



# **San Miguel Authority for Regional Transportation**

## **Title VI Plan**

Revised by the Board of Directors –  
May 9, 2019

### **AGENCY INFORMATION**

**RECIPIENT:** San Miguel Authority for Regional Transportation (SMART)  
Rural Transit Agency (population under 200,000)

### **CONTACT INFORMATION:**

David Averill  
Executive Director San Miguel Authority for Regional Transportation 256  
East Pacific, Unit C1  
P.O. Box 3140  
Telluride, CO 81435  
[david.averill@smarttelluride.com](mailto:david.averill@smarttelluride.com)  
Phone: 970-239-6034

## **TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. PROVISION OF TITLE VI ASSURANCES	4
II. TITLE VI COMPLIANCE HISTORY	5
III. INCORPORATION OF THE PROGRAM	6
IV. GENERAL GUIDELINES/REQUIREMENTS	9
a. Annual Certification and Assurance	9
b. Complaint Procedures	9
c. Promoting Public Inclusive Participation	9
d. Record Title VI Activities	9
e. Access for LEP Persons	9
f. Minority Representation on Boards	9
g. Public Notification	10
h. Additional Information	10
i. Timely Submission	10
j. Environmental Analysis of Construction Projects	11
k. Facility Location Determination	11
l. System-Wide Service Standards and Policies	12
 APPENDIX A – Title VI Clause Re: All Contracts Subject to Title VI	 13
APPENDIX B – Title VI Clause Re: Real Property Transactions	15
APPENDIX C – Title VI Clause Re: Federally Funded Real Property Transactions/Improvements	16
APPENDIX D - Public Notice of Rights / Complaint Process	18
APPENDIX E – SMART’s Limited English Proficiency (LEP) Plan	24
APPENDIX F – SMART’S Public Participation Plan	28
APPENDIX G – SMART’s Policies and Procedures for the Use of SMART’s Public Transportation System	30
APPENDIX H – Resolution Approving Plan	34

## **I. PROVISION OF TITLE VI ASSURANCES**

SMART hereby certifies that, as a condition of receiving Federal financial assistance under the Urban Mass Transportation Act of 1964, as amended, it will ensure that:

- a. SMART shall submit on an annual basis, its Title VI Assurance, as part of its annual Certification and Assurance submission to the FTA.
- b. No person, on the basis of race, color, or national origin, will be subjected to discrimination in the level and quality of transportation services and transit-related benefits they receive from SMART or its contractors.
- c. SMART will compile, maintain, and submit in a timely manner, Title VI information required by FTA Circular 4702.1A and in compliance with the Department of Transportation's Title VI Regulation, 49 CFR, Part 21.7.
- d. SMART will make it known to the public that those persons or persons alleging discrimination on the basis of race, color, or national origin as it relates to the provision of transportation services and transit-related benefits may file a complaint with the Federal Transit Administration and/or the U.S. Department of Transportation.

## **II. TITLE VI COMPLIANCE HISTORY**

- a. There are no outstanding lawsuits or complaints naming SMART which allege discrimination on the basis of race, color or national origin with respect to service or other transit benefits.
- b. There are no pending applications for Federal financial assistance, and there is no Federal financial assistance currently being provided to SMART other than that being supplied by the Federal Transit Administration (FTA). Currently SMART is applying for Section 5311, 5339, & 5304 funding through the FTA.
- c. During the course of the last three (3) years, there have not been any civil rights compliance review activities conducted with respect to SMART and, to the best of our knowledge, there are not presently any ongoing civil rights compliance review activities being conducted with respect to SMART.
- d. There are currently no pending construction projects which would negatively impact minority communities being performed by SMART.

## **III. INCORPORATION OF THE PROGRAM**

The San Miguel Authority for Regional Transportation (hereinafter referred to as "SMART" or "Recipient") hereby agrees that, as a condition of 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. 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 SMART receives Federal financial assistance from the Department of Transportation, including the Federal Transit 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) of the Regulations.

More specifically, and without limiting the above general assurance, SMART hereby gives the following specific assurances with respect to its Federal Transit Administration program:

- a. That SMART 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.
- b. That SMART shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federal Transit Administration programs and, in adapted form in all proposals or negotiated agreements:

***SMART, 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 issued pursuant to such Act, hereby notifies all bidders/proposers that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.***

- c. That SMART shall insert the clauses contained herein as **APPENDIX A** in every contract subject to this Act and the Regulations.
- d. That SMART shall insert the clauses contained herein as **APPENDIX B**, as a covenant running with the land, in any deed from the United States affecting a transfer of real property, structures, or improvements thereon, or interest herein.
- e. That where SMART 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.
- f. That where SMART 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.
- g. That SMART shall include the appropriate clauses contained herein as **APPENDIX C**, as a covenant running with the land, in any future deeds, leases,

permits, licenses, and similar agreements entered into by SMART with other parties: (a) for the subsequent transfer of real property acquired or improved under Federal Transit Administration programs; and (b) for the construction or use of, or access to, space on, over, or under real property acquired, or improved under Federal Administration programs.

- h. That this assurance obligates SMART 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 SMART 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 SMART retains ownership or possession of the property.
- i. SMART shall provide for such methods of administration for the programs as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other 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.
- j. SMART 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.
- k. SMART assures that the level and quality of transit service and related benefits are provided in a manner consistent with Title VI of the Civil Rights Act of 1964.

THESE ASSURANCES are 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 SMART by the Department of Transportation under the Federal Administration and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Transit Administration programs.

The person(s) whose signature appears below, are authorized to sign these assurances on behalf of the grant applicant or recipient.

Date: 5-9-19

---

Todd Brown, Board Chair  
San Miguel Authority for Regional Transportation  
Board of Directors

#### **IV. GENERAL GUIDELINES/REQUIREMENTS**

a. Annual Certification and Assurance

As stated in Section I, SMART shall submit annually, their Title VI assurance, as part of their annual Certification and Assurance submission to the FTA.

b. Complaint Procedures

In compliance with 49 CFR Section 21.9(b), SMART has developed procedures for investigating and tracking Title VI complaints filed against them. Such procedures shall be made available to the public upon request. SMART complaint procedures and complaint form are contained herein as **APPENDIX D**.

c. Promoting Inclusive Public Participation

SMART shall take meaningful steps to involve minority and LEP populations in public participation activities. SMART's Public Participation Plan is contained herein as **APPENDIX F**.

d. Record Title VI Activities

In compliance with 49 CFR Section 21.9(b), SMART shall prepare and maintain a list of any active investigations conducted by entities other than the FTA, lawsuits, or complaints naming SMART that allege discrimination on the basis of race, color, or nation origin. Such list shall include:

- 1) Date that the investigation, lawsuit, or complaint was filed;
- 2) Summary of the allegation(s);
- 3) The status of the investigation, lawsuit, or complaint; and
- 4) Actions taken by SMART in response to the investigation, lawsuit or complaint.

e. Access for LEP Persons

SMART shall take steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP). SMART will assist persons with limited English proficiency to participate in the transportation planning process. SMART Staff will make every effort to provide translators and document translation, where feasible, upon request. SMART's Limited English Proficiency (LEP) Plan is contained herein as **APPENDIX E**.

f. Minority Representation on Boards

SMART has a volunteer Community Advisory Committee that advises SMART

and its Board of Directors on community needs. This Committee currently has membership that is 100% Caucasian. When openings are available on the Committee, SMART's practice has typically been to recruit for open spots through advertisements in the local paper and on-air through the local radio station.

g. Public Notification

In compliance with 49 CFT Section 21.9(d), SMART shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by the Title VI. SMART complaint procedures and public notification information are contained herein as **APPENDIX D**.

h. Additional Information

SMART acknowledges that, at the discretion of the FTA, information other than that which is required by FTA C 4702.1A, may be requested in writing of SMART, to investigate complaints of discrimination or to resolve concerns about possible noncompliance with Title VI.

i. Timely Submission

SMART acknowledges that their Title VI submissions and/or updates thereto, shall be supplied to their FTA Regional Office once every three (3) years. The submission shall include, but is not limited to:

- 1) A summary of public outreach and involvement activities undertaken since the last submission and a description of steps taken to ensure that minority and low-income people had meaningful access to these activities;
- 2) SMART's process for persons with limited English proficiency (LEP);
- 3) Title VI Complaint and Tracking procedures;
- 4) A list of any Title VI investigations, complaints or lawsuits filed since the last submission; and
- 5) A copy of SMART's public notice regarding Title VI compliance and public access and instructions to SMART Title VI complaint procedures.

Portions of the Plan which have not changed since the last submission will not be resubmitted, however, SMART shall include a statement to this effect in lieu of copies of the original documents in order to eliminate redundancy in resubmissions.

j. Environmental Analysis of Construction Projects

SMART shall integrate an environmental justice analysis into their National



Environmental Policy Act (NEPA) documentation of transit related construction projects of which require NEPA. If a Categorical Exclusion (CE) is performed, SMART shall complete the FTA's standard CE check-list which includes a section on community disruption and environmental justice. While preparing an Environmental Assessment (EA) or Environmental Impact Statement (EIS), SMART shall integrate into their documents, the following:

- 1) A description of the low-income and minority population within the study area affected by the project, and a discussion of the method used to identify this population;
- 2) A discussion of all adverse effects that would affect the identified minority and low-income population;
- 3) A discussion of all positive effects that would affect the identified minority and low-income population;
- 4) A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects, including, but not limited to, any special features of the relocation program that go beyond the requirements of the Uniform Relocation Act and address adverse community effects such as separation or cohesion issues, and the replacement of the community resources destroyed by the project, if applicable;
- 5) A discussion of the remaining effects, if any, and why further mitigation is not proposed; and
- 6) For projects that traverse predominantly minority and low-income and predominantly non-minority and non-low-income areas, a comparison will be completed of mitigation and environmental enhancement actions between the two stated areas. If there is no basis for such a comparison, SMART shall describe why this is so.

k. Facility Location Determination

SMART neither owns nor maintains any applicable facilities. Should SMART in the future develop facilities, it will not make land acquisition or site development decisions on the basis of race, color, or national origin, and will adhere to the requirements of FTC 4702.1B, Chapter III-11, as such may be amended, during the planning stage of any project.

l. System-Wide Service Standards and Policies

**Service Standards:**

Vehicle Load Standard:

The average of all loads on SMART commuter routes during the peak operating period should not exceed vehicles' achievable capacities, which are 40 passengers for a 40-foot transit bus,

28 passengers for a 30 foot transit bus, 25 passengers for a 25 foot passenger bus, and 15 passengers for a passenger van.

SMART Vehicle Load Standards				
Type of Vehicle	Seated	Standing	Total	Maximum Load Factor
40' Transit Bus	40	11	51	1.29
30' Transit Bus	28	8	31	1.29
25' Transit Bus	25	7	32	1.29
Passenger Van	15	0	15	1

#### Vehicle Headway Standard:

SMART commuter routes typically operate on a one round trip per day schedule, therefore there is no headway standard to apply to these routes. Due to the seasonal and commuter nature of SMART service, headways on other SMART commuter routes may vary by season and by time.

#### **SMART Headways**

Winter		Spring/Fall		Summer	
Peak	Off-Peak	Peak	Off-Peak	Peak	Off-Peak
30 minutes	45 minutes	30 minutes	45 minutes	30 minutes	45 minutes

#### On Time Performance Standard:

SMART vehicles are considered on time if a vehicle departs the first scheduled timepoint on the route at or after the scheduled departure and no more than 15 minutes late. SMART's on-time performance objective is 95% or greater. SMART monitors on-time performance monthly and out of compliance departures are reported as part of performance reports covering all aspects of operations.

#### Service Availability Standards:

SMART's commuter route will distribute transit service so that 90% of all residents in the service area are within a ½ mile walk or 10 mile drive of the commuter bus route.

#### Vehicle Assignment:

SMART operates several routes with dedicated vehicles that are appropriately sized for the existing demand on the routes.

#### Distribution of Transit Amenities:

SMART does not have sole decision-making authority over the siting of transit amenities. All

amenities are sited by the Colorado Department of Transportation, or the municipalities or property associations which SMART serves.

**APPENDIX A - TITLE VI PLAN**  
**(to be inserted into every contract subject to Title VI)**  
*The San Miguel Authority for Regional Transportation is herein referred to as*  
**"SMART"**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1) Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, 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 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, 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 SMART or the **FEDERAL TRANSIT 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 **SMART**, or the **FEDERAL TRANSIT 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 nondiscrimination provision of this contract, SMART shall impose contract sanctions as it or the **FEDERAL TRANSIT 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.

**APPENDIX A - TITLE VI PLAN (Continued)**

**(to be inserted into every contract subject to Title VI)**

- 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 SMART or the FEDERAL TRANSIT 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 SMART to enter into such litigation to protect the interests of SMART, 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 - TITLE VI PLAN**

**(to be inserted into real property transactions)**

*The San Miguel Authority for Regional Transportation is herein referred to as the  
"SMART"*

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 SMART will accept title to the Lands and maintain the project constructed thereon, in accordance with **THE STATE OF COLORADO**, the Regulations for the Administration of **PROGRAM** and the policies and procedures prescribed by **FEDERAL TRANSIT 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 SMART 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.

**(HABENOM CLAUSE)**

TO HAVE AND TO HOLD said lands and interests therein unto SMART 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 SMART, its successors and assigns.

SMART, 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 [,] [and]\* (2) that SMART shall use the lands and interest 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 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 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 - TITLE VI PLAN**

**(to be inserted into Federally funded real property transactions or improvements)**

*The San Miguel Authority for Regional Transportation is herein referred to as the "SMART"*

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

The (grantee, licensee, lessee, permittee, etc., as appropriate) for herself/himself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that 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 of 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, SMART shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said (licenses, lease, permit, etc.) to re-enter and repossess said land and 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 SMART 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 SMART **and** its assigns.

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

The (grantee, licensee, lessee, permittee, etc., as appropriate) for herself/himself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in 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, be 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 services thereon, no person on the grounds of race, color, or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (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.

**APPENDIX C - TITLE VI PLAN (Continued)**  
**(to be inserted into Federally funded real property transactions or improvements)**

(Include in licenses, leases, permits, etc.) \*

That in the event of breach of any of the above nondiscrimination covenants, SMART shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities as 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, SMART shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of SMART 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 purpose of Title VI of the Civil Rights Act of 1964.



## **APPENDIX D**

### **TITLE VI PUBLIC NOTICE OF RIGHTS / COMPLAINT PROCESS** **SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION (SMART)**

#### **Public Notice of Rights**

The following statement shall be posted in conspicuous and accessible locations at SMART transit centers, on the SMART website ([www.smarttelluride.com](http://www.smarttelluride.com)); permanently displayed on public transit vehicles; and other appropriate materials made available to the public: (*Documents will be translated into languages other than English, upon request.*)

#### **Non-Discrimination - Your Rights Under Title VI of the Civil Rights Act of 1964**

*The United States Department of Transportation (DOT) ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color or national origin in the provisions of benefits and services resulting from federally assisted programs and activities. Any person, who believes the San Miguel Authority for Regional Transportation (SMART) has violated his /her Title VI protections, should contact the San Miguel Authority for Regional Transportation at 970-239-6034 or email [david.averill@smarttelluride.com](mailto:david.averill@smarttelluride.com). SMART has also developed a policy to assist individuals who are Limited English Proficient (LEP). Translation services, in order to assist LEP individuals, shall be made available to SMART's customers upon request. SMART's Title VI policy, complaint procedures and LEP Plan shall be made available upon request by contacting the San Miguel Authority for Regional Transportation Bus System at the above-noted information. For Federal Title VI information, please contact the Federal Transit Administration (FTA), Region 8 at 720-963-3300. Federal Title VI information, including filing complaints, can also be accessed on the FTA web site at: [www.fta.dot.gov](http://www.fta.dot.gov).*

#### **Title VI Information, Limited English Proficient (LEP) information and Complaint Process (for printed materials, website, and other mediums upon request)**

The San Miguel Authority for Regional Transportation (SMART) grants all persons equal access to all its public transportation services. It is further the intent of SMART that all persons are aware of their rights to such access. This is designed to serve as an educational tool for citizens so that they may understand one of the civil rights laws that protect their benefit of SMART programs and services, specifically, as it relates to Title VI of the Civil Rights Act of 1964.

#### **What is Title VI?**

Title VI is a section of the Civil Rights Act of 1964 requiring that "No person in the United States shall on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Note that Title VI does not address gender discrimination. It only covers race, color, and national origin. Other Civil Rights laws prohibit gender discrimination.

#### **What is LEP?**

As part of Title VI requirements, SMART has developed a Limited English Proficiency (LEP) Plan to help identify reasonable steps to provide language assistance for LEP persons seeking meaningful access to SMART services as required by Executive Order 13166 "Improving Access to Services for Persons With Limited English Proficiency," reprinted at 65 FR 50121 (August 16, 2000). A Limited English Proficiency person is one who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English.

#### **SMART's Complaint and Investigation Procedures**

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, for alleged discrimination in any program or activity administered by SMART.

## **APPENDIX D (Continued)**

### **TITLE VI PUBLIC NOTICE OF RIGHTS / COMPLAINT PROCESS** **SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION (SMART)**

These procedures do not deny the right of the complainant to file formal complaints with other State or Federal agencies or to seek private counsel for complaints alleging discrimination. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and SMART may be utilized for resolution. Any individual, group of individuals or entity that believes they have been subjected to discrimination prohibited under Title VI and related statutes may file a complaint.

The following measures will be taken to resolve Title VI complaints:

- 1) A formal complaint must be filed within sixty (60) calendar days of the alleged occurrence. Complaints shall be in writing and signed by the individual or his/her representative, and will include the complainant's name, address and telephone number; name of alleged discriminating official, basis of complaint (race, color, or national origin) and the date of alleged act(s). A statement detailing the facts and circumstances of the alleged discrimination must accompany all complaints.

SMART strongly encourages the use of the attached **SMART Title VI Complaint Form** when filing official complaints.

The preferred method is to file your complaint in writing using the SMART **Title VI Complaint Form**, and sending it to:

Title VI Coordinator  
San Miguel Authority for Regional Transportation  
P.O. Box 3140  
Telluride, CO 81435

- 2) In the case where a complainant is unable or incapable of providing a written statement, a verbal complaint of discrimination may be made to the SMART Title VI Coordinator. Under these circumstances, the complainant will be interviewed, and the SMART Title VI Coordinator will assist the Complainant in converting the verbal allegations to writing.
- 3) When a complaint is received, the SMART Title VI Coordinator will provide written acknowledgment to the Complainant, within ten (10) calendar days by registered mail.
- 4) If a complaint is deemed incomplete, additional information will be requested, and the Complainant will be provided 30 calendar days to submit the required information. Failure to do so may be considered good cause for a determination of no investigative merit.
- 5) Within 15 calendar days from receipt of a complete complaint, SMART will determine its jurisdiction in pursuing the matter and whether the complaint has sufficient merit to warrant investigation. Within five (5) calendar days of this decision, the SMART Executive Director or his/her authorized designee will notify the Complainant and Respondent, by registered mail, informing them of the disposition.
  - a. If the decision is not to investigate the complaint, the notification shall specifically state the reason for the decision.

**APPENDIX D (Continued)**

**TITLE VI PUBLIC NOTICE OF RIGHTS / COMPLAINT PROCESS**  
**SAN MIGUEL AUTHORITY FOR REGIONAL  
TRANSPORTATION (SMART)**

- b. If the complaint is to be investigated, the notification shall state the grounds of SMART's jurisdiction, while informing the parties that their full cooperation will be required in gathering additional information and assisting the investigator.
- 6) When SMART does not have sufficient jurisdiction, the SMART Executive Director or his/her authorized designee will refer the complaint to the appropriate State or Federal agency holding such jurisdiction.
- 7) If the complaint has investigative merit, the SMART Executive Director or his/her authorized designee will instruct the Title VI Coordinator to fully investigate the complaint. A complete investigation will be conducted, and an investigative report will be submitted to the Executive Director within 60 calendar days from receipt of the complaint. The report will include a narrative description of the incident, summaries of all persons interviewed, and a finding with recommendations and conciliatory measures where appropriate. If the investigation is delayed for any reason, the Title VI Coordinator will notify the appropriate authorities, and an extension will be requested.
- 8) The SMART Executive Director or his/her authorized designee will issue letters of finding to the Complainant and Respondent within 90 calendar days from receipt of the complaint.
- 9) If the Complainant is dissatisfied with SMART's resolution of the complaint, he/she has the right to file a complaint with the:

Federal Transit Administration  
Region 8  
Attn: Civil Rights Officer  
Byron Rogers Federal Building  
1961 Stout Street  
Suite 13-301  
Denver, CO 80294  
Phone: (303) 362-2400  
Fax: (303) 292-5904

FTA Complaint procedures can also be found on the FTA web site at: [www.fta.dot.gov](http://www.fta.dot.gov). These procedures are also outlined in FTA Circular 4702.1A, Chapter IX.

APPENDIX D (Continued)

**TITLE VI PUBLIC NOTICE OF RIGHTS / COMPLAINT PROCESS**  
**SAN MIGUEL AUTHORITY FOR REGIONAL  
TRANSPORTATION**

# Title VI Complaint Form

## Complaint Form

Instructions: If you would like to submit a Title VI complaint to the San Miguel Authority for Regional Transportation, please fill out the form below and send it to: San Miguel Authority for Regional Transportation, Attn: Title VI Coordinator, P.O. Box 3140, Telluride, CO 81435. For questions or a full copy of SMART's Title VI policy and complaint procedures call 970-239-6034 or email [david.averill@smarttelluride.com](mailto:david.averill@smarttelluride.com).

1. Name (Complainant):	
2. Phone:	3. Home address (street no., city, state, zip):
4. If applicable, name of person(s) who allegedly discriminated against you:	
5. Location and position of person(s) if known:	6. Date of incident:
7. Discrimination because of: <input type="checkbox"/> Race <input type="checkbox"/> National origin <input type="checkbox"/> Color	

8. Explain as briefly and clearly as possible what happened and how you believe you were discriminated against. Indicate who was involved. Be sure to include how you feel other persons were treated differently than you. Also, attach any written material pertaining to your case.

9. Why do you believe these events occurred?

10. What other information do you think is relevant to the investigation?

11. How can this/these issue(s) be resolved to your satisfaction?

12. Please list below any person(s) we may contact for additional information to support or clarify your complaint (witnesses):

Name:

Address:

Phone number:

13. Have you filed this complaint with any other federal, state, or local agency; or with any federal or state court?

☐ Yes

☐ No

If yes, check all that apply:

☐ Federal agency

☐ Federal court

☐ State court

☐ Local agency

☐ State agency

If filed at an agency and/or court, please provide information about a contact person at the agency/court where the complaint was filed.

Agency/Court:

Contact's Name:

Address:

Phone number:

Signature (Complainant):

Date of filing:

## **APPENDIX E**

### **LIMITED ENGLISH PROFICIENCY PLAN**

#### **San Miguel Authority for Regional Transportation (SMART)**

**May 9, 2019**

### **I. INTRODUCTION**

This Limited English Proficiency (LEP) Plan for the San Miguel Authority for Regional Transportation has been developed in response to federal requirements included under Section 601 of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), which provides that no person shall "on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Federal Executive Order No. 13166, issued in August 2000 by President Clinton, "Improving Access to Services for Persons with Limited English Proficiency," was created to "... improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP)..." President Bush affirmed his commitment to Executive Order 13166 through a memorandum issued on October 25, 2001, by Assistant Attorney General for Civil Rights, Ralph F. Boyd, Jr. and Acting Assistant Attorney General, Loretta King directed a strengthening of enforcement of Title VI in a memorandum dated July 10, 2009.

As a sub-recipient of funds from the Federal Transit Administration (FTA), through the Colorado Department of Transportation (CDOT), this Limited English Proficiency (LEP) Plan for the San Miguel Authority for Regional Transportation has been developed to ensure compliance with Federal LEP regulations. It includes an assessment of the limited English proficiency needs of our area, an explanation of the steps we are currently taking to address these needs, and the steps we plan to take in the future to ensure meaningful access to our transit programs by persons with limited English proficiency.

### **II. LIMITED ENGLISH PROFICIENCY NEEDS OF AREA**

The *Four-Factor Analysis* developed by the FTA requires that information be included in LEP Plans regarding the number and percentage of LEP persons in our area, and the nature, frequency and importance of the contact we have, with LEP persons, in providing transit services. Each of these elements is addressed below.

#### **Number and Percentage of LEP Persons in Our Area**

##### **Permanent Population**

##### *U.S. Census Data*

The U.S. Census provides information to assist in estimating the number of limited English

speakers in the permanent population. For small urban areas and rural counties, the best data available is from the U.S. Census American Community Survey 2007-2011. Table 1 presents information for Gunnison County on *Language Spoken at Home by Ability to Speak English*, based on that Survey.

**TABLE 1 - Individuals Speaking English "Not Well" or "Not at All**

Data Category	San Miguel County	
	#	%
Total Population (5 years old & older)	7462	100%
<i>Population Speaking English "Not Well" or "Not at All"</i>	214	2.9%
<i>Population Speaking English "Not Well" or "Not at All"</i>		
Spanish		
Other Indo-European Asian and Pacific Islander Other		
Total	164	2.2%
	0	0.0%
	50	0.7%
	0	0
	214	2.9%

Source: U.S. Census American Community Survey 2017  
estimates, population 5 years old and older, speaking  
another language in the home, who speak English "Not  
Well".

As the table shows, there were very low numbers and percentages of persons in the permanent population of San Miguel County estimated in the year 2017, who had difficulty speaking English; 214 individuals, less than 3% of all persons age 5 and over. Most of those with difficulty were Spanish or Asian and Pacific Islander language speakers who might use SMART service to get to work.

U.S. Census data indicates a very low need to respond to individuals in our service area who have difficulty with English. Those who do have difficulty are primarily Spanish or Asian and Pacific Islander language speakers. Therefore, for this LEP Plan, additional local contacts were not made to clarify the need among the permanent population of our service area. However, we are committed to monitoring LEP needs among the permanent population over time.



## **Summary**

Given the resort nature of the San Miguel Authority for Regional Transportation service area, the fact that many of the Spanish speakers work at the resort or supporting businesses, and the large number of visitors we have, including those who potentially have Limited English Proficiency needs, we are committed to addressing those needs.

## **Nature, Frequency and Importance of LEP Contact**

The nature and importance of LEP contact is high for public transit services in general, and in our service area, we are sensitive to those needs. We have daily contact with non-English speakers who are commuting to work. Therefore, strategies to address this need have been developed and will continually be reviewed and improved where needed.

## **III. CURRENT LEP EFFORTS**

Due to the resort nature of our service area, the numbers and percentages of LEP persons are potentially significant. As a public transit provider we are committed to addressing the on-going need to serve LEP individuals effectively. Therefore, in the near future we will translate our schedules and meeting materials to Spanish when requested to do so. Since we are a new transit agency, we have not previously adopted an LEP Policy, so there is no revision to our policy to date.

## **IV. PLANS FOR THE FUTURE LEP EFFORTS**

Given the current and potential future need to respond to individuals with Limited English proficiency our LEP Plan includes the elements identified below.

### **Identifying LEP Persons Who Need Language Assistance**

In order to identify potential future LEP needs with respect to our transit service we will undertake the following:

- Review Census updates as they become available;
- Periodically review perceived LEP needs with our contracted provider and their drivers;
- Make periodic contacts with the Tri County Health Network and other community agencies that may know of LEP persons or groups.

### **Language Assistance Measures**

As the need arises, we will consider the following to respond to LEP needs:

- Asking our provider to obtain copies of “I Speak Cards” to have on hand if needed;
- Develop Spanish versions of marketing materials, public notices, and related information, as appropriate;
- Asking our provider to consider hiring Spanish-speaking drivers;
- Ask our provider to obtain copies of CDOT’s “Basic Spanish for Transit Employees”

- and distribute to drivers and customer service staff, as appropriate;
- Become familiar with Language Line Services at <http://www.language-line.com>;
- Make our schedules available in Spanish on our website;
- Identify other community resources such as agencies serving LEP persons which may have resources to share.

### **Staff Training**

Similarly, as the need arises, we will consider requiring our provider to address the following staff training topics:

- Federal LEP requirements, the SMART LEP Plan and Title VI Plan;
- Documenting language assistance requests;
- Use of any of the language assistance measures as described above.

### **Outreach Efforts**

Similarly, as the need arises, we will consider the following staff training topics:

- Identify agencies in our area that may serve LEP populations
- Provide information on SMART services to them, as appropriate
- Provide opportunities for LEP participation at public meetings, through advertising and conduct of meetings, as appropriate

### **Monitoring and Updating Plan**

We will monitor and update this plan every 2-3 years, as needed. This will include:

- Reviewing the SMART LEP Plan with our provider to make adjustments, as needed
- Pay particular attention to demographic changes in our area and to any LEP-related complaints we receive.

