

**Martha's Vineyard Commission**  
**2022/2023 Comprehensive Title VI Plan**  
**and Annual Report**

*May 2023*

*Updated December 2023*



## Martha's Vineyard Commission

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December 14, 2023

Raissah Kouame  
Regional Planning Coordinator  
MassDOT Office of Transportation Planning  
10 Park Plaza, Suite 4160  
Boston, MA 02116

Dear Mr. Kouame,

The Martha's Vineyard Commission is pleased to present its updated Comprehensive Title VI Plan and Annual Report for 2022/2023. Comments submitted by MassDOT on August 29, 2023, have been addressed in sections 1, 5, and 10, and four items have been added to the appendix, including the letter and our responses.

I have reviewed and approved the enclosed documents, which cover the annual reporting requirements outlined by MassDOT for 2022 and 2023.

Please contact me with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Ad 2".

Adam Turner  
Executive Director

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## **1. Title VI and the Martha’s Vineyard Commission**

Title VI of the Civil Rights Act of 1964 states 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 otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance.” To comply with this basic civil rights mandate, each Federal agency that provides financial assistance for any program is authorized and directed by the United States Department of Justice to apply Title VI provisions to each program by issuing applicable rules, requirements, and regulations. The Title VI Program, overseen by the Massachusetts Department of Transportation (MassDOT), assures that the program requirements are fully met and that the Martha’s Vineyard Commission (MVC) is compliant with Federal guidelines and is responsive to the needs of Title VI beneficiaries.

The MVC does not exclude an individual from participation in its planning processes, or deny the benefits of its services, on the basis of race, gender, color, age, religious belief, national origin, handicap, sexual orientation, or English proficiency. Anyone who feels that they have been discriminated against may file a complaint with the MVC Title VI Coordinator, Curtis Schroeder, who reports to the directly to the MVC Executive Director<sup>1</sup> and is responsible for initiating and monitoring Title VI activities, and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21.<sup>2</sup>

### **Curtis Schroeder**

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## **2. Martha’s Vineyard Overview**

Martha’s Vineyard is an island located about three miles south of Cape Cod and nine miles west of Nantucket. It is home to about 20,588 year-round residents, with seasonal residents and visitors raising the total population to around 100,000 in the summer. The seasonal population shift also extends into the “shoulder seasons” of April-May and September-October. The Vineyard’s six towns (Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury, and West Tisbury), along with Gosnold (encompassing the Elizabeth Islands west of Martha’s Vineyard), make up Dukes County, which is the second smallest county in the state, after Nantucket. The Vineyard has a land area of about 96 square miles (including about 177 miles of paved roads), making it the third largest Island on the East Coast, after Long Island and Mount Desert Island.

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<sup>1</sup> See organizational flow chart in the appendix.

<sup>2</sup> This includes the review of all relevant Title VI material published by the MVC and/or state and federal governments, and coordination with MVC program directors as needed, to confirm compliance.

Although the Vineyard has an international airport, about 90% of traffic to and from the Island is carried by the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (SSA), a public entity created by the Massachusetts Legislature, which provides vehicle and passenger ferry service between Woods Hole and its terminals in Vineyard Haven (year-round) and Oak Bluffs (seasonal). The SSA carried about 2.3 million passengers and 570,000 vehicles to the Vineyard in 2022.

On-Island, the Vineyard Transit Authority operates a fleet of fully accessible vehicles with seating capacities ranging from 18 to 37 passengers. The VTA operates 14 fixed routes organized around the town centers in Tisbury, Oak Bluffs, Edgartown, and West Tisbury, with regular access to Chilmark and Aquinnah. The VTA also maintains most Island school buses and operates a paratransit van service.

In addition to the Island's many paved and dirt roads, 37 miles of shared-use paths in Edgartown, Oak Bluffs, and Tisbury (known collectively as "down-Island"), and around the State Forest in the center of the Island, link the major population centers with many primary tourist destinations and with West Tisbury.

Each of the town centers down-Island is built around a harbor and waterfront and is fringed by commercial, mixed-use, and residential development. The waterfronts of Edgartown and Oak Bluffs, and to a lesser extent Tisbury, are composed primarily of visitor-oriented establishments that close in the off-season. Many year-round retail and office activities still occupy the down-Island towns, but have grown outwards from the historical commercial centers, most notably along Upper Main Street in Edgartown and Upper State Road in Tisbury.

Other retail and office activities are located in smaller up-Island centers such as the West Tisbury village center, along with Beetbung Corner and the fishing village of Menemsha, both in Chilmark. The "North Tisbury" commercial area along State Road in West Tisbury is the newest and largest of those areas, and the closest to the down-Island towns.

Industrial activities in various town and rural locations are scattered across different parts of the Island, most notably the Airport Business Park in Edgartown, where the Martha's Vineyard Airport Commission has recently opened additional areas for commercial, non-aviation use.

Although diminished from previous generations, the traditional Island industries of fishing and farming still contribute to the Vineyard's character and its appeal to visitors, as well as to the regional economy.

Places of employment are widely dispersed across the landscape, due partly to activities related to the construction, renovation, maintenance, and landscaping of properties. Martha's Vineyard also has a considerable number of home businesses, and the number of people working from home approximately doubled during the Covid-19 pandemic (see section 3).

The Vineyard’s isolation from the mainland, along with its tourism economy, scenic roads, and widely dispersed town centers, housing, and other destinations, create many opportunities for multimodal transportation. In light of the existing infrastructure and varied modes of transportation already in use, the MVC encourages a comprehensive approach to transportation planning, focusing on intermodal travel options and creating a seamless travel experience for Island residents and visitors.

### 3. Demographic Profile<sup>3</sup>

The Island’s year-round population has grown significantly in recent decades, outpacing most other regions, Massachusetts, and the country as a whole. According to the US Census Decennial Counts, the total population of Dukes County increased 25% between 2010 and 2020, with about three quarters of all residents living in the down-Island towns of Edgartown, Oak Bluffs, and Tisbury, where most of the Vineyard’s seasonal and year-round economic activity takes place.

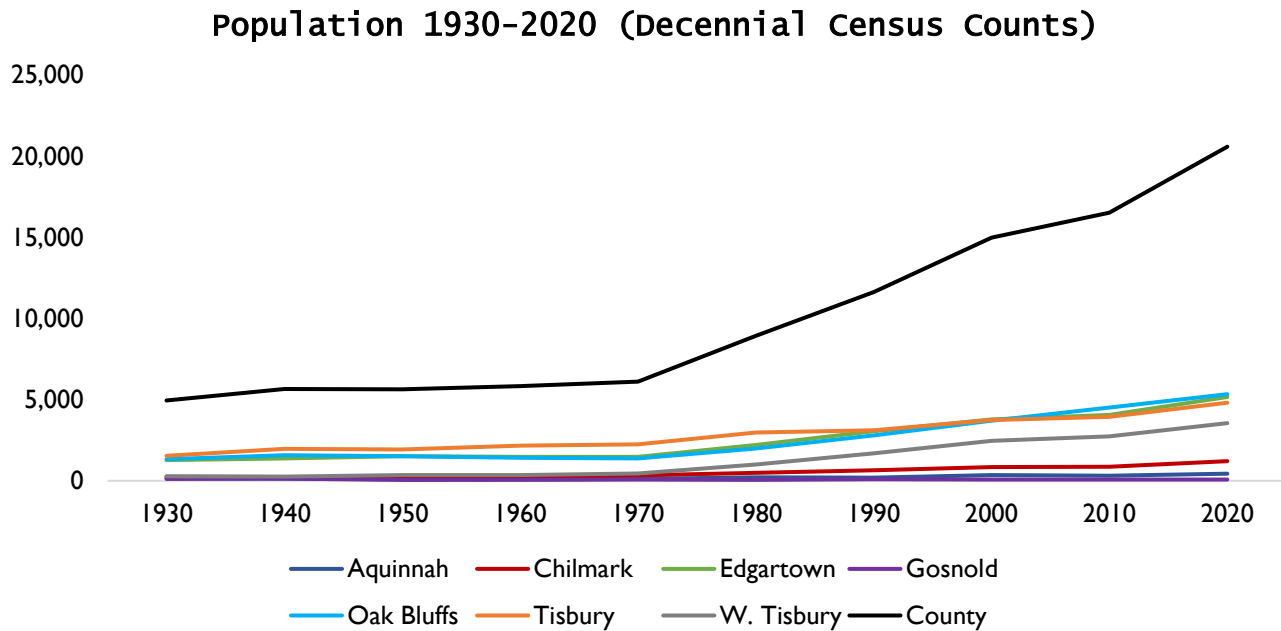


Figure 1: Population by Town (2030-2020 US Census Counts)

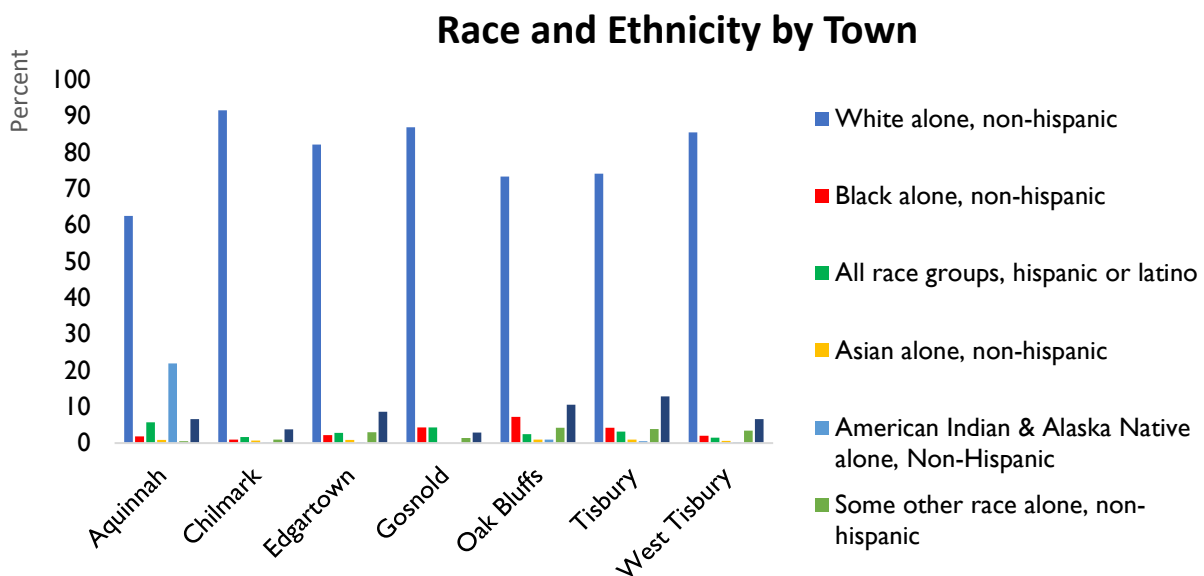
According to the American Community Survey (ACS), Dukes County had a median household income of \$77,392 in 2021 (estimated based on surveys in 2016-2020), which was 16% lower than the state median of \$89,645. According to the MA Department of Housing and Economic Development, the median family income (for a family of four) was \$107,400, or about 12% less than the state median of \$120,400.

