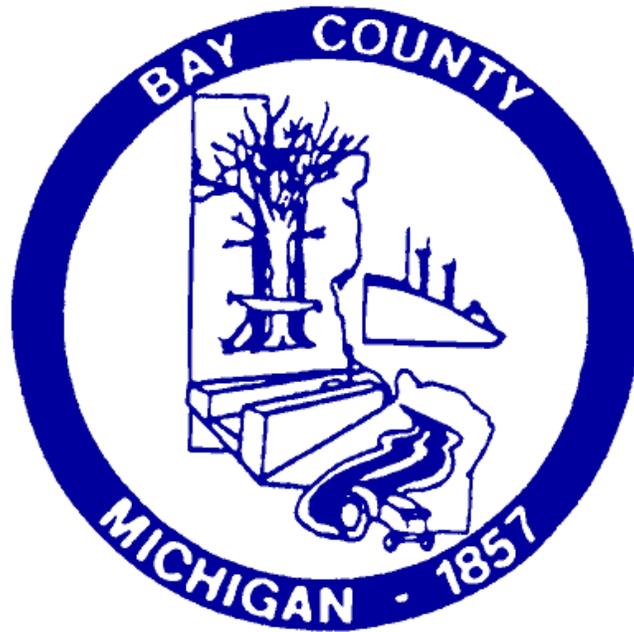


Title VI Plan

Non-Discrimination and Environmental Justice



Bay City Area Transportation Study (BCATS)

DRAFT Plan
4 October 2011

Prepared by the
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Introduction

The Bay City Area Transportation Study (BCATS) is the principal public agency, as per Section 134 (a), conducting regional transportation studies for the Bay City Urbanized Area. BCATS, through an agreement with the Bay County Board of Commissioners, provides management and policy functions for the transportation planning programs as required by the **Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)**. BCATS provides transportation planning services as the metropolitan planning organization (MPO) for Bay City and Essexville and the townships of Bangor, Monitor, Hampton, Portsmouth, Kawkawlin, Frankenlust and Fraser. The MPO is established by federal law in all urbanized areas with populations greater than 50,000 throughout the nation to carry out the "3C" (continuing, cooperative and comprehensive) transportation planning process.

BCATS's programs serves all people of the Bay City Area, including minority populations, low-income populations, the elderly, persons with disabilities, and those who traverse the area. BCATS recognizes its responsibility to provide fairness and equity in all of its programs, services, and activities, and that it must abide by and enforce federal and state civil rights legislation related to transportation.



Non-Discrimination Policy Statement

The Bay City Area Transportation Study (BCATS) 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 BCATS program or activity on the grounds of race, color, national origin, income, sex, age, disability, or limited English proficiency. BCATS assures all its programs and activities will be free from discrimination, regardless of funding source.

BCATS conducts its Title VI/Environmental Justice Program through a team approach involving all BCATS personnel. The Director of BCATS is responsible to ensure BCATS's compliance with the Title VI/EJ implementing regulations. Inquiries concerning BCATS's policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI/Environmental Justice may be directed to David Engelhardt, BCATS Director, 515 Center Avenue, Bay City, Michigan 48708, telephone 989-895-4064.

Inquiries and/or complaints concerning Bay County policies of nondiscrimination with respect to disabilities under the ADA and/or Section 504 shall be directed to the Bay County ADA Coordinator, Michael Gray, 515 Center Avenue, Bay City, Michigan 48708, telephone 989-895-4130.

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

_____, 2011

David Engelhardt, Director

_____, 2011

Michael K. Gray, ADA Coordinator
Director of Administrative Services



Title VI Assurances

BCATS (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 (herein after 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, national origin, disability, or limited English proficiency, 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 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 made in connection with all Federal-Aid Highway programs 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 ensure 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 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.
5. 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 s/he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.
6. The Recipient agrees that the United States has the right to seek judicial endorsement with regard to any matter arising under 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

Bay City Area Transportation Study
David Engelhardt, Director

Dated

Bay County Corporate Council
Marty Fitzhugh



Regulatory Requirement

Title VI of the Civil Rights Act of 1964 and related statutes provide that no person in the United States shall, on the grounds of race, color, national origin, sex, age, or disability, 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. BCATS, as a recipient of federal funds must take affirmative steps to ensure that discrimination, as addressed by Title VI does not occur, and must perform the following actions in order to comply with federal requirements under 23 CFR Part 200 and 49 CFR Part 21:

1. **23 CFR 200.9(b) (1)** – Establish a civil rights unit and designate a coordinator.
2. **23 CFR 200.9(b)(3)** – Develop procedures for prompt processing and disposition of Title VI complaints received directly by BCATS and not received by FHWA, FTA, or FAA.
3. **23 CFR 200.9(b)(4)** – Develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of BCATS programs..
4. **23 CFR 200.9(b)(5)** – Develop a program to conduct Title VI reviews of program areas.
5. **23 CFR 200.9(b) (8)** – Review BCATS directives in coordination with state program officials and, where applicable, include Title VI and related requirements.
6. **23 CFR 200.9(b) (9)** – Attend training programs on Title VI and related to keep up-to-date on Title VI changes.
7. **23 CFR 200.9(b) (10)** – Prepare a yearly report of Title VI accomplishments for the past year and goals for the next year.
8. **23 CFR 200.9(b) (13)** – Establish procedures for pre-grant and post-grant approval reviews of state programs and applicants for compliance with Title VI requirements.
9. **23 CFR 200.9(b) (14)** – Establish procedures to identify and eliminate discrimination where found.
10. **23 CFR 200.9(b) (15)** – Establish procedure for promptly resolving deficiency status and reducing to writing remedial action agreed to be necessary, within a period not to exceed 90 days.
11. **Executive Order 12898** – Ensure that Environmental Justice principles are integrated into procedures and programs.



12. **Executive Order 13166** – Ensure that appropriate LEP processes and procedures are implemented.

Related Laws and Statutes

13. **Civil Rights Restoration Act of 1987** – Restores the original intent of Title VI to require that all programs are covered whether they are federally funded or not.
14. **Section 504 of the Rehabilitation Act of 1973** – Prohibits discrimination on the basis of a disability.
15. **American's With Disabilities Act of 1990** – Prohibits discrimination on the basis of a disability.
16. **Section 324 of the Federal-Aid Highway Act** – Prohibits discrimination on the basis of sex.
17. **Uniform Relocation Assistance and Real Property Acquisition Act of 1970**
18. **42 USC 6101** – Prohibits Age discrimination in any program receiving federal financial assistance.
19. **49 CFR Part 21 and 23 CFR Part 200** - Describes U.S. DOT and FHWA prohibitions against discrimination.
20. **Title VII of the Civil Rights Act of 1964** – Prohibits discrimination on the basis of race, color, religion, sex, and national origin.
21. **Michigan's Elliott-Larsen Civil Rights Act** – Prohibits discrimination on the basis of based on race, color, religion, sex, national origin, height, weight, and marital status.



Programmatic Roles and Responsibilities

Administration – General

The BCATS 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 BCATS are Planning Assistance and Program Management. BCATS has developed a Public Participation Plan as part of the 2035 Metropolitan Transportation Plan which will be used in conjunction with the Title VI/Environmental Justice program and is include by reference. The Director of BCATS is responsible to ensure BCATS's compliance with the Title VI/EJ implementing regulations. The current contact information is as follows:

David Engelhardt, Director
515 Center Ave, Suite 505
Bay City, MI 48708
989-895-4064
engelhardtd@baycounty.net

The Bay County ADA Coordinator is responsible to ensure BCATS's compliance with ADA regulations. Complaints regarding disabilities will be handled by:

Michael Gray
Bay County ADA Coordinator
515 Center Avenue
Bay City, Michigan 48708
989-895-4130
graym@baycounty.net

Complaints

If any individual believes that s/he or any other program beneficiaries have been the object of an unequal treatment or discrimination as to the receipt of benefits and/or services, or on the grounds of race, color, national origin (including Limited English Proficiency), sex, or age, s/he may exercise their right to file a complaint with BCATS. Complaints may be filed with the BCATS 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.

If any individual believes that s/he or any other program beneficiaries have been the object of an unequal treatment or discrimination on the grounds of disability or handicap, s/he may exercise their right to file a complaint with the ADA Coordinator. Every effort will be made to resolve complaints informally at the lowest level.



Data Collection

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

Title VI Reviews

The designated Title VI Coordinator will conduct the Title VI program reviews to assess the administrative procedures, staffing and resources available to Title VI compliance.

Remedial Action

BCATS 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.

Title VI Responsibilities

The BCATS Director will:

- 1) Ensure that all aspects of the planning process operation comply with Title VI/EJ.
- 2) 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.
- 3) Provide the annual report on Title VI/EJ accomplishments for the previous year and goals for the next year.
- 4) Ensure equal opportunity for participation on Advisory Committees, including ensuring that all meetings are held in a barrier-free environment.
- 5) Ensure Title VI/EJ language is included, or incorporated by reference, in every sub-recipient contract.
- 6) Work with the Bay County ADA Coordinator to ensure program access and effective communication with interested persons with disabilities.
- 7) Ensure that ADA's language is included in all public notices and publications.

Title VI Plan Distribution

BCATS will disseminate Title VI/EJ Program information to BCATS staff 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 the BCATS internet website, www.baycounty-mi.gov/transportation.



Accomplishment Report

Accomplishments 2011-2012:

Adopted new Title VI/EJ Plan and Limited English Proficiency Plan

Annual Work Plan FY 2012

Review contract language to insure inclusion of Title VI assurances in all BCATS contracts.

Work with local social services organizations to increase the knowledge base of the BCATS on the transportation issues and groups needing transportation in the MPO area as well as aid those groups in knowledge of what is available and how to secure assistance.

Annual Work Plan

The annual Self Certification Documentation will include a review of Title VI accomplishments achieved during the year, including a review of program areas; will be submitted to the Michigan Department of Transportation Planning (MDOT). The Title VI Coordinator and Director for Transportation Planning will be responsible for coordination and preparation of the report.

Nondiscrimination Complaint Procedures

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

The purpose of this procedure is to describe the process used by BCATS for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

The Director of BCATS has the overall responsibility for the discrimination complaint process and procedures, except with regard to complaints arising from a qualified individual with a disability, which shall be handled by the Bay County ADA Coordinator. The Director may, at her/his discretion, assign a capable person within BCATS to investigate the complaint.

Law prohibits intimidation or retaliation of any kind. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the BCATS Director may be utilized for resolution. Further, these procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination.

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 time frames set forth.

Applicability: The complaint procedures apply to the beneficiaries of BCATS's 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 s/he has been excluded from participation in, denied benefits or services of any program or activity administered by BCATS 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.

Title VI/EJ complaints of discrimination may be filed with BCATS, the Michigan Department of Transportation, the Federal Highway Administration, or the U.S. Department of Transportation. If the complaint is made under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act, it may be filed with the Bay County ADA Coordinator.

In all situations, BCATS staff must contact the BCATS 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
- If you could not reasonably be expected to know the act was discriminatory within the 180 day period, you have 60 days after you became aware to file your complaint.
- A designated Federal, MDOT, or BCATS representative may extend the time for filing or waive the time limit in the interest of justice. The reason(s) for extension of time must be documented in writing and retained with the file.

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 BCATS employee, or other person authorized to receive complaints on behalf of BCATS, that person shall be interviewed. If necessary, the authorized person will assist the person in writing the complaint for the person or the person's representative to sign.



Designated BCATS 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.

Special emphasis program area representatives serve as BCATS's 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.
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:
 - a. The complaint is withdrawn.
 - b. The complainant fails to provide required information.
 - c. The complaint is filed beyond the 180-day time frame.
 - d. The complainant is not part of a protected group.
 - e. The complaint is determined to be more appropriately reviewed under a jurisdiction other than BCATS. If this is the case, the complainant will be directed to the appropriate agency.
3. Upon determination that the complaint warrants a BCATS investigation, the complainant is sent a letter, acknowledging receipt of the complaint, and giving the name of the investigator.
4. Upon receipt of any complaint, the Title VI Coordinator will keep record of all correspondence received regarding that complaint.
5. The respondent – the person alleged to have committed the discrimination – is notified by mail that s/he has been named in a complaint. The letter also includes the investigator's name and informs the respondent that s/he will be contacted for an interview.



ADA Grievance Procedure

Bay County has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing title II of the Americans with Disabilities Act. Title II states, in part, that “no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination” in programs or activities sponsored by a public entity.

Complaints should be addressed to the designated coordinator for ADA compliance efforts:

Michael Gray
ADA Coordinator
515 Center Avenue
Bay City, MI 48708
Phone (989) 895-4130
TDD (989) 895-4049

1. A complaint should be filed in writing or verbally, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.
2. A complaint should be filed within 10 business days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)
3. An investigation, as may be appropriate, shall follow a filing of complaint. The investigation shall be conducted by Michael Gray, ADA Coordinator. These rules contemplate informal but thorough investigations affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
4. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by Michael Gray, ADA Coordinator, a copy forwarded to the complainant no later than 20 business days after its filing.
5. The ADA coordinator shall maintain the files and records of the County of Bay relating to the complaints filed.
6. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within 10 business days to the Bay County Executive.



7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

8. These rules shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that Bay County complies with the ADA and implementing regulations.



Limited English Proficiency Plan

I. Introduction

On August 11, 2000, President William J. Clinton signed an executive order, Executive Order 13166: Improving Access to Service for Persons with Limited English Proficiency, to clarify Title VI of the Civil Rights Act of 1964. The purpose of the executive order is to ensure accessibility to programs and services to otherwise eligible persons who are not proficient in the English language.

This executive order stated that individuals who do not speak English well and who have a limited ability to read, write and speak, or understand English are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounter. These individuals are referred to as being limited in their ability to speak, read, write, or understand English, hence the designation, "LEP," or Limited English Proficiency. The Executive Order states that:

"Each federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities."

Not only do all federal agencies have to develop LEP plans as a condition of receiving federal financial assistance, recipients must comply with Title VI and LEP guidelines of the federal agency from which funds are provided as well. This includes the U.S. Department of Transportation (USDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Department of Justice (DOJ), and the Federal Railroad Administration.

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of federal funds range from state and local agencies, to nonprofits and organizations. Title VI covers a recipient's entire program or activity. All aspects of a recipient's operations must comply with Title VI, even if only one part of the organization receives the federal assistance.

The U.S. Department of Transportation published Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency in the December 14, 2005 Federal Register. The guidance explicitly identifies BCATS as an organization that must follow this guidance.

"The guidance applies to all DOT funding recipients, which include state departments of transportation, state motor vehicle administrations, airport operators, metropolitan planning organizations, and regional, state, and local transit operators, among many others. Coverage extends to a recipient's entire program or activity; i.e., to all parts of a recipient's operations. This is true even if only one part of the recipient receives the Federal assistance."



To meet Title VI and Limited English Proficiency requirements of the Federal Highway Administration and the Federal Transit Administration, the Bay City Area Transportation Study (BCATS) will evaluate, on a continual basis, activities that would be appropriate for compliance with Limited English Proficiency requirements.

II. Elements of an Effective LEP Policy and the BCATS Strategy

The U.S. Department of Justice Civil Rights Division developed a set of elements that may be helpful in designing an LEP policy or plan. For the purposes of this plan only those individuals who were identified (in the 2005-2009 ACS datasets) with respect to their ability to speak English less than “very well” are being considered. BCATS’s LEP Plan addresses these elements to aid in identifying LEP persons so that they are provided meaningful access to BCATS services and activities. These elements include:

1. Identifying LEP persons who need language assistance.
The BCATS’s Long Range Plan and various other plans will provide the program level basis for determining the need for public involvement and public engagement. Limited English Proficiency populations are identified using data from the American Community Survey and local experiences from local transportation agencies.
2. Identifying ways in which language assistance will be provided.
BCATS will provide oral and written translation; written interpretation and translation; and sign language, if requested, or as a result of an LEP analysis on any given project or projected program, requiring translation or interpretation. BCATS staff will record instances of contact with LEP individuals.
3. Training staff and others.
BCATS will designate a Title VI Coordinator, responsible for overseeing LEP policy directives, modifying the plan, and implementing operational procedures. All BCATS staff will be trained in agency protocol for serving LEP individuals.
4. Providing notice to LEP persons.
After LEP populations have been identified, strategies will be developed to provide notice of materials available in languages other than English.
5. The recommended method of evaluating accessibility to available transportation services in the Four-Factor Analysis identified by the USDOT. (See below)

III. Procedures for Assessing Needs and Steps for an Effective LEP Policy

The DOT guidance outlines four factors recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
2. The frequency with which LEP individuals come in contact with the program.
3. The nature and importance of the program, activity, or service provided by the recipient to the LEP community.
4. The resources available to BCATS and overall cost.



The provision of enhanced language services is more necessary for agencies with large LEP populations, that have frequent contact with LEP individuals, and that implement programs non-English speakers depend on. The intent of DOT’s guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small organizations and local governments.

Smaller recipients with limited budgets are typically not expected to provide the same level of language service as recipients with larger budgets.

IV. The Four-Factor Analysis

This plan uses the recommended four-factor analysis of an individual assessment considering the four factors outlined above. BCATS has examined each of the following factors to determine the level and extent of language assistance measures required to sufficiently ensure meaningful access to BCATS’s services. BCATS based the recommendations on the results of the analysis.

Factor 1: The number or proportion of LEP persons eligible to be served or likely to be encountered by a BCATS program, activity, or service

The American Community Survey (ACS) has two classifications on how well people speak English as a second language. Those classifications are: (1) ‘very well,’ and (2) ‘less than very well.’

For planning purposes, this plan considers people that speak English less than ‘very well’ as Limited English Proficient persons.

The BCATS geographic service area includes the cities of Bay City and Essexville and the townships of Bangor, Frankenlust, Fraser, Hampton, Kawkawlin, Monitor, and Portsmouth all of which are within Bay County. Based on data from the 2005-2009 American Community Survey, the population of the Bay County area is 101,585 persons. Of this total, 4,021 (3.96%) speak a language other than English at home. Of those who speak another language at home, 1,228 (1.21%) indicated that they speak English less than “very well”. Table 1(right) shows English proficiency estimates and proportions within Bay County.

Table 1 – Bay County LEP Populations

English Proficiency	Estimate	% of Total
Speak English Only	97,564	96.04%
Speak English as a Second Language but speak English "very well"	2,793	3.96%
Limited English Proficiency - Speak English less than "very well"	1,228	1.21%
Total	101,585	100.00%

Source: ACS 2005-2009 Table B16001

Map 1 on the next page shows census tracts with LEP populations greater than the county average (1.21%) and 4% of the tract total. The tracts with highest concentration are generally located within the boundaries of the city of Bay City.

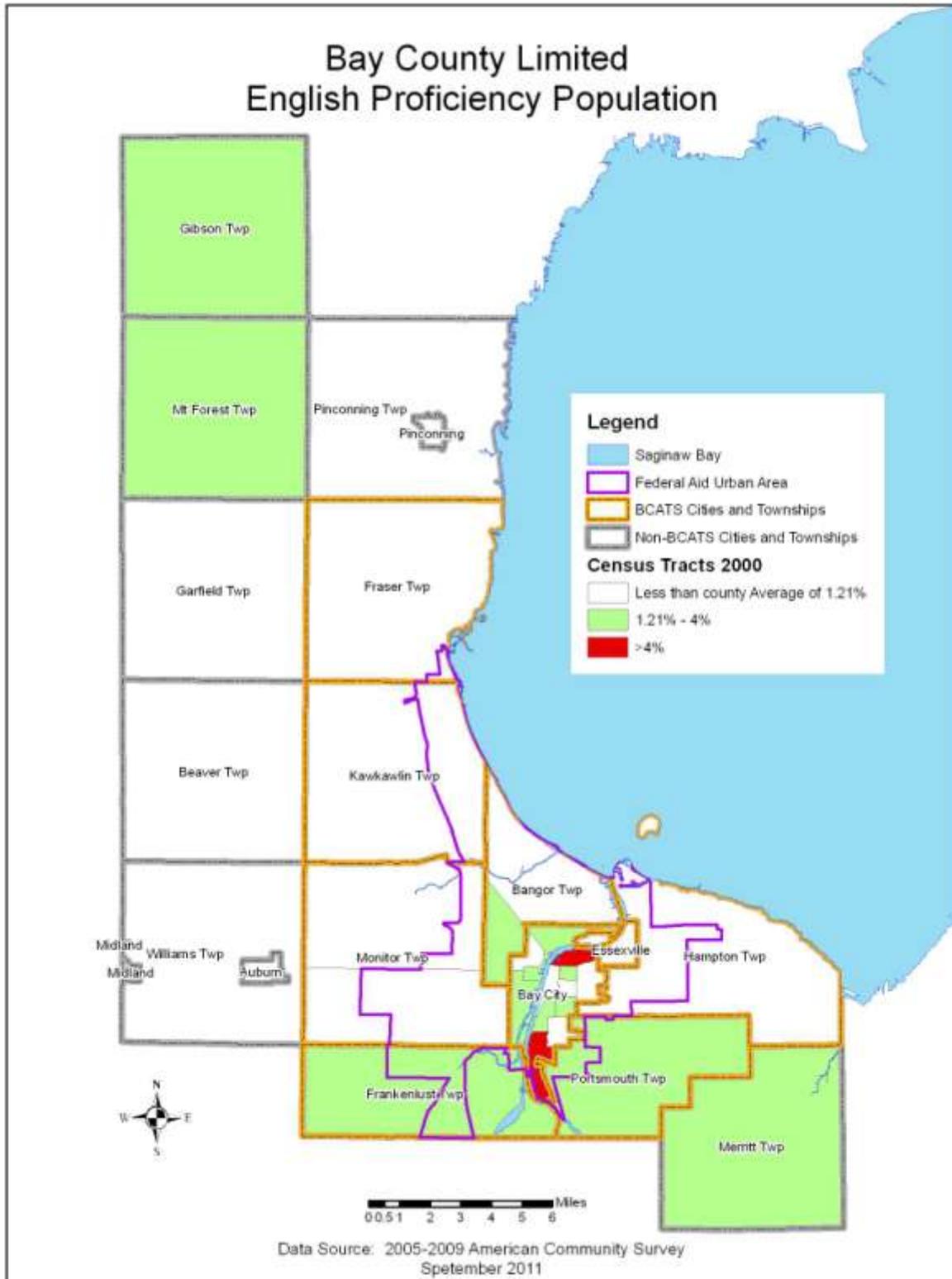




Table 2 (right) shows LEP populations by language that account for more than 0.03% of the total population of the BCATS service area. No LEP language accounts for more than 1% of the total population. This indicates there is no large countywide concentration of LEP persons of one particular language. This is consistent with BCATS's experience and that of service providers in the area, that there exists a wide range of languages in the Bay City area, but in very small amounts.

Table 2 – Bay County LEP Languages

Language	Estimate	% of Total
Spanish	601	0.59%
Polish	192	0.19%
French	107	0.11%
German	64	0.06%
African Languages	46	0.05%
Chinese	38	0.04%
Arabic	27	0.03%

Source: ACS 2005-2009 Table B16001

Factor 2: The frequency with which LEP persons come in contact with a BCATS program, activity, or service.

BCATS conducted an in office survey of previous encounters with LEP persons in September 2011. No agency staff reported any contacts at the BCATS offices, over the phone, or at public meetings. Additionally, BCATS has received no requests for translated materials or interpreters. The primary locations where the public encounters BCATS are as follows:

- BCATS Offices
- Public Meetings
- The BCATS website

To fulfill its goals for a continuing, coordinated, and comprehensive transportation planning process, BCATS works with a variety of local transportation agencies and public transit providers. These agencies include but are not limited to the Bay Metro Transit Authority, the Bay County Road Commission, the City of Bay City, and the City of Essexville. BCATS staff attends local agency meetings frequently, and have not encountered LEP individuals at these meetings.

BCATS has not received written correspondence from LEP persons. BCATS regularly receives phone calls and email requests for information and data, but have not encountered requests from LEP persons.

Factor 3: The Nature and Importance of the Program, Activity, or Service provided by BCATS to the LEP population.

The federal funding programmed by BCATS for local transportation agencies is vital to services, such as public transit, that LEP individuals depend on. However, public interactions for these services occur with the staff of the implementing agency, and have not occurred with BCATS staff.



As required by the federal government, BCATS produces a Long Range Plan every 5 years. The Long Range Plan lists planned transportation system improvements and provide the public with an opportunity to shape and comment on the proposed vision of the transportation system over the next 20 or more years. Additionally, BCATS develops visionary plans such as the Non-Motorized Transportation Plan. These plans develop an area wide vision for specific aspects of the county's transportation infrastructure. Whenever BCATS develops a new long range or visionary plan, the agency actively seeks input from members of the public. BCATS procedure provides a range of ways to make comments, ask questions, or make a suggestion. Language skills or interpretation is necessary for participation. BCATS does not consider these documents vital, but will strive to translate the plans into other languages upon request. BCATS also produces maps, charts, and tables that aid in comprehension of its plans. These methods of visualization are less dependent on language skills, and are to be designed keeping LEP individuals as a potential target audience in mind.

To conform to Title VI requirements, BCATS has developed a Title VI complaint form. This form is vital to LEP person to file a grievance if BCATS has not adequately met their needs. Additionally, it is vital for LEP individuals to understand what services BCATS provides and is required to provide them.

Factor 4: The Resources Available to BCATS and the Overall Cost to provide LEP assistance.

Given the relatively small number of and lack of contact with LEP individuals, in the past BCATS has not translated written materials or had opportunity to provide translation assistance. There are significant resources available to assist persons in using BCATS service. Saginaw Valley State University's English Language Program provides cultural immersion, intensive language learning, and participation in another educational system for foreign students. BCATS should work with this organization and others to provide efficient services requested by LEP individuals.

Private translators exist within the county as well, whose services could be utilized to provide translation or interpretation for LEP individuals. However, like most public agencies, BCATS's budget is constrained by several factors and staff resources are limited. Oral translation services of BCATS's plan and information by a private interpreter would be a more cost effective alternative or by utilizing various on-line translation sources for limited text translations such as [Google Translate](http://www.google.com) or www.appliedlanguage.com

Funds available for LEP services would be derived entirely from existing BCATS operating funds, and compete with other operational requirements.



V. Safe Harbor Stipulation

Federal law provides a “Safe Harbor” stipulation so that recipients can ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. A “safe harbor” means that if a recipient provides written translations in certain circumstances; such action will be considered strong evidence of compliance with the recipient’s written-translation obligations under Title VI.

The failure to provide written translations under the circumstances does not mean there is noncompliance, but rather provides a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four factor analysis. For example, even if a safe harbor is not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of its program, it is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

Strong evidence of compliance with the recipient’s written-translation obligations under ‘safe harbor’ includes providing written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally.

This safe harbor provision applies to the translation of written documents only. It does not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are necessary.

VI. Providing Notice to LEP Persons

USDOT LEP guidance says:

Once an agency has decided, based on the four factors, that it will provide language service, it is important that the recipient notify LEP persons of services available free of charge. Recipients should provide this notice in languages LEP persons would understand.

The guidance provides several examples of notification including:

1. Signage when free language assistance is available with advance notice.
2. Stating in outreach documents that language services are available from the agency
3. Working with community-based organizations and other stakeholders to inform LEP individuals of recipient’s services, including the availability of language assistance services

Federal fund recipients have two main ways to provide language services: oral interpretation either in person or via telephone interpretation service and written translation. The correct mix



should be based on what is both necessary and reasonable in light of the four-factor analysis. USDOT policy defines an interpreter as a person who translates spoken language orally, as opposed to a translator, who translates written language and a translator as a person who transfers the meaning of written text from one language into another. The person who translates orally is not a translator, but an interpreter.

VII. Proposed Actions

Based on the analysis above, BCATS has decided to implement additional translation and new language assistance services, and to begin to work with agencies experienced in providing assistance. In addition, a consistent effort is necessary to identify persons with limited English proficiency, enhance the website, and to prepare additional services to meet identified needs. The specific actions are identified below.

Identifying LEP Individuals who need language assistance

- BCATS will provide the United States Census Bureau's "I Speak" cards at its main offices
- BCATS will have copies of the "I Speak" cards at the sign-in table for future public meetings to ascertain a possible future need for interpreter services
- BCATS will keep a record of interactions with individuals in need of language assistance
- BCATS will seek information from public and private agencies about their experience with LEP individuals.

Language Assistance Measures

- Provide enhanced language translation capabilities on the BCATS website
- Publish the Title VI Complaint Form on the BCATS website in Spanish
- BCATS will add information to its website about contacts for language assistance
- Prepare printed information on where to obtain language assistance to give or send to individuals, if necessary
- Notices of BCATS's non-discrimination policies and information on the complaint process will be placed on the website and made available at public meetings in English and Spanish.
- For Persons with Hearing Impairment: The County of Bay will provide necessary and reasonable auxiliary aids and services, such as signers for the hearing impaired and audio records of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon 10 days notice to the County of Bay. Individuals with disabilities requiring auxiliary aids or services should contact the County of Bay by writing or calling the ADA Coordinator.
- For Persons with Vision Impairment: The County of Bay will handle requests for conversion of public documents, including vital records, minutes and agenda for meetings, reports, correspondence, forms and other items from a printed format for vision impaired persons on a case-by-case basis, using the option which meets the needs of the



party making the request and is most reasonable for the County to fulfill. Whenever possible, the requests shall be made at least 10 days in advance of the date when the documents are needed.

- With advance notice of at least 10 days, BCATS will provide interpreter services at any meeting or public hearing.

Title VI Coordinator

BCATS will designate a Title VI Coordinator, responsible for overseeing LEP policy directives, modifying the LEP plan, and implementing operational procedures. The responsibilities of the Title VI Coordinator are outlined below:

- Provide Title VI training to BCATS staff and keep a written and signed account of attendance to these trainings
- Update and modify the LEP and Title VI plans
- Develop an annual report outlining Title VI accomplishments and goals
- Upon receipt of a Title VI complaint, gather background information regarding the incident and provide necessary information to the MDOT Title VI Officer
- Keep a written record of all BCATS interactions with LEP individuals and requests for document interpretation

Employee Training

BCATS will periodically conduct training for all staff regarding assistance to persons with Limited English Proficiency. The training will include the following elements, at a minimum:

- A summary of the BCATS's responsibilities under the DOT LEP guidance
- A summary of the BCATS's LEP plan
- A summary of the number and proportion of the LEP persons in the service area and the frequency of contact
- A description of the language assistance that BCATS's is currently providing
- Protocol for managing, keeping a written record of, and following up on interactions with LEP individuals
- BCATS will direct all staff members to design future maps, charts, tables, and graphs with LEP individuals in mind as a target audience

Monitoring and Updating the LEP Plan

The action steps above are designed to produce continuous feedback on the frequency of contact with LEP persons both within BCATS and from external agencies. This feedback will be used to determine if there has been a noticeable change in the frequency of contact, or increase in a specific language.

BCATS will use subsequent sessions of the periodic training to monitor the experience in implementing the action steps. If there is significant growth in the number of BCATS staff interactions with LEP individuals, the agency will evaluate the need for a plan update. Absent noticeable change, BCATS will update the four factor analysis upon release of updated ACS data, and update recommendations based on that analysis.



Appendix A (Sample Contract Language for BCATS Agreements)

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, (hereinafter referred to as the Regulations), 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 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 Procurement 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 Regulation 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 BCATS, the Michigan Department of Transportation or the appropriate Federal Agency to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation or the appropriate Federal Agency as needed, 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, BCATS shall impose such contract sanctions as the Michigan Department of Transportation may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - b. Cancellation, termination or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (5) 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 subcontractor or procurement as BCATS, Michigan Department of Transportation, or the appropriate Federal Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. 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 BCATS to enter into such litigation to protect BCATS, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.



Appendix B (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 BCATS programs, policies, or activities

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

- a) is predominantly 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 BCATS 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.hhs.gov/poverty/11poverty.shtml>)

Low-Income Population – Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed Bay City Area Transportation Study (BCATS) 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 BCATS 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.



Appendix C (Forms)

Title VI Complaint Form (Page 1 of 3)

This form may be used to file a complaint with the Bay City Area Transportation Study (BCATS) for alleged violations of Title VI of the Civil Rights Act of 1964. If you need assistance completing this form due to a physical impairment or other reasons, please contact us by phone at (989) 895-4064 or via FAX (989) 895-4068 or TDD/TTY (989) 895-4049.

Only the complainant or the complainant's designated representative should complete this form.

Name		
Street Address		
City	State	Zip Code
Home Telephone	Work Telephone	FAX

Individual(s) discriminated against, if different from above (use additional page(s) if necessary):

Name		
Street Address		
City	State	Zip Code
Home Telephone	Work Telephone	FAX
Please explain your relationship to the Individual(s) indicated above		



(Page 2 of 3)

Name of Agency and department or program that discriminated:

Name of Agency		
Street Address		
City	State	Zip Code
Telephone		FAX

Date(s) of alleged discrimination:

Date Discrimination Began	Last or Most Recent Date of Discrimination
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Alleged discrimination:

Complaints should be filed within 180 days of the alleged discrimination. If you could not reasonably be expected to know the act was discriminatory within the 180 days period, you have 60 days after you became aware to file your complaint.

If your complaint is in regard to discrimination in the delivery of services or discrimination that involved the treatment of you or others by the agency or department indicated above, please indicate below the bases on which you believe these discriminatory actions were taken.

Example: If you believe that you were discriminated against because you are African American, you would mark the box labeled race/color and write African American in the space provided.

Example: If you believe the discrimination occurred because you are female, you would mark the box labeled sex and write female in the space provided.

<input type="checkbox"/> Race/Color	<input type="text"/>	<input type="checkbox"/> Religion	<input type="text"/>
<input type="checkbox"/> National origin	<input type="text"/>	<input type="checkbox"/> Age	<input type="text"/>
<input type="checkbox"/> Sex	<input type="text"/>	<input type="checkbox"/> Disability	<input type="text"/>



(Page 3 of 3)

Explain:

Please explain as clearly as possible what happened. Provide the name(s) of witnesses and others involved in the alleged discrimination. (Attach additional sheets if necessary and provide a copy of written materials pertaining to your case.)

Signature	Date
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Note: The laws enforced by this department prohibit retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by these laws. If you experience retaliation or intimidation separate from the discrimination alleged in this complaint or if you have questions regarding the completion of this form, please contact:

*David Engelhardt, Director
Bay City Area Transportation Study
515 Center Ave, Suite 501
Bay City, MI 48708
Phone: (989) 895-4064
Fax: (989) 894-4068
Email: engelhardtd@baycounty.net*



Program Accessibility Inquiry Form
(Page 1 of 3)

Please complete each section of this form to the best of your ability.
Type or print clearly.

ABOUT YOU:

Name (Optional) _____

Address _____

City _____

County _____

State _____ Zip Code _____

Daytime Telephone (_____) _____

Are you filing this inquiry? (Check all that apply)

[] A. On behalf of yourself as a person with a disability?

[] B. On behalf of a family member who has a disability?

(Please describe your relationship) _____

[] C. As a person associated with another who has a disability?

(Please describe your relationship) _____

[] D. As an interested person?



(Page 2 of 3)

ABOUT YOUR INQUIRY:

Name of Program, Service, Activity, Park or Facility Involved:

Location (if park or facility) If Known:

Date & Time of Occurrence You Believe Was Discriminatory or Unfair:

WHAT HAPPENED:

Please describe in your own words the action by an employee(s), the rule or policy, the service(s) or the condition of a park, area, facility or structure which you feel is discriminatory or unfair. It is not necessary to refer to laws, regulations, ordinances or policies in your description.

(Use additional paper to describe your observation(s) if necessary.)

HOW CAN THE PROBLEM BE CORRECTED:

Please describe the action(s) which you feel need to be taken to address the problem.



(Page 3 of 3)

IS THERE A DEADLINE:

Must this problem be addressed before a program begins or an event occurs? Please identify any date which you feel is important to the problem.

PLANNING A CONFERENCE?

The County will contact you within three (3) working days of the date your inquiry is received to schedule a conference to discuss the inquiry. The conference will occur within six (6) working days from the date your inquiry is received.

Do you need an accommodation during the conference?
(If yes, please describe)

When are you most available? (Check two)

- | | | | | | |
|--------------------------|--------------------------|-----------------------|--------------------------|--------------------------|----------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | MTW 9:00 - 11:00 a.m. | <input type="checkbox"/> | <input type="checkbox"/> | MTW 2:00 - 4:00 p.m. |
| <input type="checkbox"/> | <input type="checkbox"/> | ThF 9:00 - 11:00 a.m. | <input type="checkbox"/> | <input type="checkbox"/> | ThF 2:00 - 4:00 p.m. |

Thank you for completing the PROGRAM ACCESSIBILITY INQUIRY FORM. We will contact you soon.

PLEASE MAIL THIS FORM TO:
Michael K. Gray, ADA Coordinator
Office of the Bay County Executive
515 Center Avenue, Suite 403
Bay City, MI 48708-5125

For assistance with this form, or for information about program accessibility, please call Michael Gray at (989) 895-4130 Voice, or (989) 895-4049 (TDD).