### **Disseminating Our LEP Plan**

- We will have copies of our plan available to give to agencies serving LEP populations in our area and or for individual requests;
- Post our plan on our website;
- This plan was adopted by the Board of Directors of the San Miguel Authority for Regional Transportation at their May 9, 2019 regular meeting.

**APPENDIX F**  
**Public Participation Plan**

Using existing demographic data, SMART can determine the number of minority, low-income, and LEP populations within the SMART service area. SMART shall also seek out and consider viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities in regard to proposed transportation decisions. SMART shall make every effort to adhere to the following practices:

- 1) Coordination with individuals, institutions, or organizations and implementing community-based public involvement strategies to reach out to members in the affected minority and/or low-income communities;
- 2) Provision of opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments;
- 3) Utilization of locations, facilities and meeting times that are convenient and accessible to low-income and minority communities;
- 4) Utilization of different meeting sizes or formats, or varying the type and number of news media used to announce public participation opportunities; and
- 5) Implementation of USDOT's policy guidance regarding SMART's responsibilities to LEP persons.

**Title VI Plan**  
*Related to*  
*Transportation Planning and Transportation Improvements*

**APPENDIX G**

**Policies and Procedures for the Use of San Miguel  
Authority for Regional Transportation Public  
Transportation**

SMART's comprehensive Transit Operations Policy Manual can be found on the SMART website at: [www.smarttelluride.com](http://www.smarttelluride.com)

## **APPENDIX H**

### Resolution Approving Plan

#### **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION IN REVISING THE SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION TITLE VI POLICY AND PLAN**

#### **RESOLUTION NO. 2019 - 19**

#### **RECITALS:**

**WHEREAS**, Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance; and

**WHEREAS**, any entity receiving federal dollars, either directly from the Federal Transit Administration or through the Colorado Department of Transportation Division of Transit and Rail must not discriminate based on race, color, or national origin; and

**WHEREAS**, since the San Miguel Authority for Regional Transportation (SMART) is receiving federal grant funding from the Colorado Department of Transportation Division of Transit and Rail, it is required to have a Title VI Policy and Plan to implement Federal Title VI non-discrimination requirements.

**WHEREAS**, since the San Miguel Authority for Regional Transportation (SMART) adopted a Title VI Policy and Plan on January 19<sup>th</sup>, 2019; and

**WHEREAS**, the Colorado Department of Transportation has reviewed the SMART Title VI Policy and Plan and recommended certain changes to its content and format; and

**WHEREAS**, SMART desires to incorporate said changes to its Title VI Policy and Plan,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION THAT:**

1. The SMART Title VI Policy and Plan dated January 10<sup>th</sup>, 2019, and attached hereto as Exhibit A and by this reference incorporated herein, is revised and adopted by the SMART Board of Directors.

**INTRODUCED, READ AND PASSED** by the Board of Directors of the San Miguel Authority for Regional Transportation at its regular meeting held May 9<sup>th</sup>, 2019.

SAN MIGUEL AUTHORITY FOR REGIONAL  
TRANSPORTATION

By and through its BOARD OF DIRECTORS:

By: \_\_\_\_\_

Todd Brown, Chair

I, the Secretary of the Board of Directors (the "Board") of the San Miguel Authority for Regional Transportation (the "Authority"), do hereby certify that (a) the foregoing Resolution was adopted by the Board at a meeting held January 19<sup>th</sup>, 2019; (b) the meeting was open to the public; (c) the Authority provided at least 48 hours' written notice of such meeting to each Director and Alternate Director of the Authority and to the Governing Body of each Member of the Authority; (d) the Resolution was duly moved, seconded and adopted at such meeting by the affirmative vote of at least two-thirds of the Directors then in office who were eligible to vote thereon voting; and (e) the meeting was noticed, and all proceedings relating to the adoption of the Resolution were conducted in accordance with the San Miguel Authority for Regional Transportation Intergovernmental Agreement, dated as of November 9, 2016, all applicable bylaws, rules, regulations and resolutions of the Authority, the normal procedures of the Authority relating to such matters, all applicable constitutional provisions and statutes of the State of Colorado and all other applicable laws.

WITNESS my hand this 9<sup>th</sup> day of May, 2019.

\_\_\_\_\_  
\_\_\_\_\_, Secretary to the Board