

**DELAWARE DEPARTMENT OF SAFETY
AND HOMELAND SECURITY**



**FMCSA
TITLE VI COMPLIANCE AND IMPLEMENTATION
PROGRAM
FOR 2017
STATE OF DELAWARE**

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
Title VI COMPLIANCE AND IMPLEMENTATION PROGRAM

Table of Contents

| <u>Section</u> | <u>PAGE NUMBER</u> |
|--|---------------------------|
| Policy Statement | 3 |
| FMSCA Title VI Program Assurance | 4 |
| Description of Federal-Aid Programs | 25 |
| Notification to Beneficiaries/Participants | 28 |
| Title VI Poster | 29 |
| Contents of Notification | 30 |
| Access to Records | 31 |
| Sub-Recipient Compliance Reports | 31 |
| Training | 32 |
| Complaint Disposition Process | 32 |
| Complaint Forms | 35 |
| Title VI Complaint Log | 39 |
| Status of Corrective Actions | 40 |

STATE OF DELAWARE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Policy Statement

DSHS presents the statement shown below to demonstrate commitment to nondiscrimination and to following the guidelines and procedures of 49 CFR Part 21 and 49 CFR Part 303.

In compliance with Title VI of the Civil Rights Act of 1964 and related Nondiscrimination authorities, no person shall on the grounds of race, color, national, origin, sex, age, or handicap/disability including income level and Limited English Proficiency (LEP), be excluded from participating in, be denied the benefits of, or be otherwise subjected to discrimination in any program or activity which is administered by the Department of Safety and Homeland Security, regardless of the funding source.

The Secretary of Delaware Department of Safety and Homeland Security has signed the Federal Motor Carrier Safety Administration (FMCSA) Title VI Program Assurance and will ensure that sub-recipients, sub-grantees, contractors, successors, transferees and/or assignees sign an assurance document.

Further, a Title VI Coordinator has been appointed who will be responsible for, monitoring, and ensuring the Department's compliance with Title VI Program requirements. Additionally, sufficient responsibility and authorization has been delegated to the Title VI Coordinator and the Division Directors to effectively implement the Agency's Title VI Program.

Original Signed _____ Date: 8/4/2016

James N. Mosley, Secretary

Delaware Department of Safety and Homeland Security

FMCSA Title VI Program Assurance

The United States Department of Transportation

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The (Title of Recipient) (herein referred to as the “Recipient”), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the Federal Motor Carrier Safety Administration (FMCSA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- **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);**
- **Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);**

- **Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 et seq.), (prohibits discrimination on the basis of sex in education programs or activities);**
- **Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability);**
- **The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);**
- **Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), (prohibits discrimination on the basis of disability);**
- **49 C.F.R. Part 21 (entitled Nondiscrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);**
- **49 C.F.R. Part 27 (entitled Nondiscrimination On The Basis Of Disability In Programs or Activities Receiving Federal Financial Assistance);**
- **49 C.F.R. Part 28 (entitled Enforcement of Nondiscrimination on The Basis of Handicap In Programs or Activities Conducted By The Department of Transportation);**
- **49 C.F.R. Part 37 (entitled Transportation Services for Individuals With Disabilities (ADA));**
- **49 C.F.R. Part 303 (FMCSA’s Title VI/Nondiscrimination Regulation);**
- **28 C.F.R. Part 35 (entitled Discrimination on The Basis of Disability In State And Local Government Services);**

- **28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);**

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898, 3 C.F.R. 859 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice:

<http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm;>

Additionally, Executive Order 13166, 3 C.F.R. 289 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “application

of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.” When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT’s “Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income, or LEP 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 DOT, including the FMCSA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination

requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

Specific Assurances

More specifically, and without limiting the above general Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FMCSA Program:

- 1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations;**
- 2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:**

“The (Title of Recipient), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner’s race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award”.

