

TITLE VI PLAN

TITLE VI PLAN

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TITLE VI ASSURANCES - GENERAL

1. The Arkansas State Highway and Transportation Department was required to sign "Assurances" that it would comply with Title VI of the Civil Rights Act of 1964 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. The "Assurances" stated, "That no person in the United States shall on the grounds of race, color, sex, national origin or disability, be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination under any program or activity for which the State receives federal financial assistance from the Department of Transportation, including the Federal Highway Administration ." (Appendix One)

2. The Arkansas State Highway and Transportation Department will take affirmative action to correct any deficiencies found by the Federal Highway Administration within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with State-signed assurances and required guidelines. The Director of Highways and Transportation will be responsible for implementing Title VI requirements.

3. The procedures governing activities and programs of the Department will provide for the collection, evaluation and recording of statistical data of participants in and beneficiaries of Department programs. All programs and activities of the Department will be planned and executed in such a manner as to give recognition, consideration and just and equitable treatment to all persons and properties involved in, affected by or benefiting from such programs and activities.

Information relative to the advantages and disadvantages of each project considered will be correlated by maps, studies of transportation patterns and population, land usage and narrative descriptions. This information will be maintained on master file by project.

4. Any deficiencies cited in the Department's Title VI Program will be promptly resolved and remedial action necessary will be reduced to writing within a period not to exceed 90 days.

CHAPTER II

ORGANIZATION AND STAFFING

1. Civil Rights Officer

- a. The Chief of Administration and Public Affairs has been designated as the Civil Rights Officer for the AHTD and reports directly to the Director of Highways and Transportation.
- b. The Civil Rights Officer, by order of the Director, has overall responsibility for planning, developing, managing, implementing, coordinating, and monitoring all program areas of the civil rights functions, including Title VI.
- c. The Civil Rights Officer is assisted in carrying out the requirements of Title VI by members of the Human Resources Division and other divisions responsible for program area activities affected by Title VI.

2. EEO Section Head/Title VI Specialist

- a. The EEO Section Head has been designated as the Title VI Specialist for the AHTD. Under the general direction and supervision of the Human Resources Division Head, the Title VI Specialist is responsible for initiating and monitoring the AHTD's Title VI activities and preparing the required reports. The following EEO Section personnel provide assistance as needed :

- External EEO Coordinator
- Internal EEO Coordinator
- Administrative Aide I
- Office Administrative Assistant I

- b. The EEO Section has easy access to the Director of Highways and Transportation and is adequately staffed to effectively implement the Department's civil rights requirements. (Appendix Two)

3. Title VI Officers

Each affected area within the Department has designated a Title VI Officer who is responsible for monitoring Title VI compliance at the program area level. The Title VI Officers will assist the Title VI Specialist in monitoring Title VI activities and preparing required reports. The Title VI Officers will monitor Title VI activities on a continuing basis to ensure that program area personnel implement procedures in a nondiscriminatory manner. (Appendixes Three and Four)

CHAPTER III

TITLE VI SPECIALIST'S RESPONSIBILITIES

The Title VI Specialist's duties and responsibilities include:

A. Conducting informal training sessions for the Department's Title VI Officers to ensure these individuals are fully cognizant of Title VI and related statutes and regulations. The following items will be discussed during these sessions:

I. Introduction

- a. Title VI
- b. Related Statutes and Regulations

II. Title VI Compliance

- a. Implementation at Program Area Level
- b. Monitoring at Program Area Level

III. Discrimination

- a. Identification
- b. Elimination
- c. Prevention

B. Revising the Title VI Implementing Plan, as necessary, to reflect organizational, policy, or implementation changes: The revised plan is submitted to the Federal Highway Administration (FHWA) for approval.

C. Preparing an annual summary of Title VI activities, accomplishments, and problems for the past year and goals for the next year.

D. Serving on the Department's Multi-disciplinary Team which meets quarterly or as needed. This Team has representatives of the various program areas with Title VI responsibilities and is qualified to identify and make objective, knowledgeable recommendations for resolutions to problems or concerns. The Team is charged with the responsibility of anticipating areas of social, economic, and environmental conflict, verifying proper resolution is achieved and assisting in orderly project development. The Title VI Specialist is responsible for guiding the Multi-disciplinary Team in the development and implementation of the Department's Title VI Plan.