<sup>3</sup> American Community Survey data for geographies as small as those on the Vineyard often have a relatively wide margin of error, while the Decennial Census data is considered more accurate.

It is generally understood that the cost of living on the Vineyard is higher than on the mainland, due in large part to high real estate costs. As one indication, the median single-family home price on the Island in 2022 was \$1,295,000, creating a housing affordability gap of \$843,500.<sup>4</sup> Overall, about 39% of households on the Island are paying more than 30% of their incomes on housing, compared to 35% in the state, qualifying them as cost-burdened by state affordable housing standards. This cost burden affects all income levels and Island towns, and a greater portion of homeowners than renters, due at least partly to the high real estate prices. Countywide, about 22% of residents are below the poverty level, compared to about 13% in the state.

Elder residents (over 60) make up about one third of the Dukes County population, compared to 24% in the state, with the greatest percentage in Gosnold (55%), followed by West Tisbury (40%), Chilmark (38.6%), Tisbury (38.3%), Aquinnah (36%), and Oak Bluffs (23.1%). Those over 85 account for about 3% of the population, compared to about 2% in the state. Many elder residents in Dukes County also have low incomes and rely largely on Social Security for their income.

According to the US Census, although 79% of Dukes County residents identify as white, the county has become more racially diverse since 2010, most notably in terms of the number of non-Hispanic people identifying as having two or more races, which increased about 194% between 2010 and 2020, and the number of people identifying as black, which increased about 34% in the same period. Both populations are concentrated largely in Edgartown, Oak Bluffs, and Tisbury, and to some extent West Tisbury. The Hispanic/Latino and Asian populations saw smaller increases, while Native American and other non-Hispanic populations declined slightly.



<sup>4</sup> The difference between the median sale price of single-family homes and what a median-income household can afford. Calculation provided by Karen Sunnarborg Consulting.

Figure 2: Race and Ethnicity by Town (2020 US Census Counts)

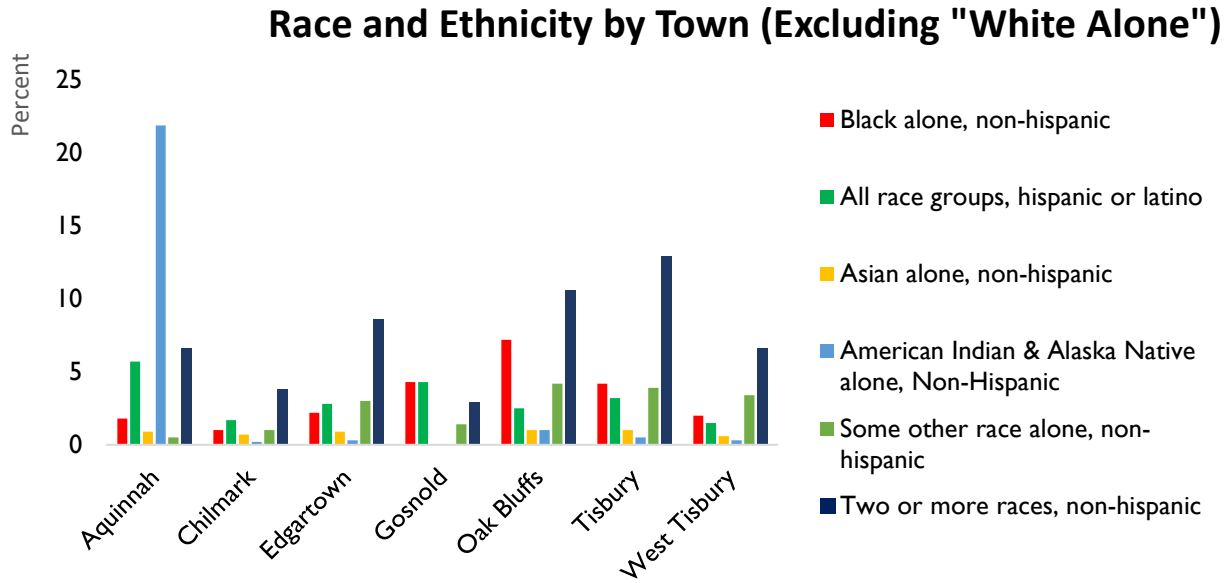


Figure 3: Race and Ethnicity by Town, Excluding "White Alone" (2020 US Census Counts)

In terms of national origin, the ACS reports that about 13% of Dukes County residents were born outside the US in 2016-2020 (compared to about 18% in the state), with the greatest portion in Oak Bluffs, followed by Edgartown, Tisbury, West Tisbury, Chilmark, and Aquinnah. No foreign-born residents were reported in Gosnold, whose population is about 87% white.

Based on the 2021 5-year estimates from the ACS, about 13% of the county population over the age of five speaks a language other than English. About 6.4% speak English "less than very well" (also referred to as Limited English Proficiency, or LEP), which is about double the rate in 2011-2015. The figure for residents ages 18 and over is about 2.8%. Most common among those who speak a language other than English is "other Indo-European languages" (about 78%), which presumably refers mostly to Portuguese. Other languages listed are Spanish (17%), Asian and Pacific Island languages (4%), and other languages (1%). LEP populations on the Vineyard are concentrated mostly down-Island and in West Tisbury.

	Speak a language other than English	Speak English "less than very well"
Aquinnah	2.4%	0.0%
Chilmark	11.4%	2.8%
Edgartown	15.4%	6.1%
Gosnold	5.3%	0.0%
Oak Bluffs	11.8%	7.3%
Tisbury	16.6%	8.3%



W. Tisbury	6.7%	6.0%
County	12.8%	6.4%
State	24.5%	10.0%

Figure 4: English Proficiency (American Community Survey, 2021)

School enrollment data provides a further window into the demographics of younger families on the Island. According to the Department of Elementary and Secondary Education, about 30 percent of all students enrolled in Island schools in 2022-2023 were not native English speakers; about 62% of students were white, 26% Hispanic, 5% multi-race, 5% African American, 2% Native American, and 1% Asian. The difference between these numbers and the Census and ACS numbers above may indicate limitations in the Federal data, including the number of people identifying as Hispanic, but it may also indicate that racial diversity is higher among families with children, compared to other age groups on the Island. The greatest diversity in Island schools in terms of non-white students was at the Tisbury School, followed by the Oak Bluffs Elementary School, Martha’s Vineyard Regional High School, the Edgartown School, Martha’s Vineyard Charter School, and Chilmark Elementary School. The Cuttyhunk Elementary School in Gosnold had no students this year.

About 11% of the civilian noninstitutionalized population in Dukes County has at least one disability, compared to about 4% in the state, owing at least partly to the Island’s larger percentage of elders. Most people with a disability live in the down-Island towns, with the highest concentration in Tisbury, followed by Oak Bluffs, West Tisbury, and Edgartown. The most common disabilities reported in Dukes County are “ambulatory,” followed by “hearing” and “independent living,” whereas the most common disabilities in the state are “hearing,” followed by “self-care” and “ambulatory.” Among those in Dukes County with ambulatory difficulty, most live in Oak Bluffs, followed by Tisbury and Edgartown. This is also where most health services are located, including the Martha’s Vineyard Hospital in Oak Bluffs and Island Health Care in Edgartown, as well as the down-Island Councils on Aging.

	Aquinnah	Chilmark	Edgartown	Gosnold	Oak Bluffs	Tisbury	W. Tisbury	County	State
Hearing difficulty	4	66	231	3	331	161	226	1,022	810,146
Vision difficulty	7	14	116	0	131	69	48	385	211,255
Cognitive difficulty	9	43	171	0	111	79	11	424	137,197
Ambulatory difficulty	50	45	298	3	531	436	0	1,363	329,929
Self-care difficulty	1	3	8	3	309	59	0	383	366,711
Independent living difficulty	9	22	55	3	315	115	0	519	154,293

Total with a disability	70	126	453	3	587	692	308	2,239	292,824
Total percentage with a disability	10.1	8.7	9	7.9	11.2	14.6	10.3	11.1	4.2

Figure 5: Disability Characteristics (American Community Survey, 2021)

It should be noted that while the data here provide insight into the Island’s year-round population, they do not necessarily reflect the much larger seasonal population, for which specific demographic data is not currently available. However, it is generally the case that seasonal residents and visitors represent many diverse backgrounds and come from many states and countries. Oak Bluffs in particular is home to a large African American community in the summer, which includes people from many socioeconomic backgrounds. Seasonal activity in general is concentrated in the down-Island towns, although various destinations up-Island stay busy throughout the summer.

#### 4. Martha’s Vineyard Commission (MVC) Overview

The Martha’s Vineyard Commission (MVC) was created by Chapter 637, Acts of 1974, of the General Court of the Commonwealth of Massachusetts, replacing the previous Dukes County Planning and Economic Development Commission. Chapter 637 established the MVC as a unique regional land and water entity with planning responsibilities as well as regulatory authority. This legislation was replaced by Chapter 831, Acts of 1977, which gave the Commission further responsibilities, duties, and powers over the lands and waters of Dukes County. In particular, Chapter 831 empowers the MVC “to further protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific, and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study, by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies.”

The MVC’s primary functions are as follows:

**Planning:** The MVC’s planning jurisdiction extends to all seven towns in Dukes County, including Gosnold. The Commission is one of the Commonwealth’s 13 regional planning agencies (RPAs), which help the communities within their jurisdictions plan and implement short- and long-range improvements with respect to transportation, economic development, the environment, land use, and community development.

**Regulation:** The MVC is one of two Massachusetts RPAs (along with the Cape Cod Commission) that has regulatory powers over Districts of Critical Planning Concern (DCPCs) and Developments of Regional Impact (DRIs). The Commission’s regulatory authority extends over the lands and waters of Dukes County, with the following exceptions:

- The Elizabeth Islands (Gosnold)
- The Indian Common Lands (the Cranberry Bogs, Clay Cliffs, and Herring Creek, located in Aquinnah)
- Lands owned by the Commonwealth or its constituent agencies, boards, departments, commissions, or offices, to the extent they are excluded from the responsibilities, duties, and powers of the towns

The MVC has a board of Commissioners with 21 members who are elected by Vineyard voters or appointed by elected officials:

- Nine are elected by voters Island-wide in elections held every two years.
- Six are appointed on an annual basis by the towns select boards.
- One is appointed on an annual basis by the Dukes County Commission.
- Five are appointed by the Governor of Massachusetts or member of the cabinet (only of these may vote on DRIs and DCPCs).