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;

6. 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 will extend to rights to space, on, over, or under such property;

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and**
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.**

8. 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 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 is extended, or for another purpose involving the provision of similar services or benefits; or**

b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the DSHS or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, The Department of Safety and Homeland Security also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FMCSA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FMCSA. You must keep records, reports, and submit the material for review upon request to FMCSA, or its designee in a timely, complete, and

accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Department of Safety and Homeland Security gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the DSHS under the FMCSA Program. This ASSURANCE is binding on Delaware, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FMCSA Program. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Department of Safety and Homeland Security

By Original Signed _____

James N. Mosley, Secretary

Department of Safety and Homeland Security

DATED 08/14/2016

APPENDIX 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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), 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, national origin, sex, age, disability, income-level, or LEP 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 as set forth in Appendix E, 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 Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.

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 FMCSA 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 FMCSA, 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 Non-discrimination provisions of this

contract, the Recipient will impose such contract sanctions as it or the FMCSA 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 FMCSA 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.

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

APPENDIX B

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 Department of Safety and Homeland Security 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 Motor Carrier Safety Administration (FMCSA) Program, and the policies and procedures prescribed by the FMCSA of the Department of Transportation in accordance and in compliance with all requirements imposed by 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 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 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, national origin, sex, age, disability, income-level, or LEP 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, 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, 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 Department of Transportation and its assigns as such interest existed prior to this instruction.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI.)

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

APPENDIX C

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 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, national origin, sex, age, disability, income-level, or LEP 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.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

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

APPENDIX D

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, national origin, sex, age, disability, income-level, or LEP 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, national origin, sex, age, disability, income-level, or LEP 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 Non-discrimination 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 Non-discrimination covenants, (Title of Recipient) will there upon revert to and vest in and become the absolute property of (Title of Recipient) and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

APPENDIX E

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:

- **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), as implemented by 49 C.F.R. § 21.1 et seq. and 49 C.F.R. § 303;**
- **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, (102 Stat. 28.), (“...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section**

504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.”);

- **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 Justice regulations at 28 C.F.R. parts 35 and 36, and 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), as implemented by 49 C.F.R. § 25.1 et seq.

STATE OF DELAWARE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Description of Federal Aid Programs

The Applicant is applying for funding through the Federal Motor Carrier Safety Administration's Motor Carrier Safety Assistance Program (MCSAP) Basic and Incentive Grant. The state's grant application will include a written Commercial Vehicle Safety Plan (CVSP) in accordance with the requirements of 49 CFR 350.201. (see Appendix A) The grant funding will be utilized to finance the Delaware State Police MCSAP Program and its mission to provide a safe environment on the state's roadways for all persons through the reduction of the number and severity of collisions involving commercial motor vehicles. The focus of the program is the enforcement of the Federal Motor Carrier Safety Regulations (FMCSR) and Delaware State Law applicable to the safe operation of commercial motor vehicles on the state's roadways.

Authority for enforcement of the Federal Motor Carrier Safety Regulations pertaining to commercial motor vehicles is found under the Delaware Code, Title 21, Chapter 47. Inspections of commercial motor vehicles are performed according to the procedures and standards set forth by the North American Standard Inspection protocol developed by the Commercial Vehicle Safety Alliance.

The MCSAP policy is to enforce uniform motor carrier safety and hazardous materials regulations for both interstate and intrastate motor carriers and drivers on public roadways. Documents pertaining to the commercial vehicle, cargo, and drivers, are examined to assure compliance with state and federal regulations. The objective is to reduce the number and severity of collisions and hazardous materials incidents involving commercial motor vehicles by maintaining an identified level of traffic enforcement activity, outreach and educational activities, and the detection and correction of safety defects, driver deficiencies and unsafe company practices.