E. Assessments of Title program areas will be conducted by the Title VI Specialist and members of the Multi-disciplinary Team utilizing a risk assessment process. The Multi-disciplinary Team will review the program areas to establish priorities in light of the Department's transportation program and needs. Assessments will be scheduled based on the priority listing and include meetings with program staff to discuss Title VI

CHAPTER III - TITLE VI SPECIALIST'S RESPONSIBILITIES

requirements/concerns in each area and a review of documentation. The priority listing will be reviewed annually by the Multi-disciplinary Team and updated as necessary. The Title VI Specialist will maintain documentation of the risk assessment process and assessments conducted by the Multi-disciplinary Team.

F. Reviewing the established procedures for urbanized and non-urbanized systems planning to ensure compliance with Title VI requirements. Urbanized areas are those places having a population of 50,000 or more. A continual, cooperative and comprehensive transportation planning effort is in full operation in these areas. Planning outside the urbanized areas is based on a combination of road classification studies, historical traffic and travel files and local government plans (many sponsored by the AHTD Regional Surface Transportation Planning Program) and AHTD corridor and sub-state studies.

G. Providing technical assistance and advice on Title VI matters to program area officials.

H. Working with program officials to correct identified Title VI problems, discriminatory practices, or policies.

CHAPTER IV

DISSEMINATION OF TITLE VI INFORMATION

Title VI information is developed for dissemination to the general public by the Public Affairs Officer who is the Title VI Officer for the Public Affairs Section. He is responsible for preparing the information and presiding at all public listening sessions, meetings and hearings. The Environmental Division also distributes information at these venues.

CHAPTER V

INVESTIGATING AND PROCESSING COMPLAINTS

The investigation and processing of all alleged complaints of discrimination received by the Department will be accomplished by the EEO Section.

When an allegation of discrimination is filed directly with the Department or the Department is notified that an allegation has been filed with other federal, state or local authorities, the Department will:

1. Notify the appropriate agency (Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, etc.) within ten (10) working days of the allegation. As a minimum, the following information will be included in every notification:
 - a. Name, address and telephone number of the complainant.
 - b. Name(s) and address(s) of alleged discriminating official(s).
 - c. Basis of complaint (i.e. race, color, religion, sex, national origin, disability, age).
 - d. Date of alleged discriminatory act(s).
 - e. Date complaint was received by the Department.
 - f. A copy of the complaint when it becomes available or a statement of the complaint until a copy is available.
 - g. Other agencies (state, local, or federal) with which the complaint has been filed.
 - h. An explanation of the actions the Department has taken or proposes to resolve the issues raised in the complaint.
2. Acknowledge receipt of the allegation, informing the complainant of action taken or proposed to process the allegation and advising the complainant of other avenues of redress available, within ten (10) working days.
3. Contact the complainant to determine that the issues and concerns are understood and considered in the review.
4. Investigate the allegation and based on the information obtained, determine whether or not discrimination occurred.
5. Prepare a report of findings.

CHAPTER V - INVESTIGATING AND PROCESSING COMPLAINTS

6. Notify the complainant within 45 days from receipt of the allegation of the findings and decision reached including proposed disposition. The notification will advise the complainant of avenues for appeal if dissatisfied with the decision. The proposed resolution will require action adequate to correct and prevent similar occurrences of discrimination.
7. Provide the appropriate agency with the decision and a summary of the findings within 45 days after receipt of the allegation.
8. Periodically inform the appropriate agency regarding the status of complaints.
9. Informal attempts will be made to resolve the matters. These attempts and the results will be synopsized in the report of investigations.
10. The procedure outlined herein will not prohibit interagency agreements between the Department and state or local Federal Employment Practice (706) agencies.
11. The fact that an allegation has been filed directly with the Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, etc., will not relieve the Department of the responsibility for taking action pursuant to its own internal procedures.

APPENDICES

Appendix One	State signed Assurances
Appendix Two	EEO Organization Structure
Appendix Three	Title VI Program Areas
Appendix Four	A List of Plans and Procedures Applicable to Federally Assisted Programs

APPENDIX ONE

SAMPLE OF

DEPARTMENT'S TITLE VI ASSURANCES

(Standard U.S. Department of Transportation Title VI Documents)

REVISED STANDARD DOT TITLE VI ASSURANCES

The State of Arkansas (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, the Civil Rights Restoration Act of 1987 (hereinafter referred to as the Acts), 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 of 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 Acts, Regulations, and other pertinent directives, no person in the United States shall, on grounds of race, color, sex national origin, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the Recipient and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal-aid Highway Program:

1. That the Recipient agrees that each "program" and each "facility" as defined in subsections 21.12(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 made in connection with the Federal-aid Highway Program and, in adapted form in all proposals for negotiated agreements:

The Arkansas State Highway and Transportation Department 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 of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issue pursuant to

such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged 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, sex national origin, or disability in consideration for an award.

3. That the Recipient shall attach Appendix A of this assurance to every contract subject to the Act and the Regulations.
4. That the clauses of Appendix B of this assurance shall be included as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvement 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 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 the Federal-aid Highway Program; and (b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the Federal-aid Highway 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, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants imposed by , or pursuant to, the Acts, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts and other Federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation under the Federal-aid Highway Program and is binding on it, other recipients, subgrantees, 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.

Date May 12, 1994



Dan Flowers
Director of Highways
and Transportation

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 Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 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, sex, national origin, or disability, 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 Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier 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, sex, national origin, or disability.
- (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 Arkansas State Highway and Transportation Department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. 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 Arkansas State Highway and Transportation Department, or the Federal Highway 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 Arkansas State Highway and Transportation Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the contractor under the contract until the contractor complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

- (6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Arkansas State Highway and Transportation Department or the Federal Highway Administration may direct as means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Arkansas State Highway and Transportation Department to enter into such litigation to protect the interest of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

APPENDIX B

The following clauses shall be included in any and all deeds effecting or recording the transfer to 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 State of Arkansas, will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway 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 State of Arkansas 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 the State of Arkansas, and its successors forever, subject, however, to the covenant, 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 provisions of similar services or benefits and shall be binding on the State of Arkansas, its successors and assigns.

The State of Arkansas, 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, sex, national origin, or disability, be excluded for 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 State of Arkansas, shall use the 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 re-enter 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 deed.*

*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

(1) The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the State of Arkansas, pursuant to the provisions of Assurance 7(a).

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 Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

b. Include in licenses, leases, permits, etc.*

That in the event of breach of any of the above nondiscrimination covenants, the State of Arkansas, 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 (license, lease, permit, etc.) had never been made or issued.

c. Include in deeds*

That in the event of breach of any of the above nondiscrimination covenants, the State of Arkansas, shall have the right to re-enter 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 the State of Arkansas 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.

(2) The following clauses shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the State of Arkansas, pursuant to the provisions of Assurance 7(b).

a. 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, sex, national origin, or disability, shall be excluded from the participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, or disability, shall be excluded from the participation in, denied the benefits of, or be otherwise 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 Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

b. Include in licenses, leases, permits, etc.*

That in the event of breach of any of the above nondiscrimination covenants, the State of Arkansas, 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 (license, lease, permit, etc.) had never been made or issued.

c. Include in deeds*

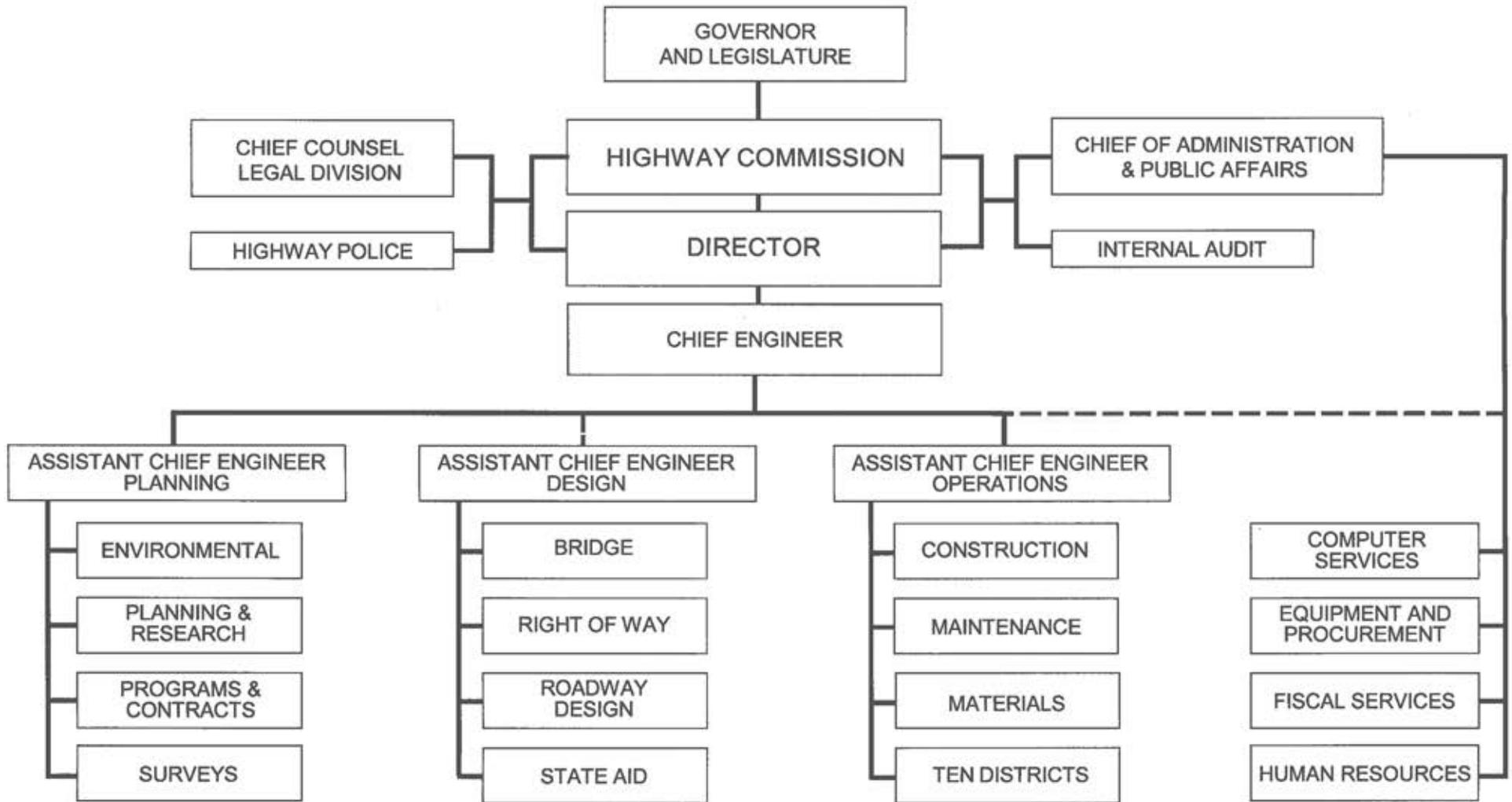
That in the event of breach of any of the above nondiscrimination covenants, the State of Arkansas, shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Arkansas 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.

APPENDIX TWO

EEO ORGANIZATIONAL STRUCTURE

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT ORGANIZATION CHART

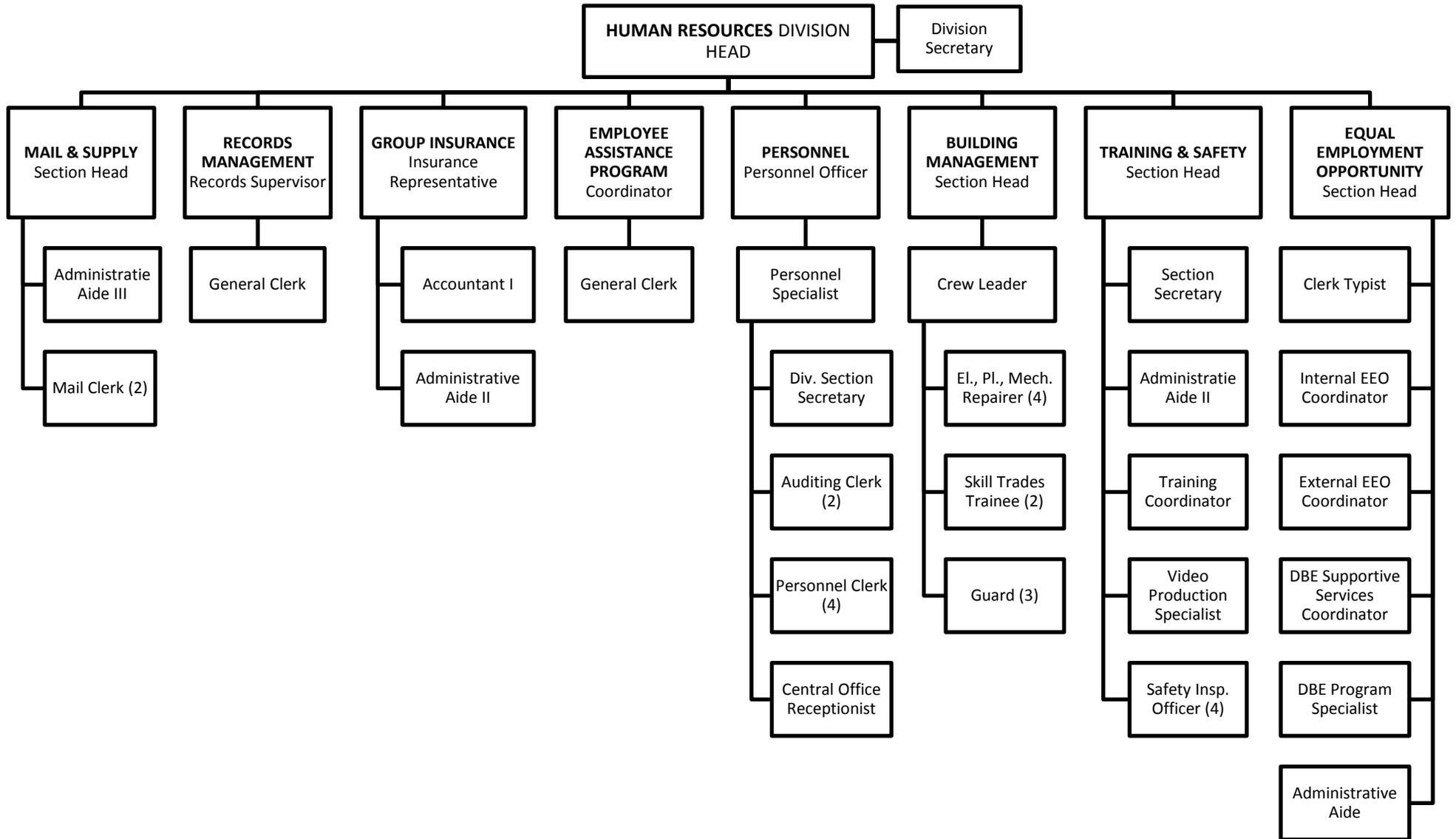


Lawrence Howers
 DIRECTOR OF HIGHWAYS AND TRANSPORTATION

6-24-98

Date

HUMAN RESOURCES DIVISION



APPENDIX THREE

TITLE VI PROGRAM AREAS

TITLE VI PROGRAM AREAS

<u>Offices / Divisions / Sections</u>	<u>Titles of Officers</u>
Arkansas Highway Police	Lieutenant
Construction	Staff Construction Engineer
Environmental	Senior Environmental Scientist
Programs and Contracts	Assistant Division Head
Public Affairs	Public Affairs Officer
Public Transportation	Federal Transit Administration Grants Officer
Research	Staff Research Engineer
Right of Way	Assistant Division Head Section Head Section Head Section Head Section Head Property Manager Section Head Section Head
Roadway Design	Assistant Division Head
State-Aid	Assistant Division Head
Statewide Planning (includes Metropolitan Planning)	Staff Planning Administrator Intermodal Transportation Planner
Surveys	Division Head

APPENDIX FOUR

**A LIST OF PLANS AND PROCEDURES APPLICABLE
TO FEDERALLY-ASSISTED PROGRAMS**

A LIST OF PLANS AND PROCEDURES APPLICABLE
TO FEDERALLY-ASSISTED PROGRAMS

1. Arkansas State Highway and Transportation Department Public Involvement/Public Hearing Procedures
2. Surface Transportation Program
3. Right-of-Way Policy and Procedural Manual
4. Resident Engineers Construction Manual
5. Procedural Manual for Transportation Research Projects