la información indicada:

Una explicación escrita firmada (por el reclamante o el representante del reclamante) de lo que ha sucedido

- Información de contacto del denunciante
- Identificación del demandado, por ejemplo, agencia/organización presuntamente discriminada
- Información suficiente sobre los hechos que llevaron al reclamante a creer que se ha producido discriminación
- Fecha(s) del presunto acto (s) discriminatorio(s)
- Firma del reclamante o del representante del reclamante

Después de recibir la queja, el Coordinador del Título VI deberá confirmar el recibo por escrito al reclamante. El acuse de recibo incluirá la notificación de que se llevará a cabo una investigación en un plazo de 10 días hábiles. Una copia de la queja y el acuse de recibo se enviarán al Coordinador del Programa ADA/Título VI del Gabinete de Transporte de Kentucky (KYTC). Una vez recibida la queja, BGADD la revisará para determinar si nuestra oficina tiene jurisdicción. El reclamante recibirá una carta de acuse de recibo informándole si la queja será investigada por nuestra oficina.

El Coordinador del Título VI llevará a cabo una investigación completa, cuando esté justificado, y presentará un informe escrito preliminar, incluidas recomendaciones para su resolución al Director Ejecutivo de la BGADD para que lo decida definitivamente. El personal capacitado en investigaciones de cumplimiento llevará a cabo investigaciones.

El Director Ejecutivo de la BGADD notificará al reclamante la decisión final dentro de los 10 días hábiles siguientes a la finalización de la investigación y se enviará una copia de la decisión al Coordinador del Programa ADA/Título VI de KYTC.

El Director Ejecutivo de la BGADD notificará además al reclamante su derecho a apelar la decisión al Coordinador del Programa ADA/Título VI de KYTC si la decisión no es aceptable.

Las apelaciones deben hacerse por escrito y enviarse a la siguiente dirección:

Attn: Coordinador del Programa ADA/Título VI  
Oficina de Derechos Civiles y Desarrollo de Pequeñas Empresas (OCSBD)  
200 Mero Street, Sexto Piso Oeste  
Frankfort, KY 40622  
Teléfono: 800-928-3079 o 502-564-3601  
Fax: 502-564-1491

Todo el procedimiento descrito se completará en un plazo de 60 días.

Los registros relacionados con quejas, consultas e investigaciones serán mantenidos por el Bluegrass Area Development District,

### **B. Agencias autorizadas para recibir quejas**

Las quejas se pueden presentar al Bluegrass Area Development District (BGADD), a la Administración Federal de Carreteras (FHWA), al Gabinete de Transporte de Kentucky (KYTC), al Departamento de Transporte de los Estados Unidos (U.S. DOT) y al Departamento de Justicia de los Estados Unidos (DOJ de los Estados Unidos).

### **C. Procesamiento de quejas**

Las reclamaciones presentadas ante la BGADD en las que la BGADD sea nombrada como demandada, se remitirán a KYTC a la atención de: Coordinador del Programa ADA/Título VI para su procesamiento dentro de los tres (3) días posteriores a la recepción.

En casos especiales que justifiquen la intervención para garantizar la justicia, la FHWA puede asumir jurisdicción y completar u obtener servicios para revisar o investigar un asunto. Los materiales ya obtenidos por los investigadores del Estado pueden ser invocados o complementados o el asunto puede ser investigado de nuevo.

De conformidad con la normativa de 23 CFR 200.9(b)(3), se enviará una copia de la queja, junto con una copia del informe de la BGADD de la investigación, al Coordinador del Programa KYTC ADA/Título VI dentro de los 60 días siguientes a la fecha en que BGADD recibió la queja. KYTC puede conceder una prórroga de 60 días adicionales por razones justificables. KYTC remitirá la queja, a través de la Oficina de la División de FHWA, para su revisión y emisión.

### **D. Aceptación y/o despido de quejas**

Cuando cualquier elemento de la BGADD recibe una consulta, comentario o queja, que alega o implica discriminación según lo abordado por el Título VI de la Ley de Derechos Civiles de 1964,



una copia se remite inmediatamente al Coordinador del Programa ADA/Título VI de KYTC. El documento original se remitirá al Coordinador del Programa KYTC ADA/Title VI, que es responsable de registrar el documento y mantener los datos estadísticos requeridos.

El Director Ejecutivo de la BGADD y el Coordinador del Programa KYTC ADA/Título VI, o su designado en la oficina de Derechos Civiles discutirán el asunto para determinar si constituye una queja del Título VI. Si se determina que las cuestiones no cumplen con una queja del Título VI, el Director Ejecutivo de la BGADD presentará la respuesta apropiada al Coordinador del Programa ADA/Título VI de KYTC.

Si se determina que las cuestiones constituyen una queja del Título VI, el Director Ejecutivo de la BGADD o el Coordinador del Título VI determinarán la responsabilidad y la necesidad de información adicional. La BGADD puede solicitar información y/o aclaraciones adicionales. La BGADD mantendrá un registro de las denuncias presentadas e investigadas por la BGADD.

El Director Ejecutivo de BGADD responderá por escrito, reconociendo la recepción de la queja en un plazo de 10 días a partir de la fecha de recepción. Después de revisar la queja,

El Director Ejecutivo de la OCRSBD puede recomendar la desestimación de una queja por cualquiera de las siguientes razones:

1. La queja presentada de manera intempescionada
2. La reclamación no alega una base cubierta por los estatutos de los que KYTC es responsable
3. La queja no alega ningún daño con respecto a los programas o estatutos cubiertos
4. El reclamante solicita la retirada de la queja
5. El reclamante no responde a las reiteradas solicitudes de información adicional necesarias para tramitar la queja
6. El reclamante no puede ser localizado después de intentos razonables
7. El reclamante no acepta una resolución razonable. La razonabilidad será determinada por la Oficina de Derechos Civiles de la Sede (HCR) a través de la Oficina de la División de la FHWA
8. El reclamante ha presentado una acción legal en el Tribunal Federal de Distrito con la misma base y la(s) cuestión(es) involucrada(s) en la queja
9. Las mismas denuncias de queja se han presentado ante otra agencia federal, estatal o local

La aceptación de una queja se determinará por lo siguiente:

1. Presentación oportuna de la queja
2. Si las denuncias implican una base cubierta como raza, color, sexo, edad, origen nacional, discapacidad o represalias

3. Si las acusaciones involucran un programa o actividad de un receptor de ayuda federal, sub-receptor, o contratista

Todas las quejas recibidas por BGADD se registrarán con fines de seguimiento.

### **E. Retiro de una queja**

El reclamante puede retirar su queja en cualquier momento después de la presentación y antes de la emisión de una determinación o resolución por parte de la BGADD. El reclamante debe presentar una retirada firmada por escrito a lo siguiente:

David Duttlinger, Executive Director  
699 Perimeter Drive  
Lexington, KY 40517  
(859) 269-8021  
(859) 269-7917 fax  
[dduttlinger@bgadd.org](mailto:dduttlinger@bgadd.org)

### **F. Proceso de apelación**

Si una queja no puede ser resuelta por la BGADD a satisfacción del reclamante, el reclamante puede apelar, por escrito, a lo siguiente:

Attn: Coordinador del Programa ADA/Título VI  
Oficina de Derechos Civiles y Desarrollo de Pequeñas Empresas (OCRSBD)  
200 Mero Street, Sexto Piso Oeste  
Frankfort, KY 40622  
Teléfono: 800-928-3079 o 502-564-3601  
Fax: 502-564-1491

Las quejas por discriminación pueden presentarse ante el KYTC antes, durante o después de que la queja haya sido presentada ante la BGADD.

Este procedimiento no priva al denunciante de su derecho a presentar una queja ante:

- El Departamento de Transporte de los Estados Unidos: [www.dot.gov](http://www.dot.gov)
- El Departamento de Justicia de los Estados Unidos: [www.usdoj.gov](http://www.usdoj.gov)
- Administración Federal de Carreteras: [www.fhwa.dot.gov](http://www.fhwa.dot.gov)

### **G. Informes finales de la Agencia**

La Oficina de Derechos Civiles de la Sede (HCR) a través de la Oficina de la División de la FHWA emitirá todas las Decisiones y despidos del Organismo Final (FAD). KYTC remitirá, a través de la Oficina de la División de la FHWA, el informe de investigación, el expediente de investigación y una decisión recomendada al Jefe, Investigaciones y Adjudicaciones.

La División de Derechos Civiles del Departamento de Justicia considera que una constatación del Título VI de violación o ninguna violación es una decisión federal que no se puede delegar. Aunque un receptor estatal puede llevar a cabo una investigación del Título VI de sus subreceptores o contratistas y hacer una recomendación a la autoridad federal de toma de decisiones, KYTC debe presentar sus disposiciones propuestas a FHWA para una Decisión Final de la Agencia. El HCR podrá solicitar que se lleve a cabo una investigación adicional si el expediente de las pruebas es incompleto.

## VII. PUBLIC NOTIFICATION

The BGADD will disseminate Title VI Program information to employees, contractors, sub-recipients and beneficiaries, as well as to the public. A variety of public notification and participation procedures will be used to encourage the early and continuous involvement of citizens, communities, and others interested in the planning process and decisions of the BGADD. The BGADD will discuss and/or distribute Title VI information using mass media including, but not limited to the following:

- Policy statements
- Inclusion of Title VI language in contracts
- New employee orientation
- Federal EEO posters
- BGADD website: [bgadd.org](http://bgadd.org)
- Standard procedures manual
- Significant publications, i.e., newspapers, brochures, and written literature
- Mailings
- Meetings open to the public
- Events

Policy Statements A written “policy statement”, “assurance” or “contractual agreement” signed by the agency head in which a recipient agrees to administer federally assisted programs in accordance with Title VI and Civil Rights laws and regulations.

Plan Public Meetings. Determine an effective number of Public Meetings to hold in strategically significant areas and at appropriate times to reach the greatest number of customers. Determine the method for and communicate news of the Public Meeting(s) to the greatest number of customers via hard copy publications (i.e., newspapers, newsletters, posters, etc.), electronic media (i.e., website, social media to include Facebook, twitter, etc.), and stakeholder groups listed above.

Publicize Proposed Changes. Determine how to communicate the news of the proposed change(s) to the greatest number of customers via hard copy publications (i.e., newspapers, newsletters, posters, etc.), electronic media (i.e.,

website, social media to include Facebook, twitter, etc.), and stakeholder groups listed above. This news should be communicated in an accessible and inclusive manner (including foreign language translations, if necessary) that promotes effective public participation and is free of linguistic, cultural, economic or historical barriers.

Conduct the Public Meetings. Ensure that reasonable time is provided for attendees to provide comments regarding the proposed change(s);

Review and Analysis. At the conclusion of the outreach effort, review the comments and analyze the impacts to all customers (regardless of a customer's race, color, national origin, sex, age, disability, income-level, or LEP) regarding their ability to access the facilities/services both prior to the proposed change(s) and following the proposed change(s). This analysis is required to be sufficiently detailed so that the ultimate conclusion as to how the proposed change(s) will impact customers is well-documented;

Written Report. Prepare a detailed record to capture all aspects of the outreach effort;

Submission to FHWA. Submit the record to FHWA. Please note that FHWA reserves the right to offer comments as deemed appropriate following a review of the record;

Implement the change(s);

Monitor Feedback. Monitor customer communications for a period of time (i.e., six months, one year) for reactions to the change;

Re-Evaluate. Be prepared to adjust the change(s) as appropriate dependent upon the actual impact to customers;

Adjust. Adjust the change(s) as appropriate dependent upon the actual impact to customers.

Notification of Title VI Program Protections. Notify beneficiaries of protections available to them under the Title VI Program. Notify the public of procedures for filing a Title VI complaint.

Further notices informing the public and all employees that the BGADD complies with Title VI of the Civil Rights Act of 1964 will be displayed in a prominent place.

Title VI Coordinator,  
Kim Fry Human Resources Director-Title VI/ADA/504 Coordinator  
Robert Casher, Public Administration Specialist  
Natalie Flores-Esquivel, Transportation Planner  
BGADD  
699 Perimeter Drive  
Lexington, KY 40517

Phone: (859) 269-8021

Fax: (859) 269-7917

Three groups of people will receive notification of BGADD's Title VI plan, complaint forms, nondiscrimination policy, and programs and services: 1) BGADD employees who will receive copies of the implementation plan and the complaint procedures; 2) federal grants applicants and sub-recipients of federal grants who will be notified of Title VI requirements at the time of application and at the time of any grant award; and 3) members of the general public who request information via phone, fax, or email.

The BGADD Title VI Plan and LEP are available for review at the BGADD office. Information is also available on the website: [bgadd.org](http://bgadd.org). Title VI application forms and checklists for sub-recipients are also available at the BGADD office and the website.

## MINORITY REPRESENTATION

### A. Minority representation on Boards/Committees

BOARD/COMMITTEE	MEMBERS	MINORITY REPS	PERCENTAGE
BGADD			
White Females	89		
White Males	270		
Black Females	1		
Black Males	8		
*Elected Positions			

### B. Special Emphasis Program Area:

The BGADD continues to attempt to identify and employ qualified minority applicants. Where minority representation in particular areas of the agency is low, the BGADD endeavors to fill vacant positions with qualified minorities. Whenever a planning or advisory body, such as a board or committee is an integral part of BGADD's programs, the BGADD shall take such steps as are necessary to ensure that minorities are notified of the existence of such bodies and are provided equal opportunity to participate as members. Where members of a board or committee are appointed by the BGADD and where minorities comprise at least 5% of the affected area or the surrounding community, the facility or agency must appoint a minority representative to serve on the board or committee.

The BGADD has also created a Title VI advisory committee to review and make recommendations regarding this implementation plan and to identify areas where improvement is needed. The advisory committee is currently composed of three (3) people. The advisory committee shall meet at least once each year.

A. The summary of race and national origins for BGADD employees includes the following employees:

RACE/NATIONAL ORIGIN	NUMBER	Percentage
White Females	39	69.64
White Males	14	25.00
Black Females	2	3.57
Black Males	1	1.79
Hispanic Females		
Hispanic Males		
American Indian Females		
American Indian Males		
Other Females		
Other Males		
Total	56	100.00

## External Complaint Form



Bluegrass Area  
Development  
District

### External Discrimination Complaint

**Instructions:** Complete and sign this form and mail, fax, or deliver to the Bluegrass Area Development District

**Address:**

BGADD  
699 Primeter Dr  
Lexington, KY 40517  
Attn: Title VI Complaint Coordinator

**Fax:**

BGADD  
699 Primeter Dr  
Attn: Title VI Complaint Coordinator  
(859) 269-7917

#### SECTION 1: COMPLAINANT INFORMATION

FIRST NAME	MI	LAST NAME	PHONE	ALTERNATE PHONE	EMAIL ADDRESS
MAILING ADDRESS (street)			CITY	STATE	ZIP

#### SECTION 2: COMPLAINT DETAILS

Please indicate the basis of your complaint:

- |                                      |   |  |
|--------------------------------------|---|--|
| <input type="checkbox"/> Race _____  | <input type="checkbox"/> Gender _____     | <input type="checkbox"/> National Origin _____                   |
| <input type="checkbox"/> Color _____ | <input type="checkbox"/> Disability _____ | <input type="checkbox"/> Limited English Proficiency (LEP) _____ |
| <input type="checkbox"/> Age _____   | <input type="checkbox"/> Low Income _____ |  |

Provide the date and place(s) of the alleged discriminatory action(s). Please include the earliest date of discrimination and the most recent date of discrimination.

How were you discriminated against? Describe the nature of the action, decision, or conditions of the alleged discrimination. Explain as clearly as possible what happened and why you believe your protected status (basis) was a factor in the discrimination. Include how other persons were treated differently than you. *(Attach additional pages if necessary.)*

The law prohibits intimidation or retaliation against anyone because he/she has either taken action, or participated in action, to secure rights protected by these laws. If you feel that you have been retaliated against, separate from the discrimination alleged above, please explain the circumstances. Tell what action you took which you believe was the cause for the alleged retaliation. *(Attach additional pages if necessary.)*

**Names of individuals, agency, or department responsible for the discriminatory action(s):**

<b><u>Name:</u></b>	<b><u>Address:</u></b>	<b><u>Phone:</u></b>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____



## External Discrimination Complaint

Names of persons (witnesses, fellow employees, supervisors, or others) whom contact for additional information to support or clarify your complaint: *(Attach additional pages if necessary.)*

	<u>Name:</u>	<u>Address:</u>	<u>Phone:</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

Please provide any additional information and/or photographs, if applicable, that you believe will assist with an investigation. *(Attach additional pages if necessary.)*

Photographs submitted with complaint? ☐ Yes ☐ No

### SECTION 3: ACTIONS:

Have you filed, or do you intend to file, a complaint regarding the matter raised with any of the following? If yes, please provide the filing dates. *(Check all that apply)*

<input type="checkbox"/> U.S. Department of Transportation _____	<input type="checkbox"/> Office of Federal Contract Compliance Programs _____
<input type="checkbox"/> Federal Highway Administration _____	<input type="checkbox"/> U.S. Equal Employment Opportunity Commission _____
<input type="checkbox"/> Federal Transit Administration _____	<input type="checkbox"/> U.S. Department of Justice _____
<input type="checkbox"/> Other _____	

Have you discussed the complaint with any BGADD representative? ☐ Yes ☐ No

If yes, provide the name, position, and date of discussion.

Name of BGADD Representative	Position of Representative	Date of Discussion

Do you have an attorney regarding this matter? ☐ Yes ☐ No

If yes, please provide attorney's contact information.

Name of Law Firm	Name of Representing Attorney
Mailing Address	Phone

Briefly explain what remedy or action you are seeking for the alleged discrimination.

**We cannot accept an unsigned complaint. Please sign and date the complaint form below.**

Complainant's Signature	Date

### FOR OFFICE USE ONLY

Date Complaint Received: _____	Case #: _____
Processed by: _____	Date Referred: _____
Referred to: <input type="checkbox"/> U.S. DOT <input type="checkbox"/> FHWA <input type="checkbox"/> FTA <input type="checkbox"/> OFCCP <input type="checkbox"/> Other _____	



## **Título VI Denuncia Forma BGADD**

### **Información del demandante:**

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

Boyle Direccion: \_\_\_\_\_

Bourbon Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_ Zip: \_\_\_\_\_

Clark Teléfono (casa): \_\_\_\_\_ (trabajo): \_\_\_\_\_

### **Nombre de la agencia, departamento o programa que cree discriminado:**

Fayette Agencia/Departamento: \_\_\_\_\_

Franklin Nombre de persona: \_\_\_\_\_

### **En sus propias palabras describen la discriminación alegada y quién crees que fue el responsable:**

Jessamine \_\_\_\_\_

Lincoln \_\_\_\_\_

Madison \_\_\_\_\_

Mercer \_\_\_\_\_

Nicholas \_\_\_\_\_

Powell \_\_\_\_\_

Scott \_\_\_\_\_

Woodford \_\_\_\_\_

### **Lista de nombres y la información de contacto de las personas que puedan tener conocimiento de la presunta discriminación.**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**La queja no se aceptará si no ha sido firmado. Por favor firme y feche este formulario de queja. Usted puede conectar cualquier material escrito u otra información de soporte que crees que es pertinente a su queja.**

Firma del denunciante

Fecha

**Record of Complaints**

Case No.	Investigator	Complainant	Respondent	Type of Complaint	Date Open	Preliminary Report Sent	Final Report	Decision

**Bluegrass Area Development District  
699 Perimeter Drive  
Lexington, KY 40517  
Phone: (859) 269-8021  
Fax: (859) 269-7917**

Anderson

Boyle

Bourbon

Clark

Estill

Fayette

Franklin

Garrard

Harrison

Jessamine

Lincoln

Madison

Mercer

Nicholas

Powell

Scott

Woodford

**Report of Investigation**

I, \_\_\_\_\_, representing the BGADD, have investigated the complaint filed on \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ alleging that discrimination occurred which was in violation of the provisions of Title VI of the Federal Civil Rights Act.

The results of the investigation were as follows:

\_\_\_\_\_A. The agency or person was found to be in violation of Title VI.

\_\_\_\_\_B. The agency or person was not found to be in violation of Title VI.

\_\_\_\_\_C. The complainant withdrew the complaint.

A copy of the investigative report is attached.

Withdrawal of Complaint (if applicable) \_\_\_\_\_

If the agency or person was found to be in violation of Title VI, a brief description of the remedial action taken to assure future compliance follows:

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---

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

---

## VI. LANGUAGE ACCESS PLAN

**Bluegrass Area Development District  
Language Access Plan (LAP)  
for persons with Limited English Proficiency (LEP)  
October 2020**

The Bluegrass Area Development District, (BGADD), has established this policy as means to take reasonable steps in ensuring meaningful access to agency services, programs and activities for persons who have limited English proficiency. This plan applies to the federally funded programs provided through BGADD.

### **Overview**

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166 require that recipients of federal funds take responsible steps to ensure meaningful access by persons with Limited English Proficiency (LEP persons). The BGADD is a recipient of federal funds through the U.S. Department of Housing and Urban Development (HUD), the Federal Highway Administration (FHWA), the Department of Labor, (DOL), and Health and Human Services (HHS) for a portion of its programs and, thus, is obligated to reduce language barriers that can preclude meaningful access by LEP persons to DLG programs.

### **Definitions**

For the purposes of this plan:

- a. *Grantee* means the BGADD.
- b. *Recipient* means the BGADD. This means any entity that receives any federal HUD assistance, directly from BGADD or from another Recipient. This includes, but is not limited to, any unit of local government, public housing authority, community housing development organization, public or private nonprofit agency, developer, private agency or institution, mortgagor, limited dividend sponsor, builder, property manager, resident management corporation, resident counsel or cooperative association. Recipient also includes any successor, assignee or transferees of any such entity, but does not include any ultimate beneficiary under the respective federal grant program.
- c. *LEP* means Limited English Proficiency. Persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English, and may be entitled to language assistance with respect to a particular type of service, benefit or encounter.
- d. *LAP* means Language Access Plan.

## **Four-Factor Analysis**

There are four (4) flexible, fact-dependent factors to be considered in developing language materials and a Limited English Proficiency plan. The following four-factor analysis will serve as the guide for determining which language assistance measures will be undertaken to guarantee access to BGADD's federally funded programs by LEP persons. Additionally, all future recipients of federal assistance are required to use the same four-factor analysis prior to the release of funds.

1. The number or portion of LEP persons eligible to be served or likely encountered through its federally funded programs.
  - a. For determining the LEP population, BGADD utilized the U.S. Census Bureau Language Use data (ACS-DP02) for Language Spoken at Home and English-Speaking Ability by State (See Appendix A).
2. The frequency with which LEP individuals come in contact with the designated federal programs.
  - a. BGADD does not provide direct assistance to individuals. All BGADD funds are awarded to units of local government, certified contractors or nonprofit agencies. As a result, LEP persons rarely come into contact with the respective federal grant program at this level. However, during periods of public comment, some citizen participation may be directed to the BGADD.
3. The nature and importance of the program, activity or service provided by the federal programs.
  - a. BGADD does not provide direct assistance to individuals. All BGADD funds are awarded to units of local government, certified contractors or nonprofit agencies. As a result, LEP persons rarely come into contact with the respective federal grant program at the state level. However, during periods of public comment, some citizen participation may be directed to the BGADD.
4. The resources available to the recipient and the cost. There are two types of assistance service – oral (interpretation) and written (translation).
  - a. Given the resources currently available to BGADD, the LAP measures appear reasonable.

## **Types of Language Assistance to be Provided by BGADD**

As stated previously, although LEP persons rarely come into contact with BGADD programs at the regional level, some citizen participation matters are directed to the BGADD, particularly during periods of public comment. Therefore, BGADD has determined it will make available, upon request, translations of its federal grants action plans and amendments. If there is a consistent need for translations, by populations of LEP Kentuckians, BGADD will consider additional appropriate measures to serve the language access needs of those persons.

## **Requirements for Recipients**

Recipients of federal funds awarded or drawn through BGADD are required to ensure that meaningful access to services is assured for their LEP clients. Recipients must provide language assistance services that result in timely, accurate, and effective communication at no cost to LEP clients and/or their beneficiaries. Such language assistance services are to be provided in accordance with the guidelines set forth in the U.S. Department for Health and Human Services “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally-Assisted Programs of the Department of Transportation effectuation of Title VI of the Civil Rights Act of 1964. BGADD is available to assist Recipients in identifying and developing appropriate language assistance measures.

If an application is funded, the local government or nonprofit agency will be required to conduct a four-factor analysis, develop a LAP, if necessary, and provide a description of outreach efforts during the Letter of Conditional Commitment stage. Particular attention will be given to plan details for projects including acquisition and/or relocation, housing rehabilitation, and/or water/sewer hookups.

In order to determine if language assistance is required by recipients of federal funds through BGADD, all Recipients are required to follow the measures outlined below.

1. Conduct the four-factor analysis prior to advertising for application public hearing.
2. If the four-factor analysis reveals there are 1,000 or more LEP persons, or 5 percent or more LEP persons in the eligible population in the jurisdiction or among current beneficiaries, the applicant will provide appropriate language assistance by: 1) translating all vital documents; 2) posting notices of application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken; and 3) providing translation services at public hearings, if requested to do so by LEP persons.
3. If the four-factor analysis reveals there are less than 50 LEP persons but 5 percent or more LEP persons in the eligible population in the jurisdiction or among current beneficiaries, the applicant will provide appropriate language assistance by: 1) posting notices of application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken; and 3) providing translation services at public hearings, if requested to do so by LEP persons.

4. If the four-factor analysis reveals there are less than 50 LEP persons and less than 5 percent LEP persons in the eligible population in the jurisdiction or among current beneficiaries, the applicant will provide appropriate language assistance by: 1) providing translation services at public hearings, if requested to do so by LEP persons.

If a LAP is required, the Recipient's LAP will include certifications that LAP has been developed, adopted, and will be implemented for all Federally funded projects. The Recipient's LAP will include an identification of all LEP populations exceeding 1,000 or five percent of total jurisdiction population, whichever is less, the identification of materials to be made available to LEP persons, the means by which the materials will be made available to LEP persons, and the identification of any other translation services which may be necessary. Recipients will be monitored for implementation of their LAPs.

### **Monitoring, Evaluation and Updating**

All agencies receiving federal funds through the BGADD will report annually on services provided to LEP persons. Agencies will review their respective plans each year to evaluate their effectiveness and to make any needed changes. BGADD will assist agencies in finding appropriate translation resources, and disseminate translated HUD notices, brochures, posters and other documents.

BGADD will monitor the delivery of any required language assistance on an ongoing basis. It will review the LAP, evaluate the effectiveness of its implementation, and update the LAP, on an annual basis, in order to ensure continued responsiveness to community needs.

The LAP evaluation will consist of:

- Revision of the LAP, as necessary, by monitoring changes in demographics and services provided, updating available resources and tools, modifying methods of implementation and addressing any issues of concerns.
- Analysis of language assistance usage, including the amount of language service requests, surveying the languages most frequently encountered, identifying the primary modes of communication, and costs associated with services rendered.
- Assessment of response to requests by LEP individuals and Recipients regarding the delivery of language assistance services.

### **Availability and Access**

The BGADD LAP is available to the public on our website at [www.bgadd.org](http://www.bgadd.org). This information is available in a form accessible to persons with disabilities, and others, upon written request to: Executive Director, BGADD, 699 Perimeter Drive, Lexington, Kentucky, 40517.

Citizens, public agencies and other interested parties will have reasonable and timely access to information and records relating to the LAP. All public records under KRS Statute 61.870-884 will be made accessible to interested individuals and groups during normal working hours.

### **Complaints**

At any time, citizens may submit complaints related to the LAP by writing the Executive Director, BGADD, 699 Perimeter Drive, Lexington, Kentucky, 40517.

The BGADD will provide a written response to every written citizen complaint that relates to the BGADD LAP within 15 working days.



## APPENDICES

### Appendix A

2011 American Community Survey, 1-Year Estimates – Kentucky – 11/14/2013

<b>Subject</b>	<b>Total Population</b>	<b>Percent of Population</b>	<b>Speaks English Less Than “Very Well”</b>	<b>Speaks English Less Than “Very Well”</b>
Speaks only English	3,885,279	95.1%	(# Population)	(% Population)
Speaks a language other than English	199,559	4.9%	84,369	2.1%
Spanish or Spanish Creole	102,950	2.5%	48,572	2.5%
Other Indo-European languages	50,550	1.2%	14,966	1.2%
Asian and Pacific Island languages	32,075	0.8%	15,521	0.4%
Other languages	13,984	0.3%	5,310	0.1%

## **Appendix B**

### 2007-2011 American Community Survey 5-Year Estimates

#### S1601: Language Spoken at Home

Supporting documentation on code lists, subject definitions, data accuracy and statistical testing is found on the American Community Survey (ACS) website, Data and Documentation section. Sample size and data quality measures (including coverage rates, allocation rates and response rates) can be found on the ACS website in the Methodology section.

Although the ACS produces population, demographic and housing unit estimates, it is the U.S. Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

County	Total Population	Language Spoken by Persons with Limited English Proficiency			
		Spanish or Spanish Creole	Other Indo-European languages	Asian and Pacific Island languages	Other languages
Anderson	19,927	393 2.0%	199 1.0%	42 0.2%	0 0.0%
<b><i>Bourbon</i></b>	18,753	<b>1,038 5.5%</b>	75 0.4%	61 0.3%	0 0.0%
Boyle	26,754	819 3.1%	241 0.9%	153 0.6%	78 0.3%
Clark	33,251	827 2.5%	133 0.4%	96 0.3%	10 0.0%
Estill	13,851	212 1.5%	42 0.3%	16 0.1%	0 0.0%
<b><i>Fayette</i></b>	273,590	<b>16,307 6.0%</b>	6,566 2.4%	6,067 2.2%	1,460 0.5%
Franklin	46,182	1,548 3.4%	185 0.4%	440 1.0%	47 0.1%
Garrard	15,905	220 1.4%	64 0.4%	8 0.1%	0 0.0%
Harrison	17,706	273 1.5%	159 0.9%	0 0.0%	39 0.2%
Jessamine	44,597	979 2.2%	446 1.0%	212 0.5%	259 0.6%
Lincoln	23,112	88 0.4%	92 0.4%	14 0.1%	0 0.0%
Madison	77,358	1,534 2.0%	542 0.7%	476 0.6%	53 0.1%

County	Total Population	Language Spoken by Persons with Limited English Proficiency			
		Spanish or Spanish Creole	Other Indo- European languages	Asian and Pacific Island languages	Other languages
Mercer	19,860	168 0.8%	79 0.4%	26 0.1%	0 0.0%
Nicholas	6,664	56 0.8%	187 2.8%	14 0.2%	20 0.3%
Powell	11,858	75 0.6%	47 0.4%	10 0.1%	0 0.0%
Scott	42,678	1,139 2.7%	384 0.9%	288 0.7%	0 0.0%
<b>Woodford</b>	23,231	<b>1,327</b> <b>5.7%</b>	558 2.4%	51 0.2%	0 0.0%

## **Appendix C**

List of Formal Interpreters (for any language if necessary and cost is not prohibitive):

- Catholic Charities - Louisville, KY 502-636-9263
- The International Center – Bowling Green, KY 270-781-8336
- Language Service Associates - eMARS
- [www.language.com](http://www.language.com) 1-877-886-3885

Additional local translators and interpreters can be found at Kentucky's Finance and Administration Cabinet's Office of Procurement Services (OPS) at [www.eprocurement.ky.gov/translators](http://www.eprocurement.ky.gov/translators).

Written translation of HUD documents can be found at:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promoting\\_fair\\_housing\\_for\\_hlp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promoting_fair_housing_for_hlp)

## **Appendix D**

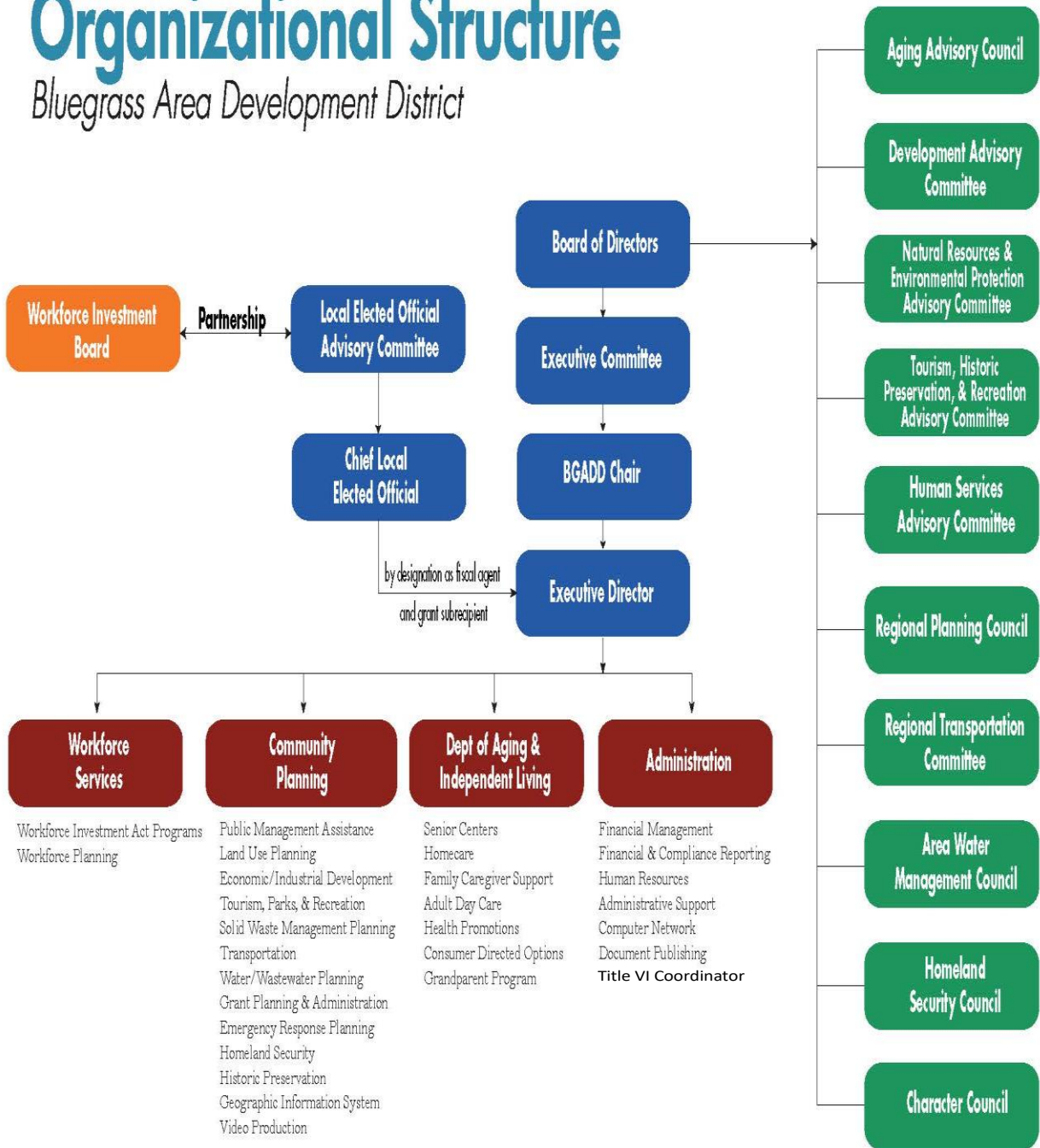
### Examples of Vital Documents:

- Citizen Participation Notices
- Survey Instruments
- Housing-Related Documents
  - Lead-Based Paint Notification
  - Application
  - Lease
  - Note
  - Mortgage
- Drug-Free Certification

## Appendix E

# Organizational Structure

## Bluegrass Area Development District



## APPENDIX F

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

- 1. Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, 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 will not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.
- 4. Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
- 6. Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with

litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.



## APPENDIX G

### ***CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY***

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

**NOW, THEREFORE**, the BGADD as authorized by law and upon the condition that the (*Title of Recipient*) will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of Federal Highway Program, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (*Title of Recipient*) all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### ***(HABENDUM CLAUSE)***

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

The (*Title of Recipient*), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and] (2) that the (*Title of Recipient*) will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964 and as said Regulations and Acts may be

amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].

## APPENDIX H

### ***CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM***

The following clauses will be included in deeds, licenses, leases, permits or similar instruments entered into by the (*Title of Recipient*) pursuant to the provisions of Assurance 7(a):

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

## **APPENDIX I**

### ***CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM***

The following clauses will be included in deeds, licenses, permits, or similar instruments/ agreements entered into by (Title of Recipient) pursuant to the provisions of Assurance 7(b):

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

## APPENDIX J

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 ET seq).

## APPENDIX K

### Review of STA Directives

#### *State Procedures, Manuals, and Directives Applicable to the Federal Highway Administration (FHWA) programs*

The BGADD's Title VI Implementation Plan is designed to comply with the statutes and requirements under the law and as directed by FHWA to accomplish the goals of the Title VI Act of 1964.

The table below is a list of external manuals that include procedures and directives used by KYTC and may be referenced by BGADD.

#### **DIVISION/OFFICE**

Construction

Construction Procurement

Environmental Analysis

Highway Design

Highway Design

Maintenance

Maintenance

OCRSBD

Office of Human Resource Management

Office of Local Programs

Office of Transportation Delivery

Materials

Professional Services

Right-of -Way

Right -of -Way

Traffic Operations

#### **PROCEDURES, MANUAL, DIRECTIVE**

Construction Guidance Manual (Revised 12/2018)

Construction Procurement Guidance Manual  
(Revised 12/2018)

Information, Procedures, and Guidance Manual  
Access Management Manual (Revised 3/17)

Guidelines for Pedestrian & Bicycle  
Accommodations (Revised 3/17)

Field Operations Guide (Revised 6/2019)

Maintenance Guidance Manual (Revised 6/2019)

DBE Program Policy Statement (Revised 6/2016)

General Administration & Personnel Manual  
(Revised 5/2018)

Transportation Enhancement, Transportation  
Alternatives Program, Transportation Community  
and System Preservation

Oversight and implementation of various statewide  
public transit grants. Transportation grants offer  
general public transit services and assist in the  
mobility for the elderly, low income, and persons  
with disabilities

Aggregate Source Book (Revised 7/2016)

Professional Services Guidance Manual (Revised  
3/2019)

Right of Way Guidance Manual (Revised 1/2019)

Relocation Assistance Program (Revised 1/2019)

Traffic Operations Guidance Manual (Revised  
5/2018)

## TITLE VI NOTICE OF PROTECTION AGAINST DISCRIMINATION

The Bluegrass Area Development District operates their programs without regard to race, color and national origin. To request or receive additional information on its discrimination obligations, including its complaint procedures, please contact the person listed below:

Kim Fry, Robert E. Casher, Natalie Flores-Esquivel  
Title VI Coordinator  
859-269-8021  
699 Perimeter Drive  
Lexington, KY 40517  
[kfry@bgadd.org](mailto:kfry@bgadd.org)  
[bcasher@bgadd.org](mailto:bcasher@bgadd.org)  
[nfesquivel@bga..org](mailto:nfesquivel@bga..org)

To file a discrimination complaint, the written complaint must be filed to the address above within 180 days of the alleged discrimination. To accommodate limited English proficient individuals, oral complaints to be documented and/or translated may also be given at the above address. Written complaints may also be filed with the United States Department of Transportation, Federal Transit Administration (FTA) no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by FTA.



David Duttlinger  
Executive Director