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Major General Lee E. Tafanelli
The Adjutant General and Director of
Emergency Management & Homeland Security

Laura Kelly, Governor

February 6, 2020

SUBJECT: New Federal Grant Subrecipient Reporting Requirement – Title VI Civil Rights – Emergency Management Performance Grant (EMGP)

Dear EMPG Sub-recipient:

Recent new federal compliance grant requirements effect both the recipient (KDEM) and sub-recipients (counties) who receive Emergency Management Performance Grant (EMPG) funds.

Sub-recipients have the same obligations as the primary recipients to comply with applicable civil rights requirements. KDEM is responsible for conducting compliance reviews of its sub-recipients. Compliance reviews focus on determining whether the sub-recipient has met the criteria of Title VI program and how effective the sub-recipient is at ensuring nondiscrimination. Bret Rowe is KDEM’s-appointed Title VI Coordinator and as such may evaluate sub-recipient’s Title VI Plan and related documents, interview individuals with Title VI responsibilities, and/or conduct a site visit as part of the process.

Failure to comply with Title VI Civil Rights requirements could result in the sub-recipient becoming ineligible to receive Federal financial assistance

Compliance Overview

Title VI of the Civil Rights Act of 1964 and related non-discrimination statutes require that recipients of federal financial assistance ensure that no one is excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of race, color, national origin, sex, age, or disability in any federally-assisted program and activity. Title VI should not be confused with Title VII, which prohibits employment discrimination.

For Title VI purposes, the term “program or activity” means all of the operations of a department, agency, special district, or other instrumentality of a local government. *For example, if a local agency’s emergency management department receives any federal financial assistance, Title VI program requirements apply to every part of that department whether federally funded or not. However, Title VI program requirements do not apply to all other departments of the local agency unless the federal assistance is transferred to such departments.*

Sub-recipient Requirements

As a sub-recipient, receiving federal EMPG funding, your agency is required to submit a Title VI Plan to KDEM that documents procedures used for complying with Title VI of the Civil Rights Act of 1964 requirements.

KDEM has provided a template to assist you in developing the plan. It is not required that you use the template; however, if you use your own format, the plan must contain the following information:

1. Non-discrimination Policy Statement

A subrecipient must provide a statement of its commitment to non-discrimination and Title VI compliance that is signed by its top official and circulated throughout the organization and general public. The policy statement must define federal financial assistance and delineate specific forms of prohibited discrimination.

2. Standard Assurances

A Title VI Plan must include the Department of Homeland Security Title VI Assurance (6 CFR 21.7(a)) in which the subrecipient assures that its program will be conducted in a non-discriminatory manner. The subrecipient must ensure that it has a copy of a signed standard assurance or executes one to be included in the plan.

3. Title VI Coordinator

The subrecipient must designate a Title VI Coordinator who is responsible for managing and monitoring Title VI compliance, providing reports to KDEM, and handling Title VI complaints.

4. Monitoring and Review Process

The subrecipient must develop procedures for identifying and addressing potential discrimination or discriminatory procedures within the agency. The Title VI Plan must include a description of how the subrecipient's pertinent program areas are reviewed for Title VI compliance and outline procedures to eliminate and address discrimination and resolve deficiencies when non-compliance occurs. Subrecipients administering federal aid contracts are also required to monitor prime contractors and subcontractors for Title VI compliance.

5. Notice of Rights

Members of the public must be informed of their rights against discrimination under Title VI and how they can file a Title VI discrimination complaint. The Notice must be made available on the agency's website and be posted in locations accessible to the public. If more than five percent of the subrecipient's population in its service area is limited English proficient (LEP), the notice must be translated into the applicable language of that population.

6. Complaint Procedures

Subrecipients must develop procedures for investigating and tracking Title VI discrimination complaints pursuant to 6 CFR 21.1. The complaint procedures must be disseminated by the local agency internally and externally. At a minimum, the complaint procedures must be posted on the subrecipient's website. If more than five percent of the subrecipient's population in its service area is limited English proficient (LEP), the notice must be translated into the applicable language of that population.

7. Complaint Investigation and Tracking

Any complaints directly against the local agency and/or an employee of the local agency must be forwarded to KDEM for investigation. Local agencies are required to investigate complaints against its subrecipients, contractors, consultants, and anyone else acting on its behalf. Such complaints must be investigated within 60 days of receipt and a final investigative report must be submitted to KDEM for review. Complaints must be investigated by someone knowledgeable in Title VI and discrimination investigations. Contact KDEM's Title VI Nondiscrimination Coordinator if your agency does not have anyone qualified to investigate complaints or if a conflict of interest may exist.

For questions please contact the KDEM's appointed Title VI Civil Rights Coordinator, Bret Rowe at 785-646-2204 or email: bret.a.rowe.nfg@mail.mil.

Sincerely,

Angee Morgan
Deputy Director

NOTICE OF NONDISCRIMINATION

Title VI and its implementing regulations obligate recipients of federal financial assistance to ensure nondiscrimination in federally-assisted emergency preparedness, response, mitigation, and recovery programs and activities. All recipients must comply with Title VI, as well as other antidiscrimination laws, at all times including during emergencies. As a condition of receipt of Federal financial assistance, **The Adjutant General's Department, Kansas Division of Emergency Management (KDEM)** and subrecipients are required to comply with all applicable provisions of laws and policies prohibiting discrimination, including:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin (including limited English proficiency).
- Title IX of the Education Amendments Act of 1972, which prohibits discrimination based on sex in education programs or activities.
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability.
- Age Discrimination Act of 1975, which prohibits discrimination based on age.
- Presidential Executive Order 12898 "Federal Actions to Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations," which requires all federal and state agencies to identify and address the effects of its programs and policies on minority and low-income populations (1994); and
- Presidential Executive Order 13166, which addresses services to those individuals with limited English proficiency. The rights of women, the elderly and the disabled are protected under related statutes (2000).

6 C.F.R. – Domestic Assistance – Department of Homeland Security, Office of the Secretary:

- Part 15 - Enforcement of nondiscrimination on the basis of disability in programs or activities conducted by the Department of Homeland Security,
- Part 17 - Nondiscrimination on the basis of sex in education programs or activities receiving federal financial assistance,
- Part 19 - Nondiscrimination in matters pertaining to faith-based organization,
- Part 21 - Nondiscrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance from the Department of Homeland Security.

44 C.F.R. – Emergency Management and Assistance – Federal Emergency Management Agency, Department of Homeland Security:

- Part 7 - Nondiscrimination in Federally-Assisted Programs (FEMA Reg.5)
- Part 16 - Enforcement of nondiscrimination on the basis of handicap in programs or activities conducted by the Federal Emergency Management Agency.
- Part 19 - Nondiscrimination on the basis of sex in education programs or activities receiving federal financial assistance.

State of Kansas

- Kansas Statute 44-1001, et seq.: Kansas Acts Against Discrimination
- State of Kansas Executive Order 18-04 "State of Kansas Policy Against Sexual Harassment, Discrimination, and Retaliation" (2018).

TO FILE A COMPLAINT:

**The Adjutant General's Department
Kansas Division of Emergency Management
2800 SW Topeka Blvd.
Topeka, KS 66611**

**Mr. Bret Rowe
Title VI Civil Rights Coordinator
Phone: 785-646-2204
Email: bret.a.rowe.nfg@mail.mil**

Title VI Resources

[Guidance to State and Local Governments and Other Federally Assisted Recipients Engaged in Emergency Preparedness, Response, Mitigation, and Recovery Activities on Compliance with Title VI of the Civil Rights Act of 1964.](#)

Civil Rights and Emergency Management Resources:

- HLS [Civil Rights and Civil Liberties Institute](#), provides high quality Department-wide training on issues at the intersection of homeland security and civil rights and civil liberties.
- DOJ has developed the [Tips and Tools for Reaching Limited English Proficient Communities in Emergency Preparedness, Response, and Recovery](#). This document is directed to state and local decision-makers, planners, and language access coordinators responsible for emergency preparedness, response, and recovery. It provides strategies for incorporating language access considerations into emergency and disaster management plans. It serves as a basic guideline for recipients to improve access for LEP communities and highlights innovative practices.
- HHS has created a [Checklist for Recipients of Federal Financial Assistance](#), which provides steps that recipients can take to address the needs of the whole community, including those who are protected from discrimination under federal civil rights laws, including Title VI. It is a brief and effective reminder of the essential steps needed to integrate these populations into emergency and disaster management programs and activities.
- FEMA Emergency Management Institute – [IS:21.20: Civil Rights and FEMA Disaster Assistance](#), This course provides an orientation to civil rights, including the laws that govern civil rights and strategies that will help FEMA employees protect the civil rights of those we serve.

For additional information:

U.S. Department of Homeland Security
Office of Civil Rights and Civil Liberties
Compliance Branch
245 Murray Lane, SW
Building 410, Mail Stop #0190
Washington, DC 20528

Email: CRCLCompliance@hq.dhs.gov
Toll-Free Phone: 1-866-644-8360
www.dhs.gov/crcl

Federal Emergency Management Agency
Office of Equal Rights (for FEMA recipients)
Attn: Civil Rights Title VI Program
500 C Street SW
Room 4SW-0915
Washington, DC 20472

Email: fema-civil-rights-form@fema.dhs.gov
Phone: 1-800-621-3362
<https://www.fema.gov/office-equal-rights>