



TITLE VI AND NONDISCRIMINATION PROGRAM

Prepared by

Matthew Gardner
Recreation Division Manager

For

Mark Zimmerman
NDPRD Director

Submitted to

Federal Highway Administration
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I. INTRODUCTION

The North Dakota Parks and Recreation Department (NDPRD) is a recipient of federal financial assistance. Title VI of the Civil Rights Act of 1964 requires recipients to comply with various nondiscrimination laws and regulations. Title VI of the Civil Rights Act of 1964 bars discrimination against anyone in the United States because of race, color, or national origin by any agency receiving federal funds.

The broader application of nondiscrimination law is found in other statutes, regulations, and Executive Orders which are detailed in this Title VI and Nondiscrimination Program. The Federal-Aid Highway Act of 1973 added the requirement that there be no discrimination based on sex. Disability was added through Section 504 of the Rehabilitation Act of 1973 then again with the Americans with Disabilities Act of 1990. Age was subsequently added in 1975 under the Age Discrimination Act.

Additionally, the Civil Rights Restoration Act of 1987 defined “program” to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal financial assistance. Thus, subrecipients are required to comply with Title VI and related nondiscrimination laws and regulations.

Title VI was further defined in 1994, Executive Order 12898 – Environmental Justice (EJ), directed federal agencies to identify and address the effects of all programs, policies, and activities on “minority populations and low-income populations.”

In 2000, Executive Order 13166 – Limited English Proficiency (LEP), was also signed into effect requiring federal agencies to assess and address the needs of otherwise eligible limited English proficient persons seeking access to the programs and activities of recipients of federal financial assistance. [See Exhibit D](#)

Title VI regulations are for the protection of the public in regard to NDPRD’s activities and effects. NDPRD is the primary recipient of federal financial assistance. Subrecipients may include contractors, subcontractors, suppliers, consultants, cities, local governments, or any other entity receiving funds directly from NDPRD.

NDPRD is required to protect the public interest by developing a Title VI and Nondiscrimination Program for their benefit. Title VI Assurances are the foundation of our commitment to nondiscrimination. This Title VI plan identifies the implementation, compliance, and enforcement policies and procedures NDPRD has developed to ensure compliance with Title VI at all levels.

A. Title VI and Nondiscrimination Policy Statement

North Dakota Parks and Recreation Department

Original Date: December 4, 2013

TITLE VI NONDISCRIMINATION POLICY STATEMENT

Title VI of the Civil Rights Act of 1964 ensures 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 otherwise subjected to discrimination, including sex, age, disability, low-income, or LEP discrimination, under any program or activity for which the Recipient receives Federal financial assistance. 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.

The North Dakota Parks and Recreation Department (NDPRD) is a state government entity. It is the policy of NDPRD to ensure compliance with Title VI of the Civil Rights Act of 1964 and all related statutes or regulation in all programs and activities.

I, as Director of the North Dakota Parks and Recreation Department, am personally committed to and in support of taking all steps to ensure that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability, low-income or LEP discrimination; be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services or activities administered by NDPRD.

The Title VI Coordinator is granted the authority to administer and monitor the Title VI and Nondiscrimination Program as promulgated under the Title VI of the Civil Rights Act of 1964 and any subsequent legislation. The Title VI Specialist will provide assistance as needed.

NDPRD recognizes the need and will provide Title VI training for NDPRD personnel.

Anyone who believes that he or she has been discriminated against would contact the NDPRD Title VI Coordinator at 701-328-5357.



Mark Zimmerman, Director
North Dakota Parks and Recreation Department

4 December 2013

Date

II. ORGANIZATION, STAFFING, AND RESPONSIBILITIES

Select NDPRD employees have been appointed by the Director for coordinating the overall administration of the Title VI and Nondiscrimination Program. This group consists of a Title VI Coordinator, and a Title VI Specialist. The primary focus of these select individuals is to ensure Title VI compliance and nondiscrimination in all NDPRD program areas. The individuals selected have other responsibilities in their current positions within NDPRD; therefore adequate time is being made available for these individuals to carry out their additional Title VI duties and will be included within their work plans. See [Exhibit C](#) for the NDPRD organizational chart.