The Commonwealth's 13 RPAs include 10 federally designated Metropolitan Planning Organizations (MPOs). While Martha's Vineyard does not meet the regular criteria to be considered an MPO (50,000 residents in an urbanized area), the Governor designated it an MPO in the 1970s, and the Office of Transportation Planning and the Massachusetts Department of Transportation (MassDOT) provide funds for transportation planning on the Island.

The Martha's Vineyard MPO consists of a decision-making body that determines transportation planning goals, projects, priorities, and funding. The members of this body are the MassDOT/Highway Division, the MVC, and the Martha's Vineyard Transit Authority (VTA). For the purpose of this Title VI plan, the decision-making body may be referred to as the Martha's Vineyard MPO.

In its role as MPO, the MVC follows federal transportation planning regulations, including the establishment of a citizen advisory group known as the Martha's Vineyard Joint Transportation Committee (JTC), to participate in transportation planning activities, including identification of the mobility needs of minority populations. The JTC consists of appointed representatives of the six Island towns, the Wampanoag Tribe of Gay Head (Aquinnah), transportation providers including the VTA and Steamship Authority, town representatives, MVC staff, and members of the public. The JTC guides regional transportation decision making, serves as a forum for discussing transportation issues, and advises the decision-making body. (See Appendix I and J for the official MVC and JTC bylaws.)

## **5. MVC Planning Process**

The Martha's Vineyard Commission receives state and Federal funds to implement planning suggestions and recommendations. Annual funding for staff salaries and other expenses comes primarily from the following sources:

- **3C Planning Contract** from Federal Highway Administration and MassDOT to fund a portion of staff salaries, and expenses of the transportation planning program.
- **District Local Technical Assistance (DLTA)** from the Commonwealth of Massachusetts which helps the municipalities of Martha's Vineyard achieve their regional planning goals.
- **Town Assessments** paid into the MVC on an annual basis for staff salaries and other expenses.

*Subrecipient Monitoring Process: The Martha's Vineyard Commission does not currently have any funding subrecipients for any of its activities, and therefore does not have a subrecipient monitoring process for Title VI compliance. However, should the MVC acquire subrecipients for any of their needs, it will utilize a process using MassDOT's subrecipient monitoring procedures as a model.*

## **6. Public Notice of Title VI Protection**

In order to comply with 49 CFR Section 21.9(b), the MVC has posted information for the public regarding the MVC's Title VI obligations, and protections against discrimination afforded to the public by Title VI, on the MVC website (mvcommission.org) and in the MVC office building at 33 New York Ave., Oak Bluffs. Postings are in English and Portuguese (the second most-spoken language on the Island), and the MVC will translate documents into other languages upon request. (See Appendix C.)

## **7. Title VI Training**

MVC staff has not participated in any formal training related to Title VI, as we are not aware of any such training available on the Island. However, staff members are well trained in communicating with the public, including referral of complaints to appropriate parties. Staff has had on-site meetings with MassDOT officials on the nature and extent of Title VI planning, and welcomes opportunities to participate in Title VI training in the future.

## **8. Data Collection, Reporting, and Analysis; and Dissemination of Title VI Information**

The MVC regularly collects, analyses, and disseminates information that may pertain to Title VI requirements. This includes wide-ranging data related to population, land use, economy, health, education, housing, transportation, environment, town services, and other topics. This work is done by MVC staff, including the GIS Coordinator, Research and Communications Manager, Transportation Planner, and other employees. The data is drawn from local, state,

and Federal sources, is typically classified by geography (town, Island, or county) with smaller geographies as appropriate, and is updated as new data becomes available.

Various data, reports, and maps pertaining to Dukes County are available on the MVC website, [mvcommission.org](http://mvcommission.org), or at the MVC office building in Oak Bluffs. Information not available on the website may be accessed by appointment (a staff directory is available on the MVC website), or provided by mail or email upon request.

A comprehensive Martha's Vineyard Statistical Profile, including hundreds of data sets and many planning topics, with photos, maps, and staff commentary, is updated every two years, with the next update expected in the fall of 2023. The report and data are publicly available on the MVC website or in print. The GIS Coordinator also periodically publishes maps on the website or for posting in the main meeting room or other locations.

Data is also disseminated via the following:

- Public meetings of the MVC and other local bodies where data and other information is presented, such as the development of regional plans and town master plans.
- Published plans and reports that include data collected by the MVC.
- Collaboration with town boards and officials as needed.
- Staff or third-party analysis of specific areas and/or issues during the review of Developments of Regional Impact.
- Quarterly MVC newsletters distributed to a mailing list.
- News articles that utilize data and other information provided by the MVC.

## **9. Public Participation Plan**

The MVC's planning activities take place mostly in the MVC office building at 33 New York Ave., Oak Bluffs, which is accessible by foot, bicycle, public transit, and motor vehicle. The building is near the center of Oak Bluffs, which has the highest population and second-highest density of the seven towns in Dukes County. Oak Bluffs also has the highest concentration of minority groups and second-highest concentration of low- and moderate-income residents on the Island. The office is located on a main roadway, and on one of the primary routes of the Vineyard Transit Authority (VTA), which has buses with lifts on demand that can accommodate passengers in wheelchairs. The MVC building has an accessible parking spot with a ramp to the front door, accessible bathrooms on the first floor, and an ADA-compliant elevator to offices on the second floor. The MVC also recently installed bike racks behind the building for those commuting by bicycle.

The MVC maintains a robust website of transportation related information, including key documents and data, along with a language translation link able to translate text on the website into 133 languages. Information on the website covers the planning areas of transportation, climate change, development, water quality, housing, and other topics of

regional significance. The website in general is outdated and sometimes difficult to navigate, due in part to multiple pathways to the same information and a large archive of DRI and other material without an easy-to-use search function. A new website is currently under development to address these issues and is expected to be launched in 2023.

The MVC strives to reflect the Island's diversity on its boards and committees, and in its outreach activities. As a few examples, the Wampanoag Tribe currently participates in the Joint Transportation Committee / MPO process meetings; the Wampanoag Tribal Planner and Environmental Coordinator participated in regular discussions of the MVC's Climate Action Task Force, which launched in 2019 and led to a regional Climate Action Plan in 2022; the MVC partnered with the Dukes County Commission on a regional outreach effort in the months leading up to the 2020 US Census, with extensive outreach to the Brazilian, Portuguese, and Tribal communities. In 2022, a member of the Wampanoag Tribe was appointed to the 21-member Commission, and a state bill introduced in 2021 would create a permanent seat on the Commission for a Tribe member. The typically older Commission has also become more age-diverse, with two members now under 50.

Since the outset of the Covid-19 pandemic in early 2020, most Commission meetings have been held remotely on Zoom, with considerable participation by the public, including many individuals who might not have been able to attend in person. This arrangement also benefitted some of the older Commissioners, or those that had difficulty traveling from up-Island. In April 2023, the regular Commission meetings shifted to a hybrid model, where Commissioners and DRI applicants are expected to attend in person, but may still attend on Zoom if necessary. Members of the public may also attend on Zoom. The decision to shift back to in-person meetings followed extensive planning to equip the meeting room with the latest technology, including three large wall-mounted screens, microphone/speakers, and other equipment. Commissioners and staff were surveyed about the pros and cons of returning to in-person, and the topic was discussed at length at a Commission meeting in April. We hope the new arrangement will allow the best of both worlds, with important conversations happening face-to-face, while those who are unable to attend in person (including elder or disabled residents, working families, and those with limited transportation) have the option of attending online. Certain subcommittees and other groups continue to meet on Zoom for the time being, which allows greater flexibility in terms of time and mobility.

It should be noted that since early 2020, all MVC meetings have been recorded via Zoom and are publicly available upon request. Meetings going back several years are also available for playback on the MVTV website.

To better inform the public, the MVC has resumed its quarterly newsletter which identifies various planning issues facing the Island, including transportation and various outreach activities. An MVC mailing list includes about 1,800 addresses and is supplemented with information from churches, civic groups, and other community leaders so that all demographic groups are provided information and a forum to participate. The MVC has also updated and

begun to utilize social media accounts to distribute information and stay connected with the public. The MVC will launch a survey in 2023 to determine whether translation services are needed for its planning, regulatory, and outreach activities.

We are currently working to ensure that the quarterly newsletters, bi-annual Martha's Vineyard Statistical Profile, and other important planning documents are available in Steamship Authority terminals and vessels, town libraries, town halls, and other public areas, in addition to the MVC building in Oak Bluffs and online locations.

We have continued to assess elder issues, including via Healthy Aging Martha's Vineyard (HAMV), the Island's elder advocacy group, for which we provide general planning and administrative support. Many elder residents on the Island have low incomes and rely largely on Social Security, so offering transportation services to this group is critical. Our work with HAMV has included assistance with a regional survey in 2020 that identified specific needs of the elder population, including in regard to transportation; and administrative support for HAMV board meetings. (The HAMV survey was available in English and Portuguese, and sent to every household on Martha's Vineyard with a resident at least 60 years old.) HAMV is also participating in a pilot program to assist elders with booking ride-share trips. Given the increasing number of elder residents on the Island, it is important to regularly identify the range of needs and programs that will most effectively serve this population. (See section 11.)

We also regularly partner with Martha's Vineyard Community Services (MVCS) and other non-profits that provide programming for at-risk segments of the population. Among other support, Commission staff members attend meetings, perform studies, and develop statistics that inform nonprofit missions and transportation solutions.

In 2022, the MVC launched The Vineyard Way, a regional 20-year climate action plan. Transportation is a major focus of the plan, and equity and inclusion were guiding values. The planning process involved many community outreach meetings in 2019-2022, and included an analysis of how climate change will affect vulnerable, marginalized, and environmental justice populations. The plan notes among other things that older residents and people with existing health concerns may be disproportionately affected by transportation and infrastructure disruptions caused by climate change. The official launch of the plan in June 2022 has been followed by various implementation activities, including Climate Action Week in May 2023, which involved events, presentations, and tours to highlight local efforts to address climate change and how Island residents can take part. Implementation activities will continue, and the plan will be updated as needed.

