

BACTS

Bangor Area Comprehensive Transportation System

PUBLIC INVOLVEMENT IN METROPOLITAN TRANSPORTATION PLANNING

May 2010

Public Comment Period for this Document: June 1, 2010 to July 16, 2010
Adopted by the BACTS Policy Committee on July 20, 2010

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I. INTRODUCTION

Effective public participation is essential to the successful implementation of any public planning program or project. Without the involvement of local citizens, it is difficult to design a program that effectively meets the greater needs of the public. A proactive public involvement process leads to a transportation system that reflects the needs and values of the community; to that end, the Bangor Area Comprehensive Transportation System (BACTS) actively seeks to incorporate the involvement of the public in its planning efforts.

II. FEDERAL REGULATIONS

Under the Federal Highway (FHWA) and the Federal Transit Administration (FTA) Metropolitan Planning Regulations (23 CFR 450), all Metropolitan Planning Organizations (MPOs) are required to develop a Public Involvement Process for the development and update of Transportation Plans and Transportation Improvement Programs (TIPs). Section 450.316 (b) CFR mandates that the public involvement programs of metropolitan planning processes shall:

1. Include a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions, and supports early and continuing involvement of the public in developing plans and transportation improvement programs (TIPs) and meets the requirements and criteria specified as follows:
 - a. Require a minimum public comment period of 45 days before the public involvement process is initially adopted or revised;
 - b. Provide timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties, and segments of the community affected by transportation plans, programs and projects (including but not limited to local jurisdiction);
 - c. Provide reasonable public access to technical and policy information used in the development of plans and TIPs and open public meetings where matters related to the Federal-aid highway and transit programs are being considered;
 - d. Provide adequate public notice of public involvement activities and time for public review and comment at key decision points, including, but not limited to, approval of Plans and TIPs;
 - e. Demonstrate explicit consideration and response to public input received during the planning and program development processes;
 - f. Seek out and consider the needs of those traditionally under-served by existing transportation systems, including but not limited to low-income and minority households. Refer to BACTS Title VI Plan for more details (Appendix B);

- g. When significant written and oral comments are received on the draft transportation plan or TIP as a result of the public involvement process or the interagency consultation process required under the U.S. EPA's conformity regulations, a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP;
- h. If the final transportation plan or TIP differs significantly from the one which was made available for public comment by BACTS and raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts, an additional opportunity for public comment on the revised plan or TIP shall be made available;
- i. Public involvement processes shall be periodically reviewed by BACTS in terms of their effectiveness in assuring that the process provides full and open access to all;
- j. These procedures will be reviewed by the FHWA and FTA as necessary, to assure that full and open access is provided to MPO decision making processes;
- k. Metropolitan public involvement processes shall be coordinated with statewide public involvement processes wherever possible to enhance public consideration of the issues, plans, and programs and reduce redundancies and costs.

BACTS will utilize this list to review the public involvement process every three years from the date of endorsement, or as deemed necessary through the planning process.

III. STATE REGULATIONS

The “Sensible Transportation Policy Act (STPA),” approved by Maine voters in 1991 required MaineDOT to establish a public participation process that is effective, timely, and efficient. The Regional Transportation Advisory Committee (RTAC) process, created by the Transportation Policy Advisory Committee and STPA Rule, played an integral role in facilitating a higher degree of public participation during the formulation of transportation policy than ever before. While this method worked well and served its purpose for more than a decade, MaineDOT has broadened the scope of the statewide public outreach and involvement process. To that end, Maine DOT has partnered with Regional Planning and Development Organizations (RPOs) to develop public outreach strategies that:

- are tailored specifically to their region,
- are consistent with the requirements of STPA,
- encourage stronger regional partnerships,
- increase grassroots and local government involvement,
- provide opportunities for interested former RTAC members to participate, and
- develop a more consistent statewide approach.

RPOs are organized to represent each of Maine’s Economic Development Districts (EDDs). They have the expertise to develop broad based regional goals and integrate transportation

planning with land use planning and economic development. RPOs must solicit direct input from the public and regional stakeholders on transportation, land use and economic development priorities in their region, and synthesize that information into Regional Needs Assessments for consideration in Maine DOT's Long-Range Plan and the EDD's Comprehensive Economic Development Strategy.

BACTS will work with MaineDOT and the RPOs in the development and execution of the BACTS Public Involvement Process. Where a project has yet to be classified and where a project affects BACTS and the RPO, findings of Significant Highway Projects defined in Subchapter 1, Section 3(k) and Substantial Public Interest Projects described in Subchapter 1, Section 7 of the STPA rule will be determined cooperatively with the RPO and MaineDOT.

The BACTS Public Involvement Process will envelop all public participation requirements of the STPA.

IV. MPO COMMITTEE MEETINGS

1. Member Organizations

BACTS has two standing committees; the Policy Committee and a Technical Committee. They meet on a bimonthly basis unless more frequent special meetings are necessary. The Policy Committee, as the policy making body of BACTS, has the authority to develop, endorse and revise, when needed, the Transportation Improvement Program and Long Range Transportation Plan.

All Committee meetings will open to the public. Procedures and protocol for BACTS Committee meetings can be reviewed in the Bylaws of the Bangor Comprehensive Transportation System (BACTS) (Appendix A) adopted November 21, 2006. Opportunity for public input on each agenda item will be given after the committee discussion but before the vote. A limit of five minutes for public input will be granted. Public input may continue at the discretion of the committee chair. Input will be limited to the subject of the agenda item.

Meeting Notices and Agendas will be placed on the BACTS website at least seven (7) days prior to a scheduled meeting.

Meeting Notices and Agendas will be sent to all voting and non-voting members of the BACTS Policy, Technical and Traffic Signal Committees at least seven (7) days prior to a scheduled meeting. Committee meeting minutes will be available on the BACTS website.

2. Interested and Affected Parties

In order to promote active, informed public participation in the transportation planning process, a broad range of organizations and individuals are included on the list of

Interested and Affected Parties. This list will be maintained within our agency database. This list will remain open to any new agencies or individuals interested in the BACTS planning process. Any of these agencies or individuals requesting additional informational materials will be kept informed of BACTS planning activities including meeting notices, agendas and minutes. This information will also be available on our website.

BACTS has and will continue to identify and include agencies and individuals traditionally underserved by existing transportation systems.

V. ACCESS TO TECHNICAL AND POLICY INFORMATION

FHWA and FTA regulations specify that the public must be granted access to technical and policy information and assumptions underlying the planning and emissions models used to carry out transportation decision-making and air quality conformity determinations. BACTS will satisfy this requirement in four ways:

1. **BACTS Website** – The BACTS website at: www.bactsmmpo.org provides public access to a variety of committee documents, containing both policy and technical information used in the transportation decision-making process. The site also contains information relating to the Transportation Improvement Program, current studies, and other relevant transportation issues. It allows public review and promotes comment on various BACTS documents and studies.
2. **Designated Newspaper** – The designated newspaper for BACTS legal ads and required postings is:

Bangor Daily News
PO Box 1329
Bangor, ME 04402-1329
3. **Public Notice for BACTS Meetings** - All underlying assumptions regarding the BACTS Traffic Forecasting Model and MDOT/BACTS conformity determinations are discussed in regular BACTS Technical Committee Meetings which are open to the public.
4. **Transportation Plan and TIP Development** - The public will have ample opportunity to review technical and policy information and assumptions through the public involvement process outlined in Section VII and VIII below. Additionally, BACTS will document the project selection procedures used to develop every TIP. The TIP process document is made available to the public for review and comment along with the DRAFT TIP document.

VI. DEVELOPMENT OF THE UNIFIED PLANNING WORK PROGRAM (UPWP)

To ensure that the BACTS Unified Planning Work Program provides for effective public involvement, BACTS will solicit comment on proposed planning activities through:

- (1) a direct mailing to the *Interested and Affected Parties*; and
- (2) a public notice in the designated newspaper.

Comments received will be made available to the BACTS Technical and Policy Committees before they begin the development of the UPWP. Copies of the draft final UPWP and approved UPWP will be available to the general public upon request.

VII. UPDATING THE 20-YEAR TRANSPORTATION PLAN

BACTS shall maintain and update the *Interested and Affected Parties* list so that the individuals, groups and agencies who are stakeholders in the region's long-range transportation plan can be notified and become actively involved in the plan update.

1. Public Notification of Transportation Plan Development

BACTS shall provide notice to the public of the intent to develop or update the Plan at the start of the development process. This notice shall be published in the designated newspaper and sent to those interested groups and agencies included on the list of *Interested and Affected Parties*. The updated Plan will also be posted on the BACTS website. BACTS shall also attempt to reach those interested in the Plan's development by using various public outreach strategies which may include, but are not limited to: newsletters, news releases, newspaper inserts, bulletin boards, and public service advertisements.

The public notice shall include at least the following information: a brief description specifying what changes were made from the original plan; a brief description of the planning process tied to a schedule for when decisions will be made; how the Plan may affect the region; what opportunities exist for public participation; and BACTS contact for obtaining further information.

2. Public Forums/Workshops

At appropriate points during the development of the Plan, BACTS will hold public forums to discuss the various components of the Long-Range Transportation Plan.

A public informational meeting will then be held to discuss the development of the entire Plan including transportation system deficiencies, alternative solutions, project priorities and other issues deemed appropriate.

Public Notices for these meetings shall be published in the designated newspaper and shall be sent to those interested groups and agencies included on the list of *Interested and Affected Parties* at least ten days prior to the meeting. BACTS shall endeavor to identify

neighborhoods readily affected by system deficiencies and attempt to involve them as an "interested or affected party."

3. Public Hearing on Draft Transportation Plan

Upon completion of the Draft Plan, BACTS shall schedule a public hearing on the document. Individuals and organizations identified on the *Interested and Affected Parties* list shall be notified and offered the opportunity to participate in and/or offer comment. The purpose of the hearing will be primarily for BACTS to collect comments regarding the content of the Draft Plan.

A Public Notice shall be published in the designated newspaper and will encourage submission of written comments by those unable to attend the hearing. A comment period of 30 days beginning from the date of the hearing notice (and at least ten days beginning from the date of the hearing) shall be provided during which comments may be submitted for consideration by the BACTS Policy Committee. The Draft Plan shall be made available for inspection at the time of the hearing notice. Copies of the Plan shall be made available in the BACTS office, website, and the municipal offices of the BACTS communities.

At the hearing, BACTS shall present pertinent information contained in the Draft Plan and receive comments from the public. If a "Major Investment Study" is identified or a "Significant Highway Project" is determined under STPA, the BACTS Policy Committee will tailor a specific public involvement strategy after the required interagency consultation process is accomplished. This strategy will engage the public in the consideration of the purpose and need for the major investment as well as development and evaluation of all "reasonable" alternatives.

A summary document of the Transportation Plan will be made available to the attendees at the meeting. All substantive comments received during the proceedings will be documented by BACTS.

4. Preparation of Final Transportation Plan

BACTS will prepare the Final Transportation Plan after carefully considering all of the comments and input received from the public process. All relevant written or oral comments received on the Draft Plan will be included in the Final Plan.

If the Final Plan contains substantive changes from the one that was made available for public comment, or raises new material issues that interested parties could not reasonably have foreseen from the public involvement efforts, then BACTS shall provide an additional duly noticed public comment period on the revised Draft Plan of not less than 10 days.

The Final Transportation Plan shall contain BACTS responses to all relevant comments received on the Draft and if necessary, the Final Plan. BACTS shall provide one copy of the Final Transportation Plan to each Town or City Hall in BACTS area. As the Plan is updated these copies shall also be updated.

VIII. DEVELOPMENT OF THE TIP

When developing the TIP, BACTS will follow the same public involvement procedures as described for updating the Transportation Plan in Section VII A-D above. Public notices relating to the TIP (and significant amendments of the TIP) shall say, in part, “public notice of public involvement activities and time established for public review and comment on the TIP will satisfy the program-of-projects requirements of the Urbanized Area Formula Program.” Any substantive change in BACTS' TIP project rating criteria is subject to public review and comment. Amendments to the TIP rating criteria shall be accomplished before the initiation of the Biennial TIP development process. BACTS shall notify the public of its intent to update the TIP rating criteria and make said material available to the public for comment.

IX. SIGNIFICANT AMENDMENTS TO THE TRANSPORTATION PLAN AND TIP

In general, the Transportation Plan is updated every five years and a TIP is developed every two. Whenever significant action is taken at the project level by the BACTS Policy Committee between these time periods, an amendment is necessary. BACTS will publish the proposed amendment to the Plan or TIP with a brief description or summary of the amendment(s) included. All technical analysis in support of the amendment including any air quality/conformity analysis will be referenced in the public notice and made available to the public for review and comment. A comment period of 30 days beginning from the date of the public notice will be provided during which comments may be submitted to BACTS for consideration.

An exemption from the public involvement process may be granted only where the proposed projects are determined to be exempt from air quality conformity determination under the provisions of the Clean Air Act Amendments (CAAA) of 1990 and 40 CFR 93.134. For purposes of the Transportation Plan or TIP, these exempt projects would be considered minor in nature. BACTS will consult FHWA and EPA in the determination as to whether an amendment requires public involvement.

Appendix A

BY-LAWS

BANGOR AREA COMPREHENSIVE TRANSPORTATION SYSTEM

Adopted November 21, 2006

ARTICLE I

LEGAL BASIS FOR A BANGOR METROPOLITAN PLANNING ORGANIZATION

Executive Order signed by Governor Joseph Brennan on December 15, 1982. (See Appendix A)

ARTICLE II

NAME

The name of the organization shall be the Bangor Area Comprehensive Transportation System (originally known as the Bangor Area Comprehensive Transportation Study), hereinafter referred to as "BACTS".

ARTICLE III

PURPOSE

BACTS acts as the Metropolitan Planning Organization (hereinafter referred to as MPO) advancing the transportation interest of the Bangor urbanized area (See map Appendix B) and carrying out the federal and state mandated urbanized transportation planning responsibilities.

ARTICLE IV

COMMITTEES

BACTS shall consist of a Policy Committee and a Technical Committee. The Policy Committee may also designate ad hoc subcommittees.

All committee meetings will be open to the public. BACTS' most recently adopted public participation document will be followed to ensure an open public process for transportation planning in the BACTS area.

Each municipality's city council, board of selectmen, city or town manager will appoint the representatives and alternates from their municipality for the Policy and Technical committees.

ARTICLE V

POLICY COMMITTEE

Section 1: Purpose. The Policy Committee is the policy making body of BACTS. The Policy Committee is charged with adopting the annual budget and work program, creating and establishing the structure of subcommittees, appointing and removing the director/ coordinator, developing and endorsing a regional transportation plan, developing and endorsing a Transportation Improvement Plan to submit to MDOT and performing other duties as required by federal and state governments.

Section 2: Membership. The Policy Committee shall consist of both voting and ex-officio members. Each municipality will have one vote on the Policy Committee for every three thousand (3,000) people in their urbanized area with a minimum of one vote and a maximum of four votes. The population will be determined from the urbanized area in the 2000 United States Census. Additional voting members shall include the president of Eastern Maine Development Corporation, a representative from the Maine Department of Transportation, and a regional freight representative selected by the Policy Committee. One of the voting members from Bangor will represent the public transit system. Any municipality entitled to more than one vote may allow a voting member from their municipality present at the meeting to vote in proxy for any absent members or alternates as long as the BACTS director has written authorization from the absent member prior to the meeting being called to order.

Ex-officio members shall include one member each from the Federal Highway Administration, Federal Transit Administration, the Comprehensive Economic Development Strategy transportation subcommittee, and Bangor Region Chamber of Commerce.

New elections will occur at the first BACTS Policy Committee meeting following the resignation or termination of the duly elected Chairperson or Vice-Chairperson. The Committee shall elect such officers from the Committee membership.

Section 3: Meetings. The Policy Committee shall hold regularly scheduled meetings on the third Tuesday of every other month beginning in January, at 9:30 a.m. in the Eastern Maine Development Corporation boardroom. These meetings may be cancelled or additional meetings may be called by the Policy Committee chair as frequently as, in his or her judgment, the accumulation of business to be transacted shall demand.

It shall be the responsibility of the chairperson, or vice-chairperson if the chairperson is unable to attend, to conduct the business agenda at all Policy Committee meetings. Should neither be in attendance at the meeting, an acting chairperson shall be elected for that meeting. Meeting documents shall be sent to all members of the Policy Committee at least one week prior (ten days for special meetings) to each meeting to allow sufficient time to prepare for the meeting. Only business specified on the agenda will be covered at the meeting. A two-thirds vote is required to

take up additional business. All business of this committee shall be in accordance with Robert's Rule of Order.

Section 4: Email Voting. In order to expedite critical BACTS decisions that may otherwise cause major or significant cost increases, the BACTS Policy Committee may use email to vote. Email voting may only be used when the time it takes to call a special BACTS Policy Committee meeting would significantly jeopardize the outcome of the issue at hand.

The BACTS Director or their designated representative will send an email to the Policy Committee outlining the issue and asking for a vote. Any Policy Committee member shall cast their vote by replying to all within two business days. The vote must be unanimous and the number of votes must meet the quorum required below. The issue will be an agenda item at the next duly constituted meeting and the vote recorded in the meeting minutes.

Section 5: Officers. At the first meeting after June 1st in even numbered years, the Policy Committee shall select from its members a chairperson, a vice-chairperson, and a secretary/treasurer. Officers shall serve for two-year terms but may serve additional terms if so elected.

Section 6: Quorum. A quorum is required to take any official action. Committee members representing the potential for eleven votes are necessary to have a quorum. Action is taken by simple majority of votes cast.

ARTICLE VI

TECHNICAL COMMITTEE

Section 1: Purpose. The Technical Committee is charged with assisting and advising the Policy Committee on any matters for which the Policy Committee seeks its' advice. The Technical Committee is the primary source of technical expertise and knowledge and focuses largely on project and program review. The Technical Committee is empowered to approve Requests for Proposals for projects outlined in the approved work plan and to recommend to the Policy Committee approval of contracts with consultants who meet the budget approved in the work plan.

Section 2: Membership. The Technical Committee shall consist of voting and ex-officio members: Each municipality will have one vote on the Technical Committee for every three thousand (3,000) people in their urbanized area with a minimum of one vote and a maximum of four votes. The population will be determined from the urbanized area in the 2000 United States Census. A representative from the Maine Department of Transportation will be a voting member. Any municipality entitled to more than one vote may allow a voting member from their municipality present at the meeting to vote in proxy for any absent members or alternates as long as the BACTS director has written authorization from the absent member prior to the meeting being called to order. The ex-officio members shall be from the Federal Highway Administration and the local MDOT Regional Office.

Section 3: Meetings. The Technical Committee shall hold regularly scheduled meetings on the third Tuesday of every other month beginning in February, at 9:30 a.m. in the Eastern Maine Development Corporation boardroom. These meetings may be cancelled or additional meetings may be called by the Technical Committee chair as frequently as, in his or her judgment, the accumulation of business to be transacted shall demand.

It shall be the responsibility of the chairperson, or vice-chairperson if the chairperson is unable to attend, to conduct the business agenda at all Technical Committee meetings. Should neither be in attendance at the meeting, an acting chairperson shall be elected for that meeting. Meeting documents shall be sent to all members of the Technical Committee at least one week prior (ten days for special meetings) to each meeting to allow sufficient time to prepare for the meeting. Only business specified on the agenda will be covered at the meeting. A two thirds vote is required to take up additional business. All business of this committee shall be in accordance with Robert's Rule of Order.

Section 4: Email Voting. In order to expedite critical BACTS decisions that may otherwise cause major or significant cost increases, the BACTS Technical Committee may use email to vote. Email voting may only be used when the time it takes to call a special BACTS Technical Committee meeting would significantly jeopardize the outcome of the issue at hand.

The BACTS Director or their designated representative will send an email to the Technical Committee outlining the issue and asking for a vote. Any Technical Committee member shall cast their vote by replying to all within two business days. The vote must be unanimous and the number of votes must meet the quorum required below. The issue will be an agenda item at the next duly constituted meeting and the vote recorded in the meeting minutes.

Section 5: Officers. At the first meeting held after June 1st in even numbered years, the Technical Committee shall select from its members a chairperson and a vice-chairperson. Officers shall serve for two-year terms but may serve additional terms if so elected. New elections will occur at the first BACTS Technical Committee meeting following the resignation/termination of the duly elected Chairperson or Vice-Chairperson. Such officers shall be elected by the Committee from the Committee membership.

Section 6: Quorum. A quorum is required to take any official action. Committee members representing the potential for ten votes are required to have a quorum. Action is taken by simple majority of votes cast.

ARTICLE VII

STAFF

The staff of the BACTS shall include a director/coordinator and other technical and administrative staff as approved by the Policy Committee. Staff members shall have no voting powers in BACTS affairs.

The BACTS Policy Committee may engage the services of a Director/Coordinator, who shall act administratively at the direction of the Chairperson. It shall be the duty of the director/coordinator to administer the programs determined by the Policy Committee.

The BACTS Policy Committee Chairperson shall have the authority to appoint a Personnel Committee whose function will be to interview and recommend to the Policy Committee the hiring of any person for the director/coordinator position. The Personnel Committee shall meet with the director/coordinator and annually review performance and recommend to the Policy Committee the director/coordinator employment contract for approval.

The BACTS Policy Committee through its Chairperson may authorize the D/C to carry on the day-today business as authorized by these bylaws or Statutes or the State of Maine. The director/coordinator shall be in charge of the office and all other employed staff.

BACTS shall maintain an accessible place of business open to the public during normal business hours.

ARTICLE VIII

AMENDMENTS

These Bylaws may be amended by vote of the majority of the Policy Committee members present at any two consecutive duly constituted meetings.

Appendix B

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

October 1, 2008 – September 30, 2009

**BACTS
40 Harlow Street
Bangor, Maine 04401
(207) 942-6389**

POLICY STATEMENT

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

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

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

Inquiries concerning BACTS' policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI/Environmental Justice may be directed to the Director, Bangor Area Comprehensive Transportation System, 40 Harlow Street, Bangor, Maine 04401, telephone 207-942-6389.

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

A handwritten signature in black ink, appearing to read "Robert E. Kenerson, Jr.", written in a cursive style.

Robert Kenerson, Jr.
BACTS Director

November 3, 2008

BACTS TITLE VI ASSURANCE

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

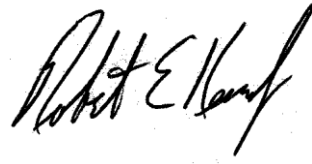
More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to the Federal Aid highway program:

1. That the Recipient agrees that each “program” and each “facility” as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and, in adapted form, in all proposals for negotiated agreements:
The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, disability, race, color, or national origin in consideration for an award.
3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
5. That where the Recipient receives federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
6. That this assurance obligates the 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, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipients or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; of (b) the period during which the Recipient retains ownership or possession of the property.
7. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

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

Dated: November 3, 2008

Bangor Area Comprehensive Transportation System
(Recipient)

A handwritten signature in black ink, appearing to read "Robert E. Kenerson, Jr.", written in a cursive style.

by: Robert Kenerson, Jr., P.E., Director

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AUTHORITIES

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

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin (including Limited English Proficiency), or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21). Related statutes have broadened the grounds to include age, low income, and disability.

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

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

Age Discrimination Act of 1975, 42 USC 6101: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

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

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

USDOT Order 1050.2: Standard Title VI Assurances

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

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

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

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

DEFINITIONS

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

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

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

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

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

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

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

Low-Income Population -- Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such

as migrant workers or Native Americans) who will be similarly affected by a proposed Bangor Area Comprehensive Transportation System (BACTS) program, policy or activity.

Minority -- A person who is:

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

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

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

Persons -- Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: “White not of Hispanic origin,” “Black not of Hispanic origin,” “Hispanic,” “Asian or Pacific Islander,” “American Indian or Alaskan Native.” Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

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

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

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

ADMINISTRATION – GENERAL

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

- Complaints

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

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

- Data Collection

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

- BACTS Reviews

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

- Title VI/EJ Reviews on Sub-recipients

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

- Annual Reports

An annual report will be required by August 1 or each year. The BACTS Director will be responsible for coordination and compilation of these reports and submitted by September 1 to the Maine Department of Transportation and Federal Highway Administration. These reports will review Title VI/EJ accomplishments achieved during the year and goals for the next year.

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

SPECIAL EMPHASIS PROGRAM AREAS

Planning

Develop the Metropolitan Planning Organization's (MPO) input into the state's Biennial Transportation Improvement Program (BTIP) and the 6-Year Plan. The MPO is also responsible for developing a 20-Year Plan and the Transportation Improvement Program (TIP) to meet present and future needs for safe, adequate, and efficient transportation. Planning also encompasses clean air issues, safety, pavement management, transportation analysis, transportation reporting, inventory, research, mapping, major project studies and training and technical assistance for communities.

→ BACTS Director will:

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

Transit

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

→ Director BACTS will:

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

LIMITED ENGLISH PROFICIENCY

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

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

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

Reasonable steps will depend on:

- The number and proportion of LEP persons potentially served by the recipient’s programs or activities and the variety of languages spoken in the recipient’s service area.
- The frequency with which LEP individuals are affected by the program or activity.
- The importance of the effect of the recipient’s program on LEP individuals.
- The resources available to the recipient and whether the recipient has budgeted for provision of special language services.
- The level of services provided to fully English proficient people.
- Whether LEP persons are being excluded from services or provided a lower level of services.
- Whether the recipient has adequate justification for restrictions, if any, on special language services or on speaking languages other than English.

FILING A COMPLAINT

I. Introduction

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

II. Purpose

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

III. Roles and Responsibilities

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

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

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

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

IV. Filing Complaints

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

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

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

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

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

Complaints must be filed no later than 180 days after:

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

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

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

INTERNAL COMPLAINT PROCESSING

Initial contact

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

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

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

The Complaint Review Process

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

INVESTIGATION

Investigation Plan

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

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

Conducting the Investigation

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

Investigation Reporting Process

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

Reporting Requirements to an External Agency

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

Records

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

DISCRIMINATION COMPLAINT FORM

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

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

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

8. Names of witnesses to the alleged discriminatory act:

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

Signed: _____

Date: _____

APPENDIX

APPENDICES TO STANDARD TITLE VI ASSURANCES – A

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

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

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

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

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

(5) Sanctions for Noncompliance: In the event of the Contractor’s noncompliance with the nondiscrimination provisions of this contract, BACTS shall impose such contract sanctions as it or the (Name of the Appropriate Administration) may determine to be appropriate, including but not limited to:

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

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

The Contractor shall take such action with respect to any subcontract or procurement as the BACTS or the (Name of Appropriate Administration) may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes

involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such directions, the Contractor may request BACTS to enter into such litigation to protect BACTS, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

ACCOMPLISHMENT REPORT/GOALS FOR ENSUING YEAR – APPENDIX B

Accomplishments 2008:

Bangor Area Comprehensive Transportation System (BACTS), the Metropolitan Planning Organization for the urbanized area of the Bangor Maine region has been very active in ensuring that the BACTS planning process is consistent with Title VI of the Civil Rights Act of 1964, as amended.

During 2008 BACTS has developed or enhanced the following activities to assure that no person in the MPO area shall, on the grounds of race, color, or national origin, sex, disability, and age, be excluded from, participation in, or be denied the benefits of, or be subjected to discrimination under the MPO transportation planning activities:

- *Crikelair and Associates completed a Transit Route Study for the BACTS area with several public meetings for input.*
- *Gorrill-Palmer Consulting Engineers, Inc. completed a Regional Truck Route Study with a public advisory committee and public meetings.*
- *Attended the University of Maine's new student orientation day to educate new students on the opportunities offered by using the fixed route transit system.*
- *The Penobscot Nation continues to have a voting representative actively involved on the BACTS Policy, Technical, and Transit Advisory Committees.*
- *A Transit Advisory Committee made up of municipal appointees meets periodically to discuss ongoing transit issues.*
- *Ensured timely public notification of our planning process in the local newspaper and a letter to everyone on our interested and affected parties list. This list consists of close to 100 agencies, organizations and individuals and is continually growing. The businesses for the most part represent the largest employers in the area. The range of agencies represented includes those helping people with various backgrounds and needs including the elderly and people with special needs. Most of the individuals on this list are people who have expressed an interest in BACTS planning and/or made public comment on one of our planning documents.*
- *We also hold public meetings and comment periods for everyone to comment on our planning documents and studies. Any comments and a response, if necessary, are included in the final document.*
- *We have a website: bactsmo.org. We have included the agendas and minutes of all Policy and Technical Committee meetings, draft and final copies of all studies and planning documents we are involved in and contact information for anyone to email, call or mail us with comments.*
- *BACTS publishes a newsletter three times a year.*

- *We occasionally discuss our current program and look for ways to make improvements with the FHWA, Maine Department of Transportation and the other three MPOs in Maine.*
- *We have a certification process to ensure that the MPO's planning process is consistent with Title VI.*

Annual Work Plan FY 2009

Attend the University of Maine's new student orientation day to educate new students on the opportunities offered by using the fixed route transit system.

Encourage the Penobscot Nation to continue to have a voting representative actively involved on the BACTS Policy, Technical, and Transit Advisory Committees.

The Transit Advisory Committee made up municipal appointees will meet periodically to discuss ongoing transit issues.

Ensure timely public notification of our planning process in the local newspaper and a letter to everyone on our interested and affected parties list. This list consists of close to 100 agencies, organizations and individuals and is continually growing. The businesses for the most part represent the largest employers in the area. The range of agencies represented includes those helping people with various backgrounds and needs including the elderly and people with special needs. Most of the individuals on this list are people who have expressed an interest in BACTS planning and/or made public comment on one of our planning documents.

Hold public meetings and comment periods for everyone to comment on our planning documents and studies. Any comments and a response, if necessary, are included in the final document.

Continue to maintain the BACTS website: bactsmmpo.org.

Publish a BACTS newsletter three times a year.

Continue to reach out to the community and provide a means for the population of the Bangor area to voice their needs.

DETERMINE/DISTINGUISH SIGNIFICANT/NON-SIGNIFICANT EFFECTS – APPENDIX C

“*Significantly*” requires considerations of both context and intensity:

(a) *Context*. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the local area rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity*. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if, on balance, the effect would be beneficial.

Non-significant effect means no substantial change to an environmental component and thus no material bearing on the decision-making process.

Scientific, technical, institutional, the public’s value, and the local economic conditions influence the meaning of *significant effect*.

If an alternative would provide a beneficial effect, then the alternative would cause no significant adverse effect. If an alternative would provide an adverse effect, the effect might be significant or the effect might be non-significant.

Determinations of “significant” and “non-significant” effects will be made by the Director.

FTA CIRCULAR 4702.1 DATA COLLECTION AND REPORTING -- APPENDIX D

"Title VI Program Guidelines for Federal Transit Administration (FTA) Recipients"

CHAPTER III

OVERVIEW The US Department of Justice (US DOJ) and the US Department of Transportation (US DOT) regulations implementing Title VI require recipients to establish, maintain and submit to the Federal Transit Administration (FTA) the following information, updated at a minimum every three years, or more often if conditions warrant. The information must be submitted by August 31.

1. A list of any active lawsuits or complaints naming the recipient or sub-recipient, which allege discrimination on the basis of race, color, or national origin with respect to service or other transit benefits. The list should include: the date the lawsuit or complaint was filed; a summary of the allegation; and the status of the lawsuit or complaint, including whether the parties to a lawsuit have entered into a consent decree.
2. A description of all pending applications for financial assistance, and all financial assistance currently provided by other Federal agencies.
3. A summary of all civil rights compliance review activities conducted in the last three years. The summary should include: the purpose of reason for the review; a summary of the findings and recommendations of the review; and a report on the status and/or disposition of such findings and recommendations.
4. A signed FTA Civil Rights Assurance that all the records and other information required under FTA Circular 4702.1 have been or will be compiled and maintained.
5. A signed standard DOT Title VI Assurance. This assurance will be maintained as part of the FTA "One-Time Submission" file.
6. For construction projects, a fixed-facility impact analysis to assess the effects on minority communities. If this information has been prepared as a result of an environmental assessment or environmental impact statement, reference the relevant information by document, page number(s), and date of submission to FTA. The analysis should include:
 - a. A discussion of the potential impact on minority communities and minority-owned businesses during and after construction;
 - b. A discussion of all potential negative environmental impact, such as noise, air, or water pollution;
 - c. A detailed list of minority-owned businesses and households that will be affected by the construction project;
 - d. A description of other significant changes or impacts on the minority community, such as increased traffic, reductions in the amount of available parking, etc.; and

- e. A description of the relocation program and/or other measures adopted by the applicant that will be used to mitigate any identified adverse social, economic, or environmental effect of the proposed construction project.

FTA TITLE VI SUBRECIPIENT REVIEW FORMAT – APPENDIX E

Basic Requirement

The grantee must ensure that no person in the United States shall on the grounds of race, color, or national origin be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. A grantee must ensure that federally supported transit services and related benefits are distributed in an equitable manner.

Areas To Be Examined

1. ***Responsibility for Title VI Coordination***
 - a. Certification of nondiscrimination (Annual Certifications and Assurances)
 - b. Implementation of Title VI provisions
2. ***Approved Title VI Program updates***
 - a. General reporting requirements (all grantees)
 - b. Program specific reporting (areas with population of 200,000 or more)
3. ***Title VI Monitoring Procedures***
 - a. Level and quality of service (areas with population of 200,000 or more)
 - b. Fixed facility impact analysis (all construction projects)
4. ***Title VI Complaints***
 - a. List of Title VI complaints
 - b. List of Title VI lawsuits

References

1. FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients," May 26, 1988.

QUESTIONS FOR THE REVIEW

1. *Has a grantee had, or been informed that it will have, a Title VI Compliance Review by the FTA Office of Civil Rights? If yes, when was the site visit? If a review was conducted, is a grantee in full compliance?*

Explanation

Consistent with FTA's oversight responsibilities, FTA has initiated a program of grantee reviews assessing compliance with the Title VI regulations. The review is comprehensive in nature, including a review of each agency's policies, procedures, and recordkeeping.

After the review is complete, the review team conducts an exit interview presenting the findings, if any, to a grantee. A draft final report documenting the deficiencies and necessary corrective actions are provided to a grantee within 30 days of the site visit. A letter and final report is issued within 60 days of the site visit. A grantee then will have 90 days to take corrective actions and provide appropriate documentation to the Civil Rights Officer (CRO).

Reason for the Question

Input to triennial review

Documentation

Grantees should keep on file any correspondence related to a scheduled or completed Title VI Compliance Review and a copy of the final report.

Determination

If the grantee has had a Title VI Compliance Review within the past 12 months or one is scheduled within the next 30 days, this area is not reviewed. If the Title VI Compliance Review occurred more than 12 months ago, and the grantee has taken all necessary corrective actions, the grantee is not deficient. If there still are open findings after 12 months, the grantee is deficient.

Suggested Corrective Action

The grantee must implement the recommendations from the Title VI Compliance Review and submit documentation of completed corrective actions to the FTA.

2. *Who is responsible for the coordination of Title VI Program/ Environmental Justice Assessments? Who prepares the Title VI Program submissions and updates for FTA?*

Explanation

The answers to these questions identify the individual(s) responsible for Title VI Program/ Environmental Justice Assessments and program submissions. All grantees are required to certify annually as a part of the Certifications and Assurances that they will not discriminate in service delivery. All grantees must report on efforts taken to implement the provisions of Title VI of the Civil Rights Act of 1964. Proper implementation of Title VI Program/Environmental Justice Assessments involves data collection and the assessment of equity.

Reason for the Question

General Information

Documentation

This information should be available from a grantee.

Determination

Not applicable

Suggested Corrective Action

The grantee must identify a person(s) responsible for coordinating and preparing Title VI Program/ Environmental Justice Assessments.

3. *Please have available the current Title VI Program. If the program has expired, please provide an explanation.*

Explanation

Grantees are required to maintain and provide to FTA Title VI information at least every three years or more frequently if conditions warrant. FTA has established two main categories of reporting requirements: General and Program-Specific. General reporting requirements apply to all grantees and include lists of Title VI complaints or lawsuits (if any); recent civil rights compliance reviews; and pending federal grant applications. Program-specific reporting requirements apply to grantees that operate transit service in service areas with populations of 200,000 or more. The major elements of program-specific reporting requirements include demographic and service profile maps, overlays, and charts; service standards and policies; assessment of compliance by grantees; and other areas of Title VI considerations (changes in service features, information dissemination, minority representation on decision-making bodies, and multilingual facilities).

Reason for the Question

FTA C 4702.1, III-2

Documentation

A grantee should have a copy of its Title VI program on file.

Determination

If a current Title VI program has been submitted and approved, a grantee is not deficient. If a grantee has submitted its program and is awaiting a response from FTA, a grantee is not deficient. If the Title VI program has expired and a grantee has not requested and received an extension for submitting a new program, a grantee is deficient.

Suggested Corrective Action

The grantee should submit the required Title VI program or update to FTA.

4. *Has FTA placed any conditions on the Title VI approval? If so, what is the status of a grantee's follow-up on corrective actions?*

Explanation

In reviewing a grantee's Title VI submission, the CRO may have issued a conditional approval and identified corrective actions that need to be taken or additional submittals that need to be made to determine compliance. Corrective actions may be required in cases where conditional approvals may be granted pending the submission of additional documentation by a grantee.

Reason for the Question

FTA C 4702.1, IV-2

Documentation

The grantee should be prepared to discuss the status of any outstanding items that require corrective action.

Determination

If the grantee has completed all corrective actions or made appropriate submittals, the grantee is not deficient. If the grantee has not completed all corrective actions, the grantee is deficient. Any overdue corrective actions should be reported to the CRO.

Suggested Corrective Action

The grantee should take steps to complete corrective actions and provide evidence of such to the regional office.

5. *If a grantee operates in a service area of 200,000 or more in population, what data does a grantee periodically collect and review to monitor its level and quality of transit service?*
 - a. *Vehicle load factors by route or corridor*
 - b. *Vehicle assignment rosters by garage or route*
 - c. *Vehicle headways by route*
 - d. *Transit amenities by community*
 - e. *Transit access by community*

6. *If a grantee operates in a service area of 200,000 or more in population, when was the most recent compliance assessment performed by a grantee and what disparities, if any, were identified by a grantee? What action, if any, was taken to address the disparities?*

Explanation

Grantees operating in a service area of 200,000 or more in population are required to establish written service standards and policies for five transit service indicators (vehicle load, vehicle assignment, vehicle headway, distribution of transit amenities, and transit access). Grantees are also required to conduct periodic self-assessments to determine whether transit service and related benefits provided to minority communities and minority users is consistent with Title VI objectives in FTA C 4702.1. Grantees must compare the quality and level of service provided to minority and non-minority users to assess equity.

Reason for the Question

FTA C 4702.1, III, 3a(2)-(3)

Documentation

The grantee's Title VI program should have the current service standards and policies. The grantee should be able to describe how often it conducts periodic assessments and should have its most recent Title VI assessment.

Determination

If the grantee has written service standards and policies and has conducted periodic assessments of compliance, the grantee is not deficient. If the grantee does not have written service standards and policies that address all of these areas and/or does not conduct periodic assessments, the grantee is deficient. If the grantee's most recent assessment revealed any disparities and the grantee has not taken any action to correct the disparities, the grantee is deficient.

Suggested Corrective Action

The grantee must develop written service standards and policies and/or conduct periodic Title VI assessments and submit evidence of such to the CRO. The grantee must correct any disparities and submit evidence of such to the CRO.

7. *Has the grantee developed and implemented procedures to monitor its level and quality of transit service to determine compliance with Title VI?*

Explanation

All grantees that provide public transit services are required to develop and implement procedures to monitor the level and quality of transit service to determine compliance with Title VI. These comparisons of the level and quality of transit service provided to the minority community, against overall system averages, will measure the actual realization of established service policies and standards. One current area of concern in some communities is the lack of an equitable distribution of funding for bus service vs. light rail and rapid transit.

Reason for the Question

FTA C 4702.1, IV-2c

Documentation

The grantee should provide its monitoring procedures and its most recent analysis of the level and quality of transit service.

Determination

If the grantee monitors the level and quality of transit service to determine compliance with Title VI, the grantee is not deficient. If the grantee does not monitor transit service to determine compliance with Title VI, the grantee is deficient.

Suggested Corrective Action

The grantee must monitor the level and/or quality of transit service to determine compliance with Title VI and submit evidence to the CRO.

8. *Did the grantee conduct an environmental justice assessment/ fixed-facility impact analysis during the past three years? If so, please have the analysis available and show how effects on minority communities were addressed.*

Explanation

For construction projects of any size, all grantees must conduct environmental justice assessments/ fixed-facility impact analyses to assess the effects on minority communities.

Reason for the Question

FTA C 4702.1, III.2f

Documentation

The grantee should have copies of environmental justice assessments/fixed-facility impact analyses used to monitor Title VI compliance, if FTA has funded any construction projects in the past three years.

Determination

If the project is a categorical exclusion or the grantee conducts environmental justice assessments/fixed-facility impact analyses for construction projects, the grantee is not deficient. If the grantee did not conduct an assessment/analysis for a construction project, the grantee is deficient.

Suggested Corrective Action

The grantee must conduct an assessment/analysis of the construction project and submit its findings to the CRO.

9. *Has the grantee received any Title VI complaints in the past three years? Does the grantee maintain a log of such complaints? How are such complaints identified and resolved?*

Explanation

Any person who believes that she/he has been subjected to discrimination has the right to file complaints alleging discrimination. The grantee is required to maintain a list of active Title VI lawsuits or complaints.

Reason for the Question

FTA C 4702.1, III-2, VII

Documentation

A listing of all complaints filed with the grantee during the past three years and disposition of such complaints should be available. Individual complaint files can be reviewed.

Determination

If the grantee has documentation indicating that any complaints received are being addressed, the grantee is not deficient. If no complaints have been received but the grantee provides a satisfactory explanation of how complaints would be processed, the grantee is not deficient. (There is no specific requirement that there be a written complaint handling process.) If

complaints indicate that the grantee is violating Title VI Program regulations or if the complaints do not receive a response, the grantee is deficient.

Suggested Corrective Action

The grantee must develop and implement procedures for handling Title VI complaints and provide evidence of such to the CRO.