A. Director – North Dakota Parks and Recreation Department

The Director is responsible for the overall implementation and administration of the Title VI Program for the North Dakota Parks and Recreation Department (NDPRD). The Director is responsible for the establishment of a Title VI program, designation of a Title VI Coordinator, and providing adequate staffing to effectively implement the Title VI requirements. The Director signs the FHWA Title VI Assurances ensuring compliance in all NDPRD's programs, activities, and services. See [Exhibit A](#)

B. Title VI Coordinator – Recreation Division Manager

The Title VI Coordinator provides administrative direction necessary to ensure that NDPRD policies and procedures relating to the Title VI Plan are implemented and that its established goals are appropriately attained.

The Title VI Coordinator is charged with the responsibility for implementing, monitoring, and ensuring NDPRD's compliance with Title VI regulations, including:

1. Develop and coordinate the implementation of NDPRD's Title VI and Nondiscrimination Program. Provide technical assistance, guidance, and advice to all levels of NDPRD management on the Title VI program.
2. Develop and implement procedures for the prompt processing and resolution of Title VI discrimination complaints.
3. Coordinate the Title VI and Nondiscrimination Program with selected support staff.
4. Review NDPRD's procedures and guidelines as they relate to various program directives, manuals, and other regulations to determine whether Title VI provisions are contained. Where corrections are necessary, the Title VI Coordinator will coordinate revisions.
5. Review findings and recommendations of annual division Title VI reviews. Write reports reflecting findings, conclusions, and corrective actions needed for each program reviewed. Provide summary to the Director by December 1 annually, starting 2014.
6. Review findings and recommendations of subrecipient reviews. Establish procedures and processes to resolve determinations of noncompliance.
7. Annually update the Title VI and Nondiscrimination Program Plan for submission to Federal Highway Administration (FHWA) by October 1.
8. Upon approval by the FHWA, disseminating the annual update to all interdepartmental personnel and post the annual update on the NDPRD website and intranet site.
9. Coordinate with the Title VI Specialist, to obtain signed Title VI Assurances from subrecipients

to adopt or develop and follow a Title VI and Nondiscrimination Program approved by NDPRD.

10. Assist Title VI Specialist in developing and implementation of monitoring activities deemed necessary for contractors, consultants, suppliers, vendors, lessors, universities, colleges, planning agencies, cities, counties, and other subrecipients of all NDPRD programs.
11. Review NDPRD program directives in coordination with Title VI Specialist and, where applicable, include Title VI and related requirements.
12. Conduct Title VI training programs for the Title VI Specialist.
13. Provide technical assistance and advice on Title VI matters to the Director and the Title VI Specialist.
14. Develop and publish other Title VI, Limited English Proficiency (LEP), and Environmental Justice (EJ) information for dissemination to the public, where appropriate.
15. Monitor inclusion of the Title VI Assurances in all applicable construction and non-construction contracts, consultant agreements, etc., and disseminate the clause and instructions for its use to all NDPRD divisions, Title VI Specialist, and to all subrecipients.
16. Assist in conducting subrecipient reviews to assure their compliance with Title VI requirements.

D. Title VI Specialist – Recreation & Trails Grant Coordinator

The Title VI Specialist for the NDPRD was assigned to assist in the development and implementation of the NDPRD's Title VI responsibilities. The Title VI Specialist responsibilities include the following:

1. Work closely with the NDPRD Title VI Coordinator to develop and implement policies and procedures to monitor and ensure Title VI compliance in all of NDPRD programs and activities.
2. Communicate to the Title VI Coordinator any deficiencies found in the program and promote new concepts to the program.
3. Provide and prepare data, information, and reports as requested by the Title VI Coordinator.
4. Receive and report concerns of Title VI issues or complaints to the Title VI Coordinator for guidance and/or processing.
5. Include Title VI clauses in all contracts, information distributed or advertised to the public, where applicable.
6. Collect statistical data necessary to evaluate the effectiveness of compliance with Title VI requirements.
7. Annually review and update the Title VI and Nondiscrimination Program with coordination from the Title VI Coordinator.
8. Determine and prepare data, information, and reports necessary to evaluate compliance with the Title VI requirements within NDPRD, by subrecipients and respective program areas.
9. Devise and implement monitoring activities deemed necessary for subrecipients.

10. Annually conduct Title VI reviews of subrecipients. This includes developing universal and program-specific questions for subrecipients based on the federal Title VI regulations and the FHWA Title VI Desk Reference Manual.
11. Review all construction and non-construction related contracts, and consultant agreements to ensure Title VI Assurances are included, where appropriate.
12. Train subrecipients and other pertinent staff members in the Title VI requirements.

E. Resources Allocated

The Director and Business Manager have assured that the NDPRD budget has funds that can be used towards Title VI administration, compliance, and enforcement.

III. PROGRAM ADMINISTRATION

Select NDPRD employees have been appointed by the director for coordinating the overall administration of the Title VI and Nondiscrimination Program (Title VI Coordinator and Title VI Specialists).

A. Data Collection

Data collection ensures that NDPRD programs, services, activities, facilities, and projects effectively meet the needs of “all persons” without discrimination; i.e., disproportionately benefiting or harming one group over another is a violation of Title VI. Timely and accurate data allows for better decision-making and provides support to the decisions made. Statistical data on race, color, national origin, sex, age, disability, and when feasible, income status, based on the U.S. Department of Health and Human Services Poverty Guidelines definition of low income, of participants in and beneficiaries of NDPRD programs, e.g., relocates, impacted citizens, and affected communities will be collected and maintained by NDPRD. Each of the Title VI program area, as appropriate, will maintain data to be incorporated in the Title VI Annual Update. The data gathering process will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of the Title VI program administration.

B. Public Involvement

NDPRD disseminates the Title VI and Nondiscrimination Program internally, via Intranet, to NDPRD employees and externally, via Internet, to subrecipients, contractors, beneficiaries, and the general public as well as in other formats as requested. Public dissemination of other Title VI information will include posting the Title VI and Nondiscrimination Policy Statement and Title VI Assurances in NDPRD buildings and within all bid advertisements.

C. Complaints

If any individual believes that she/he or any other program beneficiaries have been subjected to unequal treatment or discrimination in their receipt of benefits and/or services, or on the grounds of race, color, national origin, sex, age, disability, income status, or LEP discrimination, she/he may exercise their right to file a complaint with the NDPRD or FHWA. Individuals can file a complaint using the Title VI Complaint Form. [See Exhibit B](#)

D. Monitor and Review

NDPRD monitors Title VI compliance by conducting program reviews. NDPRD has developed a process to conduct Title VI reviews of program areas and subrecipients to determine the effectiveness of program activities at all levels. Further detail regarding this process may be found in Section IV.

E. Training Program

The Title VI Coordinator and Specialist conduct Title VI training for NDPRD staff and any other pertinent parties. Scheduled training will be held once annually at the Recreational Trails Program advisory committee meeting and the annual NDPRD all-staff meeting. The Title VI training schedules and attendance will be reported in the annual update.

F. Title VI Plan Update, Accomplishments, and Goals

The Title VI Coordinator will be responsible for coordination and preparation of the Title VI Program Update, including a goals and accomplishment report for the preceding year, and goals for the coming year. Report to be submitted to FHWA by October 1, annually.

IV. MONITOR AND REVIEW

A. Program Areas

The Title VI Coordinator and Specialist will coordinate efforts to ensure equal participation in all their programs and activities at all levels in addition to their day-to-day monitoring. Program area reviews are required to be conducted annually within NDPRD. The Title VI Coordinator will conduct reviews to determine the effectiveness of program area activities at all levels.

B. Reviews

The Title VI Coordinator and Specialist will conduct one review annually of the selected NDPRD division. Reviews will be conducted on a cyclic basis across the four divisions (Administration, Recreation, Planning, and Parks). Refer to North Dakota Parks and Recreation Department Goals section to see review schedule.

The Title VI Specialist will conduct Title VI pre-award and post-award compliance reviews of the subrecipients of federal funds. A representative sample of subrecipients will be reviewed annually at the amount of 1 or 5%; whichever is greater.

C. Operational Guidelines

NDPRD directives, policies, procedures, and operational guidelines provided to contractors, subrecipients, and internal programs are reviewed annually to ensure the required Title VI provisions, state law, and related requirements are included.

D. Remedial Action

NDPRD actively pursues the prevention and corrective action of Title VI deficiencies and violations and takes the necessary steps to ensure compliance with all program requirements, both within NDPRD and its subrecipients of federal funds. NDPRD will define a remedial action with agreement of FHWA to provide to the subrecipient within a period not to exceed 90 days.

V. TITLE VI COMPLAINT PROCESS

A. Scope of Title VI Complaints

The scope of Title VI covers all external NDPRD activities. Adverse impacts resulting in Title VI complaints can arise from many sources, including advertising, bidding, and contracts.

Complaints can originate from individuals or firms alleging inability to bid upon or obtain a contract

with NDPRD for the furnishing of goods and/or services. Examples include advertising for bid proposals; prequalification or qualification; bid proposals and awards; selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc., or the allocation of funding.

Complaints can originate as a result of project impacts on individuals or groups. For example, social and economic, traffic, noise, air quality, access, accidents, and failure to maintain facilities.

B. Formal Title VI Complaint Procedure

NDPRD's Title VI Policy, as outlined in its Title VI and Nondiscrimination Program, assures that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by NDPRD, its recipients, subrecipients, and contractors. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on income status and Executive Order 13166 prohibits discrimination based Limited English Proficiency (LEP).

NDPRD uses the following detailed, internal procedures for prompt processing of all Title VI complaints received directly by any program having responsibilities under Title VI. These procedures include but are not limited to:

1. Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with the North Dakota Parks and Recreation Department Title VI Coordinator. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of NDPRD's programs for it to be considered and processed as an allegation of a discriminatory practice.
2. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. NDPRD's Title VI Complaint Form (SFN 60460) must be used. [See Exhibit B](#)
3. The complaint may also be filed with the U.S. Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE (S-33), Washington, D.C. 20590. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary, U.S. Department of Transportation.
4. Upon receipt of a formal Title VI complaint, the Title VI Coordinator immediately forwards the complaint to the Federal Highway Administration (FHWA) Division Office. Then informs the NDPRD Agency Director and legal counsel.
 - a) Title VI complaints filed against NDPRD are referred to the FHWA Division Office for processing.
 - b) Title VI complaints filed against a subrecipient are investigated by NDPRD at the request of FHWA. A copy of the complaint, together with a copy of NDPRD's report of the investigation and recommendations, are forwarded to the FHWA Division Office within 60 days of the date the complaint was received by NDPRD.
 - c) The FHWA Headquarters Office of Civil Rights makes the final agency decision.

Title VI complaints filed against NDPRD, recipients and subrecipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed by NDPRD in accordance with the FHWA approved complaint procedures as required under 23 Code of Federal Regulations Part 200.

<http://www.fhwa.dot.gov/civilrights/programs/finalcomplaintmanual110410.cfm>

C. Informal Title VI Complaint Procedure

1. Title VI complaints may be resolved by informal means. When informal means are used, the complainant is informed of his or her right to file a formal written complaint.
2. Such informal attempts and their results are summarized by the Title VI Specialist, and are forwarded to the Title VI Coordinator.
3. Any complaint received in writing is considered to be a formal complaint and is handled under the formal complaint procedure outlined above.
4. The Title VI Specialist periodically informs the FHWA Division Office of the status of all complaints.
5. When a complaint has been directly filed with another federal or state agency, the Title VI Coordinator is to be informed by the division where the complaint has been filed and is to coordinate any action needed by NDPRD to resolve the complaint.

NORTH DAKOTA PARKS AND RECREATION DEPARTMENT FY 2015 GOALS

The following information describes the goals set by the NDPRD for FY 2015 in all programs and divisions. The NDPRD Division's include: Administration, Natural Resources, Parks and Recreation.

The NDPRD will:

1. Ensure that a nondiscriminatory process that complies with Title VI requirements is maintained within all programs and activities.
2. Review the Title VI and Nondiscriminatory Program manual annually and update as needed.
3. Include accomplishment report and FY 2016 goals in the 2015 annual manual update.
4. Develop and provide Title VI and related nondiscrimination training to NDPRD staff annually and other pertinent stakeholders as needed. Add online training component to more effectively reach field staff.
5. Include Title VI Assurances in all bid advertisements and other related bid documents.
6. Include Title VI Assurances in all future federal aid contracts and agreements.
7. Include minority publications in bid advertisement dissemination.
8. Assist potential federal aid sub-recipients in their development of a Title VI program.
9. Provide a high level of service to our customers in compliance with the established rules and regulations of Title VI.
10. Monitor and timely report any issues or concerns relating to the Title VI program.
11. Annually verify the Title VI Nondiscrimination Policy Statement is properly displayed at NDPRD State Parks, Recreation Areas, and at Headquarters.
12. Maintain updates of Title VI information on NDPRD website and on the NDPRD intranet site.
13. Perform annual Title VI program reviews of federal aid recipients and NDPRD programs as needed.
 - FY 2015 – Administration Division Review
 - FY 2016 – Parks Division Review
 - FY 2017 – Planning Division Review
 - FY 2018 – Recreation Division Review
14. Continue ADA compliance with new facility construction and remodel projects.

NORTH DAKOTA PARKS AND RECREATION DEPARTMENT FY 2015 ANNUAL UPDATE

The following is the annual update report for fiscal year 2015 as required under Title VI requirements set. This annual update includes an accomplishments report based on the FY 2015 goals, a report on the Recreation Division, and the FY 2015 goals.

Accomplishments Report

NDPRD became Title VI compliant under requirement of 49 CFR Part 21 and 23 CFR Part 22 because NDPRD is a recipient of federal funds. NDPRD's Title VI Non-Discriminatory plan became effective in December of 2013 after final approval from the FHWA Bismarck, ND office.

The Title VI Coordinator and Specialist held one Title VI training for NDPRD permanent and temporary staff in 2015. This training focused on the basics of Title VI and the formal/informal complaint procedure followed by a Q & A session. Training was given in the form of a Prezi presentation, in person during the NDPRD annual winter all staff meeting held December 2014. Title VI information still remains on display for the public on our website and at our headquarters, state parks and recreation areas. Employee Title VI information is posted on our intranet site.

In FY15 the NDPRD bid three projects for Recreation Trail Program fund recipients that were not Title VI compliant. All contractor payments were made directly by the NDPRD on behalf of the recipient in those cases.

The Title VI Coordinator assisted the Hunter Arthur Joint Powers Association (JPA) to become Title VI Compliant. Their program was approved by NDPRD in consultation with FHWA July 2014. NDPRD conducted a review of the JPA's Title VI program and received their annual update August 2015.

There were no cases of discrimination found or reported in FY 2015.

NORTH DAKOTA PARKS AND RECREATION DEPARTMENT FY 2016 GOALS

The following information describes the goals set by the NDPRD for FY 2016 in all programs and divisions.

The NDPRD will:

15. Ensure that a nondiscriminatory process that complies with Title VI requirements is maintained within all programs and activities.
16. Review the Title VI and Nondiscriminatory Program manual annually and update as needed.
17. Include accomplishment report and FY 2016 goals in the 2015 annual manual update.
18. Develop and provide Title VI and related nondiscrimination training to NDPRD staff annually and other pertinent stakeholders as needed. Add online training component to more effectively reach field staff.
19. Include Title VI Assurances in all bid advertisements and other related bid documents.
20. Include Title VI Assurances in all future federal aid contracts and agreements.
21. Include minority publications in bid advertisement dissemination.
22. Assist potential federal aid sub-recipients in their development of a Title VI program.
23. Provide a high level of service to our customers in compliance with the established rules and regulations of Title VI.
24. Monitor and timely report any issues or concerns relating to the Title VI program.
25. Annually verify the Title VI Nondiscrimination Policy Statement is properly displayed at NDPRD State Parks, Recreation Areas, and at Headquarters.
26. Maintain updates of Title VI information on NDPRD website and on the NDPRD intranet site.
27. Perform annual Title VI program reviews of federal aid recipients and NDPRD programs as needed.
 - FY 2016 – Parks Division Review
 - FY 2017 – Planning Division Review
 - FY 2018 – Recreation Division Review
 - FY 2019 – Administration Division Review
28. Continue ADA compliance with new facility construction and remodel projects.

EXHIBIT A

Title VI Assurances

Appendix A

Appendix B

Appendix C



Standard U.S. DOT Title VI ASSURANCES

DOT 1050.2 Dated 8/24/1971

Standard U.S. DOT Title VI Assurances

The (Title of Recipient) (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, SubTitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the (*Name of Appropriate 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, a copy of which is attached.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its (*Name of Appropriate 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 (*Name of Appropriate Program*) 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 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, SubTitle A, Office the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidden that it will affirmatively insure that in any contact 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 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 the Recipient shall insert the clauses of Appendix B of this assurance, 'as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

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 shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under *(Name of Appropriate Program)*; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under *(Name of Appropriate 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 shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and 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 Department of Transportation under the *(Name of Appropriate Program)* and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the *(Name of Appropriate Program)*. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient

Dated 4 Dec. 2013

North Dakota Parks & Recreation
(Recipient)
by 
(Signature of Authorized Official)

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

(2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or 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) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *(Recipient)* or the *(Name of Appropriate Administration)* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the *(Recipient)*, or the *(Name of Appropriate Administration)* as appropriate, and shall set forth what efforts it has made to obtain the information.

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

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

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

The contractor shall take such action with respect to any subcontractor procurement as the *(Recipient)* or the *(Name of Appropriate Administration)* 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 direction, the contractor may request the *(Recipient)* to enter into such litigation to protect the interests of the *(Recipient)*, 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

- A. The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the *(Name 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 *(Name of Appropriate Program)* and the policies and procedures prescribed by *(Name of Appropriate Administration)* of the Department of Transportation and, also in accordance with and 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, Nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) 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 *(Name 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 *(Name 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 shall be binding on the *(Name of Recipient)*, its successors and assigns.

The *(Name 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 shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on over or under such lands hereby conveyed [,] [and]* (2) that the *(Name of Recipient)* shall 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, Nondiscrimination in federally assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall 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 purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the *(Name of Recipient)* pursuant to the provisions of Assurance 6(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed 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, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, *(Name of Recipient)* shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deed.]*

That in the event of breach of any of the above nondiscrimination covenants, *(Name of Recipient)* shall have the right to reenter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of *(Name of Recipient)* and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by *(Name of Recipient)* pursuant to the provisions of Assurance 6(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or he otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of, race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other 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), and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to reenter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, (*Name of Recipient*) shall have the right to reenter said land and facilities there-on, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (*Name of Recipient*) and its assigns.

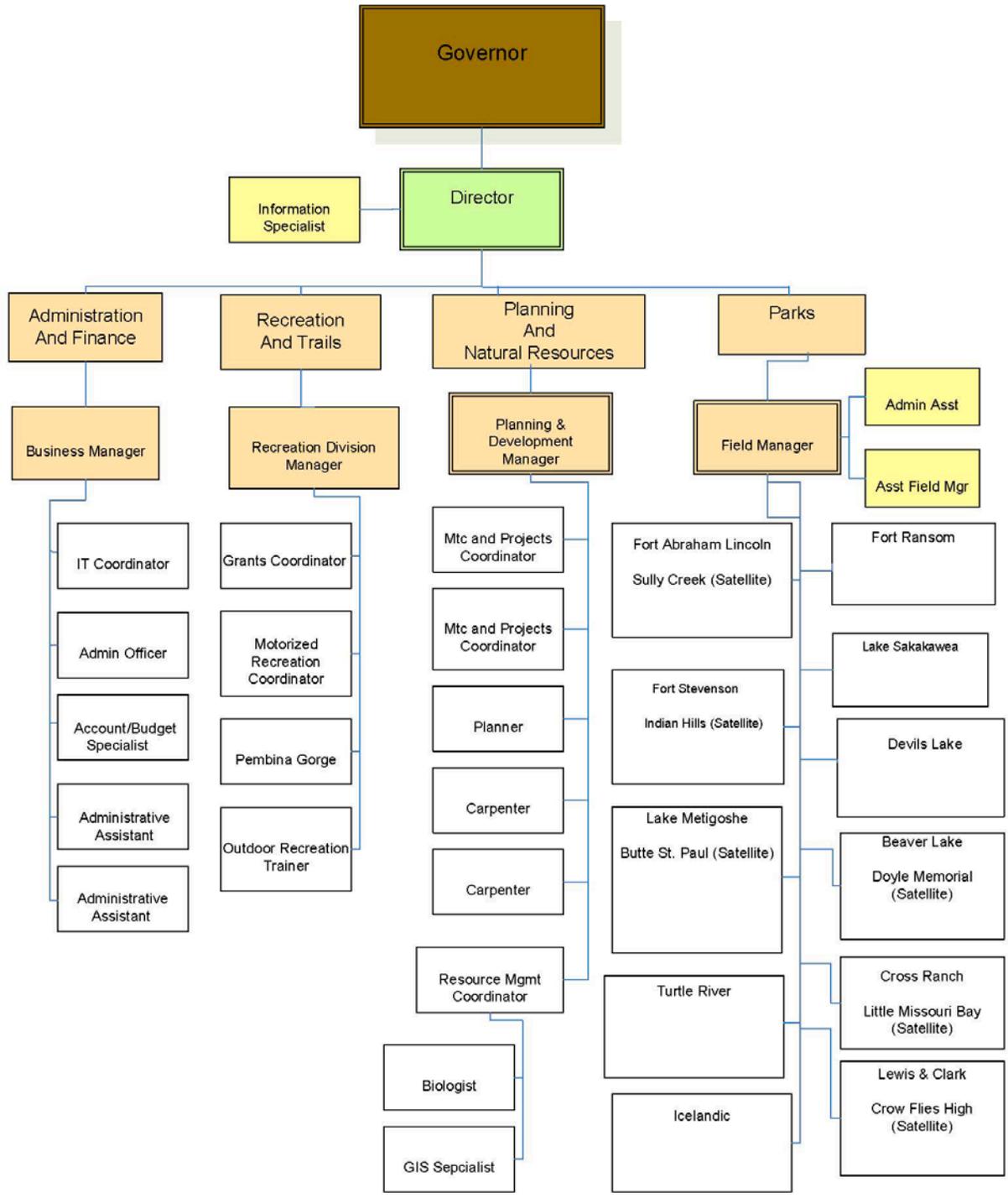
* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

EXHIBIT B

Title VI Complaint Form

		TITLE VI COMPLAINT	
		NORTH DAKOTA PARKS AND RECREATION	
		SFN 60460 (8-2013)	
Name		Telephone Number	
Address		City	State ZIP Code
Name of Person(s) That Discriminated Against You		Position (if known)	
Date of Incident	Location of Incident		
Address (if known)		City	State ZIP Code
Reason for Discrimination			
<input type="checkbox"/> Race <input type="checkbox"/> Age <input type="checkbox"/> Color <input type="checkbox"/> Sex <input type="checkbox"/> Disability <input type="checkbox"/> National Origin <input type="checkbox"/> Retaliation <input type="checkbox"/> Other, specify: _____			
Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently than you. Also, attach any written material pertaining to your case.			
Signature		Date	

EXHIBIT C



Limited English Proficiency Plan

North Dakota Parks and Recreation Department

TITLE VI COORDINATOR

Matthew Gardner – Recreation Division Manager

INTRODUCTION

This *Limited English Proficiency Plan* has been prepared to address the North Dakota Parks and Recreation Department (NDPRD) responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with limited English proficiency language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

Executive Order 13166, titled ***Improving Access to Services for Persons with Limited English Proficiency***, indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination. It directs each agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including all NDPRD divisions receiving federal grant funds.

Plan Summary

The NDPRD has developed this ***Limited English Proficiency Plan*** to help identify reasonable steps for providing language assistance to persons with limited English proficiency (LEP) who wish to access services provided. As defined Executive Order 13166, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP persons that assistance is available.

In order to prepare this plan, the NDPRD used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP persons in the service area who may be served by the NDPRD.
2. The frequency with which LEP persons come in contact with NDPRD services.
3. The nature and importance of services provided by the NDPRD to the LEP population.
4. The interpretation services available to the NDPRD and overall cost to provide LEP assistance. A summary of the results of the four-factor analysis is in the following section.

MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

The number or proportion of LEP persons in the service area who may be served or are likely to require NDPRD services.

The NDPRD staff reviewed the 2007-2011 American Community Survey 5-Year Estimates for North Dakota and determined that 33,158 individuals in NDPRD's service area, 5.3% of the population speak a language other than English. Of those, 9,137 individuals have limited English proficiency; that is, they speak English less than "very well" or "not at all." This is only 1.5% of the overall population in the service area. In NDPRD's service area, of those persons with limited English proficiency, 1.3% speaks Spanish, 2.7% speaks Indo-European Languages, .6% speaks Asian and Pacific Island languages, and .7% speaks all other languages.

The frequency with which LEP persons come in contact with NDPRD services.

The NDPRD staff reviewed the frequency with which their department staff have, or could have, contact with LEP persons. This includes documenting phone inquiries or office visits. To date, the NDPRD has had no requests for interpreters and no requests for translated program documents. The NDPRD's other staff have had very little contact with LEP persons.

The nature and importance of services provided by the NDPRD to the LEP population.

There is no large geographic concentration of any type of LEP individuals in the service area for the NDPRD. The overwhelming majority of the population, 94.7%, speak only English. As a result, there are few social, service, or professional and leadership organizations within the NDPRD service area that focus on outreach to LEP individuals. The NDPRD staff are most likely to encounter LEP individuals through office visits, phone conversations, notifications from department staff of impacts on service area services and attendance at meetings.

The resources available to the NDPRD, and overall costs to provide LEP assistance.

The NDPRD reviewed its available resources that could be used for providing LEP assistance, which of its documents would be most valuable to be translated if the need should arise, and contacted local citizens that would be willing to provide voluntary Spanish translation if needed within a reasonable time period. Other language translation if needed would be provided through bilingual staff or a telephone interpreter line for which the NDPRD would pay a fee.

LANGUAGE ASSISTANCE

A person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to NDPRD services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

How the NDPRD staff may identify an LEP person who needs language assistance:

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge in languages LEP persons would understand.
- All NDPRD staff will be provided with language identification cards to assist in identifying the language interpretation needed if the occasion arises.
- All NDPRD staff will be informally surveyed periodically on their experience concerning any contacts with LEP persons during the previous year.
- When the NDPRD sponsors an informational meeting or event, a staff person may greet participants as they arrive. By informally engaging participants in conversation it is possible to gauge each attendee's ability to speak and understand English. Although translation may not be able to be provided at the event it will help identify the need for future events.

Language Assistance Measures

Although there is a very low percentage of LEP individuals in the NDPRD service area, that is, persons who speak English less than "very well" or "not at all", it will strive to offer the following measures:

1. The NDPRD staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating English.
2. The following resources will be available to accommodate LEP persons:
 - Volunteer interpreters for the Spanish language are available and will be provided within a reasonable time period.
 - Language interpretation will be accessed for all other languages through a telephone interpretation service.

STAFF TRAINING

The following training will be provided to all staff:

- Information on the Title VI Policy and LEP responsibilities.
- Description of language assistance services offered to the public.
- Use of interpreter service provider's language identification cards.
- Documentation of language assistance requests.
- How to handle a potential Title VI/LEP complaint.

All contractors or subcontractors performing work for the NDPRD will be required to follow the Title VI/LEP guidelines.

TRANSLATION OF DOCUMENTS

The NDPRD weighed the cost and benefits of translating documents for potential LEP groups. Considering the expense of translating the documents, the likelihood of frequent changes in documents and other relevant factors, at this time it is an unnecessary burden to have any documents translated.

Due to the very small local LEP population, the NDPRD does not have a formal outreach procedure in place, as of 2013. Translation resources have been identified and are limited in this region. However, when and if the need arises for LEP outreach, the NDPRD will consider the following options:

- When staff prepares a document, or schedules a meeting, for which the target audience is expected to include LEP individuals, then documents, meeting notices, flyers, and agendas will be printed in an alternative language based on the known LEP population.
- NDPRD will assess requests for translation of documents based on the possible impacts and known LEP population.

MONITORING

Monitoring and Updating the LEP Plan - The NDPRD will update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when data from the 2020 U.S. Census is available, or when it is clear that higher concentrations of LEP individuals are present in the NDPRD service area. Updates will include the following:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP persons have been addressed.
- Determination of the current LEP population in the service area.
- Determination as to whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine whether the NDPRD financial resources are sufficient to fund language assistance resources needed.
- Determine whether the NDPRD fully complies with the goals of this LEP Plan.
- Determine whether complaints have been received concerning the agency's failure to meet the needs of LEP individuals.

DISSEMINATION OF THE NDPRD LEP PLAN

- Post signs in NDPRD service area notifying LEP persons of the LEP Plan and how to access language services.
- Post on the NDPRD website and intranet site the LEP Plan and how to access language services.