It should be noted that according to the US Census more than 2,200 workers live outside of Dukes County and commute to the Island for work. This population is nearly equal to the population of Island residents commuting to the mainland for work. We plan to conduct an issues survey in 2023 targeting workers commuting both ways, in order to better understand their needs in regard to mobility, housing, and other issues, especially during the summer

months. The availability of MVC documents in the Steamship Authority terminals and on its vessels will also help improve outreach to these populations.

Additional information about public participation in the transportation planning process is available in the [2017 Martha's Vineyard Public Participation Plan](#), which was financed in part through funding from the Massachusetts Department of Transportation (MassDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA).

*Proposed Actions:*

- *Update the MVC website to provide better access to planning and regulatory information (underway).*
- *Partner with Island schools, churches, the MV Camp Meeting Association, Healthy Aging MV, MV Community Services, and other groups to ensure broad participation in MVC boards and committees, public participation in MVC planning activities, and access to the mailing list.*
- *Establish regular placement of MVC newsletter and other materials in the Steamship Authority terminals and vessels, town libraries, town halls, and other public places, as well as online locations.*
- *Continue implementation of The Vineyard Way, including participation by thematic working groups in regard to climate change and equity.*
- *Update the 2017 Martha's Vineyard Public Participation Plan*

## **10. Language Assistance Plan**

As mentioned in section 3 of this plan, about 13% of the county population over the age of five speaks a language other than English, and about 6% speak English “less than very well” (also referred to as Limited English Proficiency, or LEP). Most common among those who speak a language other than English is “other Indo-European languages” (about 78%), which presumably refers mostly to Portuguese. School enrollment data should also be considered, as it shows that 30% of all students enrolled in Island schools do not speak English as a first language.

The proposed actions in this section are informed by the US Department of Justice’s Four-Factor analysis regarding LEP populations:

1. The number and proportion of LEP persons served or encountered in the eligible service population.

*About 6.4% of Dukes County residents five and over speak English “less than very well,” or about 1,255 people. The greatest portion live in Tisbury (384), followed by Oak Bluffs (360), Edgartown (303), West Tisbury (168), and Chilmark (40). None were reported in Gosnold or Aquinnah. It should be noted that among residents 18 and over, only about*



*2.8% (437 people) speak English less than very well. It should also be noted that some of this data from the American Community Survey has a wide margin of error. The MVC assumes that its transportation planning activities have a potential impact on the entire Island population.*

2. The frequency with which LEP people come into contact with the program.

*While this is not known in detail, it is assumed that all Island residents use the regional transportation network in some capacity, regardless of their primary language. In terms of transportation planning, it has been observed that a large majority of those who participate in the process speak English as a first language. However, given the number of residents who do not speak English as a first language, this situation might change if additional translation services were available.*

3. The nature and importance of the program, activity, or service provided by the program.

*The MVC's transportation planning activities potentially affect the lives of all Island residents. Most Island residents depend in some way on the regional transportation network (roads, public transit, shared-use paths, etc.) on a daily basis. For this reason, transportation, and transportation planning, have great importance to the Island.*

4. The resources available and costs to the recipient.

*The MVC is still in the process of determining the cost of additional translation services. Because our budget is very limited, we likely do not have the option of hiring or retaining a full-time translator. However, it is likely that automated translation services, including through Zoom, along with the human translation of specific materials as needed throughout the year and the establishment of regular channels of communication with LEP residents is within our capabilities.*

Given the recent increase in the number of people with limited English proficiency, the MVC plans to launch a survey this year to better gauge the need for translation services related to its planning, regulatory, and outreach activities, and to develop strategies to address this need going forward. *We have also worked with the Vineyard's Community Ambassador Partnership, which supports equitable language access among Islanders, to establish a regular channel of communication with LEP residents. This includes a new MVC community group on WhatsApp, which is a favored platform among the Island's Portuguese speakers.*

The MVC maintains a robust website including key transportation documents and data. To enable LEP individuals to more conveniently access and use this resource, the MVC currently offers a language translation link that can translate text on the website into 133 languages. A new website currently under development will continue to provide translation services, and we are working to upgrade the MVC Zoom account to allow participants to access closed-caption translation services during meetings.

The Martha's Vineyard Joint Transportation Committee has not had any requests for language services or disability accommodations in several years. However, the MVC has necessary budgetary resources should additional translation services be required.

*Proposed Actions:*

- *Upgrade the MVC Zoom account to allow meeting participants to see closed-caption translations in real time (underway).*
- *Publish information on the MVC website and in public meeting notices with instructions for how participants can use closed-caption translation through Zoom.*
- *Launch surveys **in multiple languages** to gauge the need for MVC printed materials and/or meetings to be translated into Portuguese or other languages; and better identify the needs of commuters (underway).*
- *Begin to utilize WhatsApp as a way to communicate with the Portuguese speaking community, including the distribution of meeting agendas and other material; this will likely be an incremental process, as it requires populating the group one person at a time.*
- *Work to increase participation in MVC planning activities, and the diversity of all MVC boards and committees, by conducting outreach to minority communities. This could be done in coordination with the Community Ambassador Program and other nonprofits, and via direct outreach to individuals.*

## **11. Mobility Needs of Low-Income and Minority Populations**

The Martha's Vineyard Commission and Joint Transportation Committee consider all populations and geographic areas in reviewing potential projects. Focusing on gaps in the regional shared-use path network and continued support for Vineyard Transit Authority (VTA) services, for example, remain priorities Island-wide.

Transportation planning on the Vineyard centers largely around three assumptions: 1) most Island locations operate differently on a seasonal or non-seasonal basis, 2) elder residents (over the age of 60) require dedicated transportation services, and 3) short-term employees frequently do not have their own vehicles. Planning also centers on alternative transportation methods and facilities that are intended to be utilized by all residents and visitors. While we have made progress in each area given our financial parameters, further efforts are needed to address the needs of elders and low-income households across the Island, and to encourage the use of transportation alternatives, as outlined below.

The 20-year Regional Transportation Plan (RTP), which is updated every four years, provides an opportunity to collect input from the public, by way of a survey and scheduled meetings, on

specific transportation issues and help identify needed services. The RTP in turn serves as a roadmap for future transportation programming. Other surveys, such as the 2020 MV Older Adult Survey by Healthy Aging Martha's Vineyard, provide additional data as it may pertain to certain demographics. Finally, data from the US Census Bureau, including the decennial census counts, American Community Survey estimates, and population estimates, allow MVC staff and others to identify trends and potential needs that will be considered in all of our planning activities. (See section 9.)

In terms of ongoing data collection, the MVC uses permanent roadway counters to record traffic on a regular basis and identify trends in both seasonal and non-seasonal traffic. The traffic counts are available to the public upon request.

### *Discussion*

One essential need in Dukes County is reliable year-round transportation to and from places of work. Low-income populations and seasonal workers in particular, with less ability to purchase personal vehicles, may require alternative modes of transportation. According to the American Community Survey (ACS) estimates for 2016-2020, the working population of Dukes County (over the age of 16) also includes a higher percentage of people with limited English proficiency (about 9%, compared to 6% for all households).

The ACS reports that about 287 (4%) of the 6,801 occupied households in 2021 had no vehicles available, and about 2,285 (34%) had only one vehicle available. At the same time, the average household size in Dukes County was about three people, which could suggest a need for transportation options beyond a single car.

The relatively compact size of Martha's Vineyard translates to a mean travel time to work substantially less than that on the mainland. According to the ACS estimates for 2016-2020, the mean travel time to work in Dukes County is about 16 minutes, compared to 28 minutes for Massachusetts. But despite the limited travel times, ACS data indicate that alternative travel options remain largely unused in the off-season. Among workers ages 16 and up, two thirds drove alone to work, about 8% carpooled, 2% used public transportation, 3% walked, 1% biked, 1% used other means, and 20% worked from home. It should be noted that according to the ACS, the number of people working from home approximately doubled during the Covid-19 pandemic. This has likely reduced the need for work-related travel in recent years.

The Martha's Vineyard Transit Authority's extensive year-round bus service provides an essential and underutilized option for all people on the Island, as does the network of shared-use paths that links the town centers in Edgartown, Oak Bluffs, and Tisbury. Transportation planning and programming on the Island should continue to focus on improving access to the VTA, and making travel more convenient for bicyclists and pedestrians, including in the down-Island towns where most services and amenities are located.

The 2020 MV Older Adult Survey (see section 9), provided critical data about the needs of the

Island's rapidly growing elder population. The results provide detailed information about the elder demographic, including household incomes, veteran status, race, and ethnicity; while also helping to identify and prioritize their needs. Among some of the notable findings, about 12% of respondents were veterans, 0.2% identified as Brazilian, and about two thirds had at least a college education. Black respondents were more likely to have a higher degree, and slightly more likely to live alone. About two thirds of black respondents also lived in Oak Bluffs, and many identified as seasonal residents. Most households with annual incomes greater than \$25,000 were white or non-identified. Respondents over the age of 80 were more likely to have lower incomes and inadequate financial resources to meet their needs. In terms of transportation, about 90% of respondents said they continue to drive vehicles, some into their 90s. About 75% walk at least some of the time, while other modes including public transit are used infrequently if at all. At the same time, lower income households drove themselves less often and relied more on alternative options. The overall difficulty in obtaining transportation increased significantly with age. The survey also identified preferences for transportation improvements such as road maintenance, snow removal, and access to open space.

Looking ahead, the MVC will continue to partner with HAMV to develop strategies and programs to address the documented needs of the elder population, including in regard to transportation, finance, livelihood, caregiving, and access to existing services on the Island.

*Proposed Actions:*

- *Work with the VTA to increase access to public transit for elders, low-income households, households with fewer vehicles, and others in need of public transit.*
- *Develop short- and long-term strategies to implement improvements based on the 2020 MV Older Adult Survey, and advance relevant projects in the TIP and/or UPWP.*
- *Continue to advocate for improved and expanded bicycle and pedestrian infrastructure, including up-Island.*
- *Work with Island business owners, churches, nonprofits, and other groups to encourage participation in regional planning activities by minority residents, including members of the Portuguese community.*

**12. Program Review Procedures, and Analysis of MPO Transportation System Investments, Identifying and Addressing any Disparate Impacts**

Because funding for transportation projects on the Island is limited, the MVC must program for maximum Island-wide benefit. The MVC and JTC apply scoring methods using transportation evaluation criteria for transportation projects, but specific equity considerations have not come into play in recent years. However, it is assumed that most projects have benefited Island-wide populations, since most residents utilize the same roads and shared-use paths.

Due to the small size of the Vineyard, an evaluation of equity populations is relatively straightforward, although much of the data from the American Community Survey 5-year estimates may be imprecise due to the small sample sizes. Still, demographic data from the

ACS, as well as decennial Census data available at the tract and block levels, is useful in guiding regional transportation planning in general.