Appendix A:

49CFR 350.201

Each State must meet the following 25 conditions:

- (a) Assume responsibility for improving motor carrier safety and adopting and enforcing State safety laws and regulations that are compatible with the FMCSRs (49 CFR parts [390-397](#)) and the HMRs (49 CFR parts [107](#) (subparts F and G only), 171-173, 177, 178 and 180), except as may be determined by the Administrator to be inapplicable to a State enforcement program.
- (b) Implement performance-based activities, including deployment of technology to enhance the efficiency and effectiveness of CMV safety programs.
- (c) Designate, in its State Certification, the lead State agency responsible for implementing the CVSP.
- (d) Ensure that only agencies having the legal authority, resources, and qualified personnel necessary to enforce the FMCSRs and HMRs or compatible State laws or regulations are assigned to perform functions in accordance with the approved CVSP.
- (e) Allocate adequate funds for the administration of the CVSP including the enforcement of the FMCSRs, HMRs, or compatible State laws or regulations.
- (f) Maintain the aggregate expenditure of funds by the State and its political subdivisions, exclusive of Federal funds, for CMV safety programs eligible for funding under this part, at a level at least equal to the average level of expenditure for the 3 full fiscal years beginning after October 1 of the year 5 years prior to the beginning of each Government fiscal year.
- (g) Provide legal authority for a right of entry and inspection adequate to carry out the CVSP.
- (h) Prepare and submit to the FMCSA, upon request, all reports required in connection with the CVSP or other conditions of the grant.
- (i) Adopt and use the reporting standards and forms required by the FMCSA to record work activities performed under the CVSP.
- (j) Require registrants of CMVs to declare, at the time of registration, their knowledge of applicable FMCSRs, HMRs, or compatible State laws or regulations.
- (k) Grant maximum reciprocity for inspections conducted under the North American Standard Inspection through the use of a nationally accepted system that allows ready identification of previously inspected CMVs.
- (l) Conduct CMV size and weight enforcement activities funded under this program only to the extent those activities do not diminish the effectiveness of other CMV safety enforcement programs.
- (m) Coordinate the CVSP, data collection and information systems, with State highway safety programs under title 23 United States Code (U.S.C.).
- (n) Ensure participation in SAFETYNET and other information systems by all appropriate jurisdictions receiving funding under this section.
- (o) Ensure information is exchanged with other States in a timely manner.
- (p) Emphasize and improve enforcement of State and local traffic laws and regulations related to CMV safety.
- (q) Promote activities in support of the national program elements listed in § [350.109](#), including the following three activities:

- (1)** Activities aimed at removing impaired CMV drivers from the highways through adequate enforcement of restrictions on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment.
- (2)** Activities aimed at providing an appropriate level of training to MCSAP personnel to recognize drivers impaired by alcohol or controlled substances.
- (3)** Interdiction activities affecting the transportation of controlled substances by CMV drivers and training on appropriate strategies for carrying out those interdiction activities.
- (r)** Enforce requirements relating to the licensing of CMV drivers, including checking the status of commercial drivers' licenses (CDL).
- (s)** Establish a program to ensure that accurate, complete, and timely motor carrier safety data are collected and reported, and ensure the State's participation in a national motor carrier safety data correction system prescribed by FMCSA.
- (t)**
- (1)** Enforce registration (i.e., operating authority) requirements under [49 U.S.C. 13902](#), [49 CFR part 365](#), [49 CFR part 368](#), and [49 CFR 392.9a](#) by prohibiting the operation of (i.e., placing out of service) any vehicle discovered to be operating without the required operating authority or beyond the scope of the motor carrier's operating authority.
- (2)** Enforce financial responsibility requirements under [49 U.S.C. 13906](#), [31138](#), [31139](#), and [49 CFR part 387](#).
- (u)** Adopt and maintain consistent, effective, and reasonable sanctions for violations of CMV, driver, and hazardous materials regulations.
- (v)** Ensure that MCSAP agencies have policies that stipulate roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel.
- (w)** Include in the training manual for the licensing examination to drive a CMV and the training manual for the licensing examination to drive a non-CMV information on best practices for driving safely in the vicinity of non-CMVs and CMVs.
- (x)** Conduct comprehensive and highly visible traffic enforcement and CMV safety inspection programs in high-risk locations and corridors.
- (y)** Except in the case of an imminent or obvious safety hazard, ensure that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border maintenance facility, destination, or other location where a motor carrier may make a planned stop.

STATE OF DELAWARE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Notification to Beneficiaries/Participants

Dissemination of Information

A Title VI Poster Program (p29) will be displayed at all Delaware State Police Facilities. DSP will also post on their website, a link directing the public to the DSHS website where they can access the FMCSA Title VI Compliance and Implementation Program for 2017 and other related Nondiscrimination Authorities.

The web postings will be updated when the FMCSA Title VI Compliance and Implementation Program other related Nondiscrimination Authorities is approved.

Your Rights Under Title VI Of the Civil Rights Act of 1964

and other related Nondiscrimination Authorities

Title VI is a section of the Civil Rights act of 1964 requiring that “No person in the United States shall on the grounds 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”. In addition under FMCSA Title VI, the following groups are included: sex, age, handicap/disability, income level and Limited English Proficiency (LEP).

Any person who feels that he or she, individually or as a member of any class of persons, on the basis of race, color, national origin, sex, age, or handicap/disability including income level and LEP has been excluded from or denied benefits of, or subjected to discrimination caused by the Department of Safety and Homeland Security (DSHS) may file a written complaint.

For additional information, contact the:

- **Title VI Coordinator, DSHS, 303 Transportation Circle, PO Box 818, Dover, De 19903, Telephone 302- 744 -2705**

And/or

- **Regional Office for Civil Rights (address will be provided by the Title VI Coordinator)**

Federal and State law requires complaints be filed within 180 days of the alleged incident.

Title VI is the Law



Contents of Notification

1. In compliance with Title VI of the Civil Rights Act of 1964 and related Nondiscrimination authorities, the Department of Safety and Home Security, ensures that no person shall, on the grounds, of race, color, national origin, sex or disability, age, income-level, and LEP, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
2. Members of the public who believe they have been subjected to discrimination by DSHS or by one of the DSHS's sub-recipients based on their race, color, national origin, sex or disability, age, income level, and LEP may file a complaint. Complaints must be filed in writing (preferably using form DSHS VI-1), signed and delivered to the Title VI Coordinator.

Procedures for the public to request additional information and procedures to be followed by members of the public to file a discrimination complaint including the name of a contact Representative, address and telephone/email address are included in the Complaint Disposition Process. The necessary forms are also included.

STATE OF DELAWARE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Access to Records

The Grantee is required to maintain all records relating to the effective implementation of the Title VI Program available for FMCSA review either at a specified time for a complaint investigation, compliance review, or any other reason.

STATE OF DELAWARE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Title VI COMPLIANCE AND IMPLEMENTATION PROGRAM

Sub-Recipient Compliance Reports

DSHS will be sub-awarding funds to DelDot for operations and maintenance of FMCSA funded ITD systems as part of the 2017 MCSAP Grant Program. Delaware DSHS requires its Recipients of FMCSA funds (FMCSA Sub-Recipients) to sign and submit the FMCSA Title VI Program Assurance and submit a supplemental Title VI Program document to include the applicable sections of the FMCSA Title VI Program Compliance Plan Checklist to Delaware DSHS with the grant application.

The FMCSA Applicant Title VI Program Compliance Plan Checklist under “Sub-Recipient Compliance Reports” states “the Applicant is responsible for monitoring how the entity (i.e., Sub-Recipient of Federal funding) is effectively implementing Title VI Program requirements.

Accordingly, the Delaware State Police (DSP) will obtain and maintain the supporting documents for the addition of DelDot as a Sub-Recipient. The DSP will periodically review the documentation to determine the Sub-Recipient’s compliance regarding the effective implementation of the Title VI Program.

STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
Title VI COMPLIANCE AND IMPLEMENTATION PROGRAM

Training

At the request of DSHS, the Delaware Learning Center is exploring the development of a Title VI Program Training module which will provide the ability for DSHS to offer online training and to track Title VI training for the entire department.

DSHS has submitted the FMCSA Basic Title VI Program power point presentation for the first project. Training will required for all employees. Expectations are to offer online Title VI training twice a year.

The Delaware Learning Center expects to be able to offer online training by Monday, October 3, 2016.

STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Complaint Disposition Process

An individual or group that believes they have been subjected to discrimination based on their race, color, sex, age, national origin, disability/handicap including income level and Limited English Proficiency (LEP), may file a complaint. Complaints must be filed within 180 days of the alleged discriminatory act and must be filed in writing and signed (preferably using DSHS V-1). All forms will be provided by the Title VI Coordinator.

Complaints must contain the name of the person or group filing the complaint, (the complainant), and must contain contact information such as telephone number and address.

Complaints may also be filed at the Regional Office for Civil Rights. The address will provided by the Title VI Coordinator.

Title VI Coordinator

The Title VI Coordinator is responsible for investigating and/or referring complaints as deemed necessary and assists in correcting Title VI problems or discriminatory practices.

The Title VI Coordinator is also responsible for maintaining all complaint records including the Title VI Complaint Log.

The Title VI Coordinator will be involved in all aspects of the complaint process including the ultimate disposition of the case, and notifying the Complainant of the final result.

Investigations

Within 10 working days of receipt of the formal complaint (Form DSHS- V1), the Title VI Coordinator will notify the complainant and begin an investigation.

He/she will conduct a fact finding investigation within 30 days from receipt of the complaint. The Title VI Coordinator will issue a Report of Investigation (Form DSHS VI- 2)

The following steps will be taken (at a minimum):

- Determine the scope
- Develop an investigative plan
- Prepare Request for information for DSHS
- Conduct an onsite visit, as necessary
- Analyze the evidence
- Prepare the Report of Findings

The investigation may include discussion(s) of the complaint with all affected parties to determine the problem. The complainant may be represented by an attorney or other representative of his/her own choosing.

The complainant will be sent a letter stating that the final decision will be issued by the end of the 60 day time limit.

The investigation will be conducted and completed within 60 days of the receipt of the formal complaint.

Based upon all the information received, an investigation report will be written by the Title VI Coordinator for submittal to the Secretary's Designee for Letter of Findings (LOF)

The complainant shall be notified of his/her right to withdraw (Form: DSHS VI 3) or appeal the decision (form: DSHS VI-4).

STATE OF DELAWARE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

**Complaint Under Title VI of Civil Rights Act of 1964 and related
Nondiscrimination Authorities**

To: Department of Safety and Homeland Security

I, _____, hereby file an official complaint against

_____ located at: _____

Complainants Name _____

Complainants Address _____

Basis of Complaint (Race, Color, National Origin, Sex, Age, Disability, Income Level, LEP)

(Attach extra paper if necessary)

Date of alleged
discrimination _____

Signed : _____

Date _____

To be completed by DSHS

Complaint received on _____ Title VI Coordinator _____

Address _____ Telephone _____ Email _____

Form: DSHS VI-1

STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
REPORT OF INVESTIGATION

I, _____ representing, _____ (name) _____

Have investigated the complaint filed on _____ by _____

Alleging discrimination occurred which was in violation of the provisions of Title VI of the Civil Rights Act of 1964..

The results of the investigation are as follows: (Circle the appropriate letter)

- A. The agency 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 using form DSHS VI-3.

A copy of the investigative report is attached.

NOTE: If the agency or person was found to be in violation of Title VI, briefly describe the remedial action taken to assure future compliance.

Investigator: _____

Date: _____

Form: DSHS VI-2

STATE OF DELAWARE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

WITHDRAWAL OF COMPLAINT OR APPEAL FOR FAIR HEARING

Date: _____

To: Department of Safety and Homeland Security

I, _____, hereby withdraw my complaint or appeal

Filed on _____ against _____ located at

Complainant's Name: _____

Complainant's Address: _____

Reason for Withdrawal _____

(Attach extra paper if necessary)

Signed: _____

STATE OF DELAWARE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

APPEAL FROM FINDING

I, _____, wish to appeal the finding made on _____

By _____ of () Non-Discrimination or () The proposed remedial

Action by the agency in the Title VI complaint as filed by:

_____ on _____ against

_____ at

Signed: _____

Address: _____

Date of Appeal: _____

STATE OF DELAWARE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Status of Corrective Actions Implemented by Applicant to Address Deficiencies Previously Identified During a Title VI Program Compliance Review

DSHS has not been previously reviewed by FMCSA or any other Federal Agency.

There are no previous corrective actions to address.