The highest concentration of non-white populations, according to Census data, is in Oak Bluffs, Tisbury, and Aquinnah; specifically Census Block Groups 2, 4, and 5 in Oak Bluffs; Block Groups 2 and 4 in Tisbury, and Block Group 5 in Aquinnah. All of these areas in Oak Bluffs and Tisbury are served by regular VTA bus routes, major and secondary roads, school bus routes, shared-use paths, ride-share services, and other transportation options. Block Group 2 in Oak Bluffs and Block Group 2 in Tisbury also encompass the main gateways to the Island, including the Tisbury and Oak Bluffs Steamship Authority Terminals, where about 90% of all traffic enters and exits the Island. Living within walking distance of those areas is beneficial in terms of access to services and amenities in general, and options to travel to the mainland for healthcare and other services without needing a personal vehicle. Block Group 5, which covers most of Aquinnah, is accessible by the VTA, major and secondary roads, school buses, a seasonal bike ferry, and seasonal ride-share services. VTA bus service to Aquinnah was reduced in 2022 due to a shortage of drivers, but has been at least partially restored. It should be noted that the Vineyard Climate Action Plan includes a goal to protect vulnerable roads and infrastructure such as State Road which connects Aquinnah to the rest of the Island, and this will become a stronger focus of our transportation planning as climate change intensifies.

As discussed in section 11, most year-round residents appear to utilize the VTA, shared-use paths and other alternatives to single-occupant vehicle use very infrequently. Improving access to the VTA and shared-use paths could be accomplished by way of incentive programs offered by the VTA, ensuring the VTA maintain regular access to the up-Island towns, and improved outreach to communities that may want to utilize these resources. MassDOT improvements to the shared-use path between Oak Bluffs and Vineyard Haven this year may also help encourage biking as an alternative to driving in the two most densely populated towns.

While state-funded transportation projects in recent years have been sited down-Island where the population is more diverse (see Appendix B), demographic data also show that Chilmark and West Tisbury have similar percentages of people below the poverty level compared to down-Island towns, and along with Aquinnah have similar percentages of people over 60, for whom access to transportation is of particular concern. About 22% of Dukes County residents who are below the poverty level, and 30% of those over 60, live up-Island where options are more limited. Aquinnah also has the highest population of Native American residents, and Wampanoag Tribal Housing is far removed from the down-Island centers. MassDOT funding has recently allowed the installation of permanent traffic counters in Chilmark, and we hope to install permanent counters in Aquinnah as well. Plans to improve travel and visitor experiences at the Aquinnah Circle (the town's commercial area and main destination) are also ongoing. Apart from our continued work to extend the shared-use path network up-Island, ensure regular VTA access to Aquinnah, collect traffic data, and the other actions listed in this plan, it is not clear what types of transportation improvement projects would specifically serve low-income and elder populations in the up-Island towns. As with the down-Island towns, it is likely

that efforts to ensure equitable access to existing travel options such as the VTA and bicycle-pedestrian infrastructure would have the greatest impact in serving these populations.

## APPENDIX

### Contents:

- A. Map: Minority Populations on Martha's Vineyard
- B. Charts: Transportation Funding Distribution<sup>5</sup>
- C. Title VI Notices
- D. Complaint Procedures (English and Portuguese)
- E. Complaint Form (English and Portuguese)
- F. Complaint Log
- G. Title VI Assurances
- H. Certifications and Assurances
- I. Bylaws of the Martha's Vineyard Commission
- J. Bylaws of the Joint Transportation Committee
- K. MVC Organizational Flow Chart
- L. MassDOT Aug. 2023 comments and Dec. 2023 responses

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<sup>5</sup> From the Martha's Vineyard Transportation Improvement Program, fiscal years 2022, 2024, 2025. (There were no funded projects in FY2023.)

# Appendix A





Population Percent Racial Minority  
Block Group\* - Census 2020

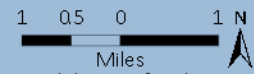
- 6.5% to <=10.0%
- >10% to <=20.0%
- >20% to <=30.0%
- >30% to 37.4%

Environmental Justice - Minority

- Minorities Comprise >25% of Block Group's Population

\*Many block group boundaries follow roads and water features.

**Percent Racial Minority  
of Census 2020 Block Group  
Martha's Vineyard**



Disclaimer: This map and data are for planning purposes only and not for regulatory interpretation. The MVC can not be responsible for the end-user's interpretation of the data or subsequent analyses.

Compiled By: MVC - C.Seidel, 5/18/2023  
 Data: Town Boundary - MassGIS; Roads - MassDOT/MassGIS 2017/2018; Minority % - Census 2020, MassGIS 2022, & MVC 2023  
 Projection: Stateplane, MA Mainland, NAD83, m  
 File: Census; census\_data\_maps.aprx; mvi\_pontMinority\_BlkGrp\_2020.jpg



## Appendix B



## 2022 Martha's Vineyard Region Program

STIP: 2022 - 2026 (D)

Program	MassDOT Project ID	MPO	Municipality	MassDOT Project Description	District	Funding Source	Total Programmed Funds	Federal Funds	Non-Federal Funds	
Federal Fiscal Year 2022										
Section 1A / Regionally Prioritized Projects							\$769,690	\$615,752	\$153,938	
Bicycle and Pedestrian	608142	Martha's Vineyard	Oak Bluffs	OAK BLUFFS- CONSTRUCTION OF A SHARED USE PATH ALONG BEACH ROAD, FROM THE LAGOON POND BRIDGE NORTHERLY TO THE EASTVILLE AVENUE/COUNTY ROAD INTERSECTION	5	CMAQ	\$769,690	\$615,752	\$153,938	
							CMAQ Programmed	\$769,690	\$615,752	\$153,938
Total Programmed for Martha's Vineyard Region Projects*							\$769,690	\$615,752	\$153,938	
Program Target for Martha's Vineyard Region Projects							\$769,690	\$615,752	\$153,938	
Target Funds Available for Martha's Vineyard Region Projects							\$0	\$0	\$0	
Section 2C / State Prioritized Expansion Projects							\$2,562,203	\$2,049,762	\$512,441	
Bicycle and Pedestrian	608142	Martha's Vineyard	Oak Bluffs	OAK BLUFFS- CONSTRUCTION OF A SHARED USE PATH ALONG BEACH ROAD, FROM THE LAGOON POND BRIDGE NORTHERLY TO THE EASTVILLE AVENUE/COUNTY ROAD INTERSECTION	5	CMAQ	\$2,562,203	\$2,049,762	\$512,441	
Martha's Vineyard Region Total Program Summary							\$3,331,893	\$2,665,514	\$666,379	

\*Only includes funds counting against obligation authority



## 2024 Martha's Vineyard Region Program

STIP: 2022 - 2026 (D)

Program	MassDOT Project ID	MPO	Municipality	MassDOT Project Description	District	Funding Source	Total Programmed Funds	Federal Funds	Non-Federal Funds	
Federal Fiscal Year 2024										
Section 1A / Regionally Prioritized Projects							\$796,810	\$637,448	\$159,362	
Roadway Improvements	609459	Martha's Vineyard	Tisbury	TISBURY- DRAINAGE IMPROVEMENTS ON STATE HIGHWAY	5	STBG	\$796,810	\$637,448	\$159,362	
							STBG Programmed	\$796,810	\$637,448	\$159,362
Total Programmed for Martha's Vineyard Region Projects*							\$796,810	\$637,448	\$159,362	
Program Target for Martha's Vineyard Region Projects							\$796,810	\$637,448	\$159,362	
Target Funds Available for Martha's Vineyard Region Projects							\$0	\$0	\$0	
Martha's Vineyard Region Total Program Summary							\$796,810	\$637,448	\$159,362	

\*Only includes funds counting against obligation authority



## 2025 Martha's Vineyard Region Program

STIP: 2022 - 2026 (D)

Program	MassDOT Project ID	MPO	Municipality	MassDOT Project Description	District	Funding Source	Total Programmed Funds	Federal Funds	Non-Federal Funds	
Federal Fiscal Year 2025										
Section 1A / Regionally Prioritized Projects							\$334,267	\$267,414	\$66,853	
Roadway Improvements	609459	Martha's Vineyard	Tisbury	TISBURY- DRAINAGE IMPROVEMENTS ON STATE HIGHWAY	5	STBG	\$334,267	\$267,414	\$66,853	
							STBG Programmed	\$334,267	\$267,414	\$66,853
Total Programmed for Martha's Vineyard Region Projects*							\$334,267	\$267,414	\$66,853	
Program Target for Martha's Vineyard Region Projects							\$778,208	\$622,566	\$155,642	
Target Funds Available for Martha's Vineyard Region Projects							\$443,941	\$355,152	\$88,789	
Martha's Vineyard Region Total Program Summary							\$334,267	\$267,414	\$66,853	

\*Only includes funds counting against obligation authority

## Appendix C

# Civil Rights Notice to the Public

The Martha's Vineyard Commission (MVC), Massachusetts Department of Transportation (MassDOT) and the Massachusetts Bay Transportation Authority (MBTA) comply with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin (including limited English proficiency). Related federal and state nondiscrimination laws prohibit discrimination on the basis of age, sex, disability, and additional protected characteristics. The MVC, MassDOT, and the MBTA are committed to nondiscrimination in all activities.

Individuals who believe they have been discriminated against may file a complaint with the MVC Title VI Coordinator at:

## **Curtis Schroeder**

Martha's Vineyard Commission  
PO Box 1447  
Oak Bluffs, MA 02557  
Phone: (508)-693-3453 Ext. 12  
Email: [info@mvcommission.org](mailto:info@mvcommission.org)

Complaints may also be filed directly with MassDOT/MBTA:

## **MassDOT/MBTA Title VI Specialists**

Office of Diversity and Civil Rights – Title VI Unit  
10 Park Plaza, Suite 3800  
Boston, MA 02116  
Phone: (857) 368-8580 or 7-1-1 for Relay Service  
Email: [MassDOT.CivilRights@state.ma.us](mailto:MassDOT.CivilRights@state.ma.us) or [MBTAcivilrights@mbta.com](mailto:MBTAcivilrights@mbta.com)

For additional information, language service requests, or reasonable accommodations visit [mass.gov/nondiscrimination-in-transportation-program](http://mass.gov/nondiscrimination-in-transportation-program) or [mbta.com/titlevi](http://mbta.com/titlevi)

## Aviso ao Público sobre Direitos Civis

O Martha's Vineyard Commission, Departamento de Transportes de Massachusetts (MassDOT), e a Autoridade de Transportes da Baía de Massachusetts (MBTA) cumprem com o Título VI da Lei de Direitos Civis de 1964, que proíbe a discriminação de raça, cor ou origem nacional (incluindo proficiência limitada em inglês). Leis federais e estaduais de não-discriminação relacionadas proíbem a discriminação de idade, sexo, deficiência e características adicionais protegidas. O MVC, MassDOT, e a MBTA estão comprometidos com a não-discriminação em todas as atividades.

Indivíduos que acreditam ter sido discriminados podem apresentar uma reclamação junto ao MVC Coordenador de Título VI em:

**Curtis Schroeder**

Martha's Vineyard Commission

PO Box 1447

Oak Bluffs, MA 02557

Fone: (508)-693-3453 Ext. 12

Email: [info@mvcommission.org](mailto:info@mvcommission.org)

Reclamações também podem ser apresentadas diretamente no MassDOT/MBTA:

**MassDOT/MBTA Title VI Specialists**

Office of Diversity and Civil Rights – Title VI Unit

10 Park Plaza, Suite 3800

Boston, MA 02116

Fone: (857) 368-8580 ou 7-1-1 para o Serviço de Relay

Email: [MassDOT.CivilRights@state.ma.us](mailto:MassDOT.CivilRights@state.ma.us) ou [MBTAcivilrights@mbta.com](mailto:MBTAcivilrights@mbta.com)

Para informações adicionais, solicitações de serviços linguísticos ou acomodações razoáveis, visite [mass.gov/nondiscrimination-in-transportation-program](http://mass.gov/nondiscrimination-in-transportation-program) ou [mbta.com/titlevi](http://mbta.com/titlevi)



## Martha's Vineyard Commission

### Notice of Non-Discrimination Rights and Protection to Beneficiaries

#### Federal protections "Title VI / Non-Discrimination"

The Martha's Vineyard Commission (MVC) conducts its programs, services and activities in accordance with applicable federal non-discrimination, including Title VI of the Civil Rights Act of 1964 (Title VI), the Restoration of Civil Rights Act 1987 and the statutes and related regulations. Title VI prohibits discrimination in programs receiving assistance from the federal government, and requires that no person in the United States shall, on the grounds of race, color or national origin (including limited English proficiency), be excluded from participating, be denied benefits, or otherwise be subjected to discrimination under any program or activity receiving federal assistance. Federal laws concerning non-discrimination, administered by the Federal Highway Administration, the Federal Transit Administration, or both, prohibiting discrimination based on age, gender and disability. These protected categories are contemplated within the programs Title VI of the MVC, consistent with the interpretation and federal administration. In addition, the MVC provides meaningful access to its programs, services and activities to individuals with limited English proficiency in accordance with the policies of the US Department of Transportation and guidance of the federal Executive Order 13166.

#### Protection of Non state Discrimination

The MVC also complies with the Public Property Act Massachusetts, MGL c 272 §§ 92a, 98, 98a, which prohibits giving the any distinction, discrimination or restriction on admission or treatment in a place of public accommodation on the basis of race, color, religious creed, national origin, sex, sexual orientation, disability or ancestry. Similarly, the MVC is in accordance with Executive Order 526, section 4 of the Governor, which requires that all programs, activities and services provided, performed, licensed, rented, funded, regulated or contracted by the state shall be conducted without discrimination illegal based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran (including Vietnam War veterans) or background.

#### Additional information

To request additional information about the Title VI and the federal and state obligations related to non-discrimination, please contact:

Curtis Schroeder, Title VI Coordinator  
Martha's Vineyard Commission  
P.O. Box 1447  
Oak Bluffs, MA 02557  
508-693-3453 ext. 12  
Fax: 508-693-7894  
[info@mvcommission.org](mailto:info@mvcommission.org)

Title VI Specialist  
MassDOT, Office of Diversity and Civil Rights (ODCR)  
10 Park Plaza  
Boston, MA 02116  
857-368-8580  
TTY: 857-368-0603  
[MASSDOT.CivilRights@state.ma.us](mailto:MASSDOT.CivilRights@state.ma.us)

## Martha's Vineyard Commission

### Aviso de Direitos de Não Discriminação e Proteções aos Beneficiários

#### Proteções Federais "Título VI/Não Discriminação"

A Comissão de Martha's Vineyard (MVC) realiza seus programas, serviços e atividades em conformidade com as leis federais de não discriminação, incluindo o Título VI da Lei dos Direitos Civis de 1964 (Título VI), a Lei de Restauração dos Direitos Civis de 1987, e os estatutos e regulamentos relacionados. O Título VI proíbe discriminação em programas que recebem assistência do governo federal, e exige que nenhuma pessoa nos Estados Unidos da América deverá, por motivo de raça, cor ou origem nacional (incluindo proficiência limitada em inglês), ser excluída de participar, ser negada benefícios, ou de outro modo ser sujeitada à discriminação em qualquer programa ou atividade que receba assistência federal. Leis federais de não-discriminação relacionadas, administradas pela Administração Federal de Rodovias, pela Administração Federal de Trânsito, ou por ambas, proíbem a discriminação baseada em idade, sexo e deficiência. Essas categorias protegidas são contempladas dentro dos programas Título VI da MVC, consistente com a interpretação e administração federal. Além disso, a MVC fornece um acesso significativo aos seus programas, serviços e atividades a indivíduos com proficiência limitada em inglês, em conformidade com as políticas do Departamento de Transporte dos EUA e orientação da Ordem Executiva federal 13166.

#### Proteções de Não Discriminação do Estado

A MVC também está em conformidade com a Lei de Acomodação Pública de Massachusetts, M.G.L. c 272 §§ 92<sup>a</sup>, 98, 98<sup>a</sup>, que proíbe que se faça qualquer distinção, discriminação ou restrição na admissão ou tratamento em um lugar de acomodação pública, com base em raça, cor, credo religioso, origem nacional, sexo, orientação sexual, deficiência ou antepassados. Da mesma maneira, a MVC está em conformidade com a Ordem Executiva 526, seção 4 do Governador, que exige que todos os programas, atividades e serviços prestados, executados, licenciados, alugados, financiados, regulados ou contratados pelo estado deverão ser conduzidos sem discriminação ilegal baseada em raça, cor, idade, sexo, etnia, orientação sexual, identidade de gênero ou de expressão, religião, credo, antepassados, origem nacional, deficiência, veterano de guerra (incluindo veteranos da guerra do Vietnã) ou antecedentes.

#### Informação Adicional

Para solicitar informações adicionais sobre o Título VI e as obrigações federais e estaduais relacionadas a não discriminação, favor contatar:

Curtis Schroeder, Title VI Coordinator  
Martha's Vineyard Commission  
P.O. Box 1447  
Oak Bluffs, MA 02557  
508-693-3453 ext. 12  
Fax: 508-693-7894  
[info@mvcommission.org](mailto:info@mvcommission.org)

Title VI Specialist  
MassDOT, Office of Diversity and Civil Rights (ODCR)  
10 Park Plaza  
Boston, MA 02116  
857-368-8580  
TTY: 857-368-0603  
MASSDOT.CivilRights@state.ma.us

### **To present a Complaint**

To file a complaint with alleged violations of Title VI, or federal laws relating to non-discrimination, contact the experts in Title VI (above) within 180 days of the alleged occurrence of discriminatory conduct.

To file a complaint alleging a violation of the Massachusetts Public Property Act, contact the Massachusetts Commission Against Discrimination within 300 days of the alleged occurrence of discriminatory conduct, contact:

Massachusetts Commission Against Discrimination (MCAD)  
One Ashburton Place, 6th Floor  
Boston, MA 02109  
617-994-6000  
TTY: 617-994-6196

### **Para Apresentar uma Queixa**

Para registrar uma queixa com alegações de violação do Título VI, ou leis federais relacionadas à não discriminação, contatar os Especialistas em Título VI (acima) dentro de 180 dias da alegada ocorrência da conduta discriminatória.

Para registrar uma queixa alegando a violação da Lei de Acomodação Pública de Massachusetts, contatar a Comissão Contra Discriminação de Massachusetts dentro de 300 dias da alegada ocorrência da conduta discriminatória, contate-nos:

Comissão Contra a Discriminação de Massachusetts(MCAD)  
One Ashburton Place, 6th Floor  
Boston, MA 02109  
617-994-6000  
TTY: 617-994-6196

## Appendix D



# Title VI Complaint Procedures

## Purpose and Applicability

The purpose of this document is to establish procedures for the processing and disposition of both discrimination complaints filed directly with the Massachusetts Department of Transportation (MassDOT) or the Massachusetts Bay Transportation Authority (MBTA), and discrimination complaints that MassDOT/MBTA have the delegated authority to process under Title VI of the Civil Rights Act of 1964 (Title VI) and related state and federal nondiscrimination authorities, including the Americans with Disabilities Act (ADA).

The processing of discrimination complaints will follow the steps outlined below and are further detailed throughout this document.

Step 1: Complainant submits their complaint.

Step 2: MassDOT/MBTA issues the complainant an acknowledgment letter.

Step 3: Complaint is assigned to, and reviewed by, an investigator.

Step 4: Investigator conducts interviews of complainants, witnesses, and the respondent.

Step 5: Investigator reviews the evidence and testimonies to determine whether a violation has occurred.

Step 6: Complainant and Respondent are issued a letter of resolution or a letter of finding and offered appeal rights.

Step 7: Once the appeal period has expired, the investigation is closed.

The procedures describe an administrative process aimed at identifying and eliminating discrimination in federally funded programs and activities. The procedures do not provide an avenue for relief for complainants seeking individual remedies, including punitive damages or compensatory remuneration; they do not prohibit complainants from filing complaints with other state or federal agencies; nor do they deny complainants the right to seek private counsel to address acts of alleged discrimination.

The procedures described in this document apply to MassDOT/MBTA and their subrecipients, contractors, and subcontractors in their administration of federally funded programs and activities.

As part of their efforts to comply with Title VI, subrecipients of federal financial assistance through MassDOT/MBTA are encouraged to adopt these complaint procedures. In so doing, these subrecipients acknowledge their obligation to afford members of the public with an opportunity to file complaints alleging violations of nondiscrimination policies in place across their organization and in their programs, services, and activities. In accordance with federal guidance, subrecipients of transit-related funds understand they have the authority to process Title VI complaints and will inform their recipients, MassDOT/MBTA, of complaints received and the outcome of investigations as the matters are resolved.

Subrecipients of highway-related funds further understand they do not have the authority to investigate Title VI violation claims filed against their organization (where their organization is the respondent or party alleged to have violated Title VI). All such claims will be forwarded to the MassDOT/MBTA Office of Diversity and Civil Rights (ODCR) to determine the appropriate investigative authority. Highway-funding subrecipients retain the right to consider Title VI violation allegations as a matter of Assurance and/or internal policy compliance but are precluded from making determinations as to possible violations of Title VI. MassDOT/MBTA encourages all subrecipients to communicate with ODCR's Title VI Specialists, the Director of Title VI and Accessibility, and/or the Director of Investigations when/if Title VI complaints are received to ensure proper handling.

## Definitions

**Complainant** – A person who files a complaint with MassDOT/MBTA.

**Complaint** – Written, verbal or electronic statement concerning an allegation of discrimination that contains a request for the receiving office to take action. Where a complaint is filed by a person with a disability, the term complaint encompasses alternative formats to accommodate the complainant's disability.

**Discrimination** – That act or inaction, whether intentional or unintentional, through which a person in the United States, solely because of race, color, national origin, or bases covered by other nondiscrimination authorities, such as gender, age, or disability, has been subjected to unequal treatment or disparate impact under any program or activity receiving federal assistance.

**Operating Administrations** – Agencies of the U.S. Department of Transportation, including the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Rail Administration (FRA), the National Highway Traffic Safety Administration (NHTSA), and the Federal Motor Carrier Safety Administration (FMSCA), that fund transportation programs or activities.

**Respondent** – The person, agency, institution, or organization alleged to have engaged in discrimination.

## Filing of Complaints

This section details MassDOT/MBTA's procedures for processing Title VI discrimination complaints (on the basis of race, color, or national origin, including language) and complaints alleging discrimination on the basis of additional federal nondiscrimination provisions (on the basis of age, sex, and disability). Federal law and regulations governing Title VI of the Civil Rights Act of 1964 (Title VI) places the overall coordination authority for the investigation of civil rights complaints in the United States Department of Justice, which works collaboratively with federal agencies that carry out this responsibility. In the transportation sector, this investigative authority rests with the US Department of Transportation (US DOT) and its agencies for the different modes of transportation, including the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). In coordination with USDOT requirements, FHWA and FTA have established regulations and guidance that require recipients and subrecipients of federal financial assistance to establish procedures for processing Title VI complaints filed with these organizations.

The procedures described below, modeled on recommended complaint procedures promulgated by the US Department of Justice (US DOJ), are designed to provide a fair opportunity to have complaints addressed that respect due process for both complainants and respondents. In addition to the formal complaint resolution process detailed herein, MassDOT/MBTA shall take affirmative steps to pursue informal resolution of any and all Title VI complaints, when possible.

## The Complaint Process

### 1. Who can file a complaint?

**ANY** member of the public, along with all MassDOT/MBTA customers, applicants, contractors, or subrecipients who believe that they themselves, a third party, or a class of persons were mistreated or treated unfairly because of their race, color, or national origin (including limited English proficiency) in violation of Title VI of the Civil Rights Act of 1964, related federal and state laws and orders, or MassDOT/MBTA's Anti-Discrimination/Harassment Prevention (ADHP) Policy. Retaliation against a member of the public on the basis of race, color, or national origin is also prohibited under Title VI and the ADHP Policy.

### 2. How do I file a complaint?

A complaint may be filed with the following:

**MassDOT/MBTA Title VI Specialists**

Office of Diversity and Civil Rights – Title VI Unit

10 Park Plaza, Suite 3800

Boston, MA 02116

Phone: (857) 368-8580 or 7-1-1 for Relay Service

Email: [MassDOT.CivilRights@state.ma.us](mailto:MassDOT.CivilRights@state.ma.us) or [MBTAcivilrights@mbta.com](mailto:MBTAcivilrights@mbta.com)

**MassDOT/MBTA, Assistant Secretary and Chief Diversity Officer**

Office of Diversity and Civil Rights – Investigations Unit

10 Park Plaza, Suite 3800

Boston, MA 02116

Phone: (857) 368-8580

Email: [odcrcomplaints@dot.state.ma.us](mailto:odcrcomplaints@dot.state.ma.us)

**MBTA Customer Call Center: (617) 222-3200**

The Call Center staff will seek to obtain basic information about the matter from the caller, and details of the call will be forwarded to the Office of Diversity and Civil Rights for processing according to these procedures.

**U.S. Department of Transportation**

Office of Civil Rights

1200 New Jersey Avenue, SE

Washington, DC 20590

Website: [civilrights.justice.gov/](http://civilrights.justice.gov/)

**Please note:**

- When FTA receives a Title VI complaint regarding MassDOT/MBTA, a subrecipient, or a contractor, the FTA may request the matter be investigated by MassDOT/MBTA.
- If a Title VI complaint is filed with MassDOT that alleges a violation by MassDOT's Highway Division, then it will be forwarded to the local FHWA Division Office which will then forward the complaint to the FHWA Headquarters Office of Civil Rights (HCR) for processing.
- If a Title VI complaint is received by MassDOT that is filed against a subrecipient of the MassDOT Highway Division, then MassDOT may process and investigate the complaint or may refer to HCR for investigation.
- If FMCSA receives a complaint filed against MassDOT, FMCSA will forward the complaint to MassDOT for a written response. This allows MassDOT to either resolve the complaint or to provide a written response to the allegations. The written response is used to determine what steps FMCSA will take to process the complaint.



### **3. What do I need to include in a complaint?**

A Title VI/Nondiscrimination Complaint form is available electronically on the [MassDOT Title VI website](#), the [MBTA Title VI website](#), or in hardcopy at the MassDOT/MBTA Office of Diversity and Civil Rights. Alternatively, a complainant may submit correspondence in an alternative format that should include:

- Your name, signature and, current contact information (i.e., telephone number, email address and postal mailing address);
  - The name and badge number (if known and applicable) of the alleged perpetrator;
  - A description of how, when, and where the alleged prohibited conduct occurred;
  - A detailed description of why you believe you were treated differently;
  - Names and contact information of any witnesses; and
  - Any other information you believe is relevant to your complaint.
- A. In cases where the complainant is unable to provide a written statement, a verbal complaint may be made to the Office of Diversity & Civil Rights (ODCR). Complainants will be interviewed by a Civil Rights Investigator (CRI). If necessary, the CRI will assist the person in converting the verbal complaint to writing. All complaints should be signed by the complainant.
- B. Anonymous complaints may be filed in the same manner. Anonymous complaints shall be investigated in the same manner as any other complaint.
- C. Complaints will be accepted in any recognized language. Multi-lingual complaint forms are available.

### **4. How long do I have to file a complaint?**

- A. A complaint alleging violation of Title VI and/or MassDOT/MBTA's ADHP policy should be filed no later than one hundred and eighty (180) days from the date of the alleged violation.
- B. Complaints alleging violations of state or federal law must be filed within the time frames established by statute, regulation, or case law – in certain instances up to three hundred (300) days from the date of the alleged violation.

### **5. How will my complaint be handled?**

When a complaint is received, it is assigned to a Civil Rights Investigator (CRI). The CRI will:

- A. Determine Jurisdiction: ODCR has jurisdiction if the complaint:
- 1) involves a statement or conduct that violates:

- i. MassDOT/MBTA's legal obligation and commitment to prevent discrimination, harassment, or retaliation on the basis of a protected characteristic with regard to any aspect of the Agency's service to the public;
- ii. or  
The commitment made by subrecipients and contractors working with MassDOT/MBTA to adhere to MassDOT/MBTA policies;

AND

- 2) is timely filed.
- B. Acknowledge receipt of the complaint and provide jurisdictional determination within ten (10) business days of receipt of the complaint.
  - 1) If the CRI determines that any complaint does not have the potential to establish a civil rights violation, then the CRI shall notify the complainant and Title VI Specialist in writing of its finding and the matter shall be closed.
- C. Conduct a thorough investigation of the allegations contained in the complaint in accordance with the MassDOT/MBTA Internal Complaint Procedures.

## 6. Findings and Recommendations?

At the conclusion of the investigation, the CRI will transmit to the complainant and the respondent one of the following three letters based on the findings:

- A. A letter of resolution that explains the steps the respondent has taken or will take to comply with Title VI.
- B. A letter of finding that is issued when the respondent is found to be in compliance with Title VI. This letter will include an explanation of why the respondent was found to be in compliance and provide notification of the complainant's appeal rights.
- C. A letter of finding that is issued when the respondent is found to be in noncompliance.

This letter will include each violation referenced as to the applicable regulations, a brief description of findings/recommendations, the consequences of failure to achieve voluntary compliance, and an offer of assistance in devising a remedial plan for compliance, if appropriate.

## 7. Can I appeal a Finding?

If a complainant or respondent does not agree with the findings of the CRI then he/she/they may appeal to the Assistant Secretary and Chief Diversity Officer. The appealing party must provide any **new information that was not readily available**

**during the course of the original investigation that would lead MassDOT/MBTA to reconsider its determinations.** The request for an appeal and any new information must be submitted within thirty (30) days of the date the letter of finding was transmitted. After reviewing this information, MassDOT/MBTA will respond either by issuing a revised letter of resolution or by informing the appealing party that the original letter of resolution or finding remains in force.



Maura Healey, Governor  
Kimberley Driscoll, Lieutenant Governor  
Gina Fiandaca, Secretary & CEO



## Procedimentos de Queixa sob o Título VI

### Objetivo e aplicabilidade

O objetivo deste documento é estabelecer procedimentos para o processamento e disposição tanto de queixas de discriminação apresentadas diretamente ao Departamento de Transportes de Massachusetts (MassDOT) ou à Autoridade de Transporte da Baía de Massachusetts (MBTA), quanto de queixas de discriminação que o MassDOT/MBTA tenha autoridade delegada de processar sob o Título VI da Lei de Direitos Civis de 1964 (Título VI) e sob autoridades não-discriminatórias estaduais e federais relacionadas, incluindo a Lei Americana de Portadores de Deficiência (ADA).

O processamento das queixas de discriminação seguirá os passos descritos abaixo e são especificados mais detalhadamente ao longo deste documento.

Passo 1: O reclamante apresenta sua queixa.

Passo 2: O MassDOT/MBTA emite ao reclamante uma carta de reconhecimento.

Passo 3: A queixa é atribuída a um investigador e analisada por ele.

Passo 4: O investigador entrevista os reclamantes, testemunhas e réus.

Passo 5: O investigador analisa as provas e os testemunhos para determinar se ocorreu uma violação.

Passo 6: O reclamante e o réu recebem uma carta de resolução ou uma carta de constatação e são oferecidos direitos de apelação.

Passo 7: Uma vez expirado o prazo de apelação, a investigação é encerrada.

Os procedimentos descrevem um processo administrativo destinado a identificar e eliminar a discriminação em programas e atividades financiadas pelo governo federal. Os procedimentos não oferecem um meio de alívio para os reclamantes que buscam recursos individuais, incluindo danos punitivos ou remuneração compensatória; nem proíbem os reclamantes de apresentar queixas a outros órgãos estaduais ou federais; nem negam aos reclamantes o direito de procurar um advogado particular para tratar de supostos atos de discriminação.

Os procedimentos descritos neste documento se aplicam ao MassDOT/MBTA e seus sub-recipientes, empreiteiros e subcontratados que administram programas e atividades com financiamento federal.

Como parte dos esforços para cumprir o Título VI, os sub-recipientes de assistência financeira federal através do MassDOT/MBTA são encorajados a adotar estes procedimentos de queixa. Ao fazer isso, esses sub-recipientes reconhecem a obrigação de dar ao público a oportunidade de apresentar queixas alegando violações das políticas de não-discriminação em vigor em toda a sua organização, programas, serviços e atividades. Segundo orientação federal, os sub-recipientes de fundos relacionados ao trânsito entendem que têm a autoridade para processar queixas do Título VI e que

informarão os réus, MassDOT/MBTA, das queixas recebidas e do resultado das investigações à medida que são resolvidos.

Sub-recipientes de fundos relacionados a rodovias entendem ainda que não têm autoridade para investigar queixas de violação do Título VI apresentadas contra sua organização (quando a organização é o réu alegado de ter violado o Título VI). Todas essas reivindicações serão encaminhadas ao Escritório de Diversidade e Direitos Cívicos do MassDOT/MBTA (ODCR) para determinar a autoridade de investigação apropriada. Os sub-recipientes de financiamento de rodovias mantêm o direito de considerar as alegações de violação do Título VI como uma questão de Garantia e/ou cumprimento de política interna, mas estão impedidos de fazer determinações quanto a possíveis violações do Título VI. O MassDOT/MBTA incentiva todos os sub-recipientes a se comunicarem com Especialistas em Título VI da ODCR, o Diretor de Título VI e Acessibilidade, e/ou o Diretor de Investigações quando/se forem recebidas queixas de Título VI para garantir um tratamento adequado.

## Definições

**Reclamante** - Uma pessoa que apresenta uma queixa ao MassDOT/MBTA.

**Queixa** - Declaração escrita, verbal ou eletrônica relativa a uma alegação de discriminação que contém um pedido para que o escritório receptor tome providências. Quando uma queixa é apresentada por uma pessoa com deficiência, o termo queixa engloba formatos alternativos para acomodar a deficiência do reclamante.

**Discriminação** - O ato ou inação, seja intencional ou não intencional, através do qual uma pessoa nos Estados Unidos, apenas por causa de sua raça, cor, origem nacional ou bases cobertas por outras autoridades não discriminatórias, tais como sexo, idade ou deficiência, foi sujeita a tratamento desigual ou impacto desigual sob qualquer programa ou atividade que recebe assistência federal.

**Administrações operacionais** - Agências do Departamento de Transporte dos EUA, incluindo a Administração Federal de Rodovias (FHWA), a Administração Federal de Trânsito (FTA), a Administração Federal de Ferrovias (FRA), a Administração Nacional de Segurança do Trânsito Rodoviário (NHTSA), e a Administração Federal de Segurança do Transporte Rodoviário (FMCSA), que financiam programas ou atividades de transporte.

**Réu** - A pessoa, agência, instituição ou organização supostamente envolvida em discriminação.

## Apresentação de queixas

Esta seção detalha os procedimentos do MassDOT/MBTA para o processamento de queixas de discriminação sob o Título VI (com base em raça, cor ou origem nacional, incluindo idioma) e queixas alegando discriminação com base em disposições federais adicionais de não discriminação (com base em idade, sexo e deficiência). A lei federal e os regulamentos que regem o Título VI da Lei de Direitos Cívicos de 1964 (Título VI) coloca a autoridade de coordenação geral para a investigação de queixas de direitos civis no Departamento de Justiça dos Estados Unidos, que trabalha em colaboração com os órgãos federais que executam essa responsabilidade. No setor de transportes, essa autoridade investigativa fica com o Departamento de Transportes dos Estados Unidos (US DOT) e suas agências para os diferentes meios de transporte, incluindo a Administração Federal de Rodovias (FHWA) e a

Administração Federal de Trânsito (FTA). Em coordenação com exigências do USDOT, a FHWA e FTA estabeleceram regulamentos e orientações que exigem que recipientes e sub-recipientes de assistência financeira federal estabeleçam procedimentos para o processamento de queixas sob o Título VI apresentadas a essas organizações.

Os procedimentos descritos abaixo, baseados nos recomendados procedimentos de queixa promulgados pelo Departamento de Justiça dos EUA (US DOJ), são projetados para proporcionar uma oportunidade justa de ter queixas tratadas que dizem respeito ao devido processo tanto para os reclamantes quanto para os réus. Além do processo formal de resolução de queixa aqui detalhado, o MassDOT/MBTA tomará medidas afirmativas para buscar resoluções informais de toda e qualquer queixa sob o Título VI, quando possível.

## O processo de queixas

### 1. Quem pode apresentar uma queixa?

**QUALQUER** membro do público, juntamente com todos os clientes do MassDOT/MBTA, candidatos, contratantes ou sub-recipientes que acreditam que eles mesmos, um terceiro ou uma classe de pessoas foram maltratados ou tratados injustamente por causa de sua raça, cor ou origem nacional (incluindo proficiência limitada em inglês) em violação ao Título VI da Lei de Direitos Civis de 1964, às leis e ordens federais e estaduais relacionadas, ou à Política de anti-discriminação/prevenção de assédio (ADHP) do MassDOT/MBTA. A retaliação contra um membro do público com base em raça, cor ou origem nacional também é proibida sob os termos do Título VI e da Política ADHP.

### 2. Como faço para registrar uma queixa?

Uma queixa pode ser apresentada perante as seguintes agências:

#### **MassDOT/MBTA Title VI Specialists**

Office of Diversity and Civil Rights – Title VI Unit

10 Park Plaza, Suite 3800

Boston, MA 02116

Fone: (857) 368-8580 ou 7-1-1 para o Serviço de Relay

E-mail: [MassDOT.CivilRights@state.ma.us](mailto:MassDOT.CivilRights@state.ma.us) ou [MBTAcivilrights@mbta.com](mailto:MBTAcivilrights@mbta.com)

#### **MassDOT/MBTA, Assistant Secretary & Chief Diversity Officer**

Office of Diversity and Civil Rights – Investigations Unit

10 Park Plaza, Suite 3800

Boston, MA 02116

Fone: (857) 368-8580

E-mail: [odcrcomplaints@dot.state.ma.us](mailto:odcrcomplaints@dot.state.ma.us)

#### **Central de Atendimento ao Cliente da MBTA: (617) 222-3200**

Os funcionários do call center procurarão obter informações básicas sobre o assunto junto ao chamador, e os detalhes da chamada serão encaminhados ao Escritório de Diversidade e Direitos Civis para processamento de acordo com estes procedimentos.

#### **U.S. Department of Transportation**

Office of Civil Rights  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
Site: [civilrights.justice.gov/](http://civilrights.justice.gov/)

### Favor notar:

- Quando a FTA recebe uma queixa de Título VI relativa ao MassDOT/MBTA, ou a um sub-recipiente ou um empreiteiro, a FTA pode solicitar que o assunto seja investigado pelo MassDOT/MBTA.
- Se uma queixa de Título VI é apresentada ao MassDOT que alega uma violação pela Divisão de Rodovias do MassDOT, ela será encaminhada ao escritório local da Divisão FHWA que então encaminhará a queixa ao Escritório Central de Direitos Cívicos (HCR) da FHWA para processamento.
- Se uma queixa de Título VI é recebida pelo MassDOT que foi apresentada contra um sub-recipiente da Divisão de Rodovias da MassDOT, então o MassDOT poderá processar e investigar a queixa ou poderá recorrer ao HCR para investigação.
- Se a FMCSA receber uma queixa apresentada contra o MassDOT, a FMCSA encaminhará a queixa ao MassDOT para uma resposta por escrito. Isto permite que o MassDOT ou resolva a queixa ou forneça uma resposta por escrito às alegações. A resposta por escrito é usada para determinar quais passos a FMCSA tomará para processar a queixa.

### 3. O que eu preciso incluir em uma queixa?

Um formulário de Queixa de Título VI/Não Discriminação está disponível eletronicamente no [Site do Title VI do MassDOT](#), no [Site do Title VI da MBTA](#), ou em cópia impressa no Escritório de Diversidade e Direitos Cívicos do MassDOT/MBTA. Alternativamente, um reclamante pode apresentar correspondência em formato alternativo que inclua:

- Seu nome, assinatura e informações de contato atuais (ou seja, número de telefone, endereço de e-mail e endereço postal);
  - O nome e número do crachá (se conhecido e aplicável) do suposto infrator;
  - Uma descrição de como, quando e onde ocorreu a alegada conduta proibida;
  - Uma descrição detalhada do motivo pelo qual você acredita ter sido tratado de forma diferente;
  - Nomes e informações de contato de quaisquer testemunhas; e
  - Qualquer outra informação que você acredita ser relevante para sua queixa.
- A. Nos casos em que o reclamante não puder fornecer uma declaração escrita, uma queixa verbal pode ser feita ao Escritório de Diversidade e Direitos Cívicos (ODCR). Os reclamantes serão entrevistados por um Investigador de Direitos Cívicos (CRI). Se necessário, o CRI ajudará a pessoa a converter a queixa verbal em escrita. Todas as queixas devem ser assinadas pelo reclamante.
- B. Queixas anônimas podem ser apresentadas da mesma forma. As queixas anônimas devem ser investigadas da mesma forma que qualquer outra queixa.
- C. Queixas serão aceitas em qualquer língua reconhecida. Estão disponíveis formulários de queixa em vários idiomas.

#### 4. Quanto tempo tenho que apresentar uma queixa?

- A. Uma queixa alegando violação do Título VI e/ou da política ADHP do MassDOT/MBTA deve ser apresentada no máximo cento e oitenta (180) dias a partir da data da suposta violação.
- B. Queixas alegando violações da lei estadual ou federal devem ser apresentadas dentro dos prazos estabelecidos por lei, regulamento ou jurisprudência - em certos casos até trezentos (300) dias a partir da data da suposta violação.

#### 5. Como a minha queixa será tratada?

Quando uma queixa é recebida, ela é atribuída a um Investigador de Direitos Civis (CRI). O CRI:

- A. Determinará a jurisdição: a ODCR tem jurisdição se a queixa:
  - 1) envolve uma declaração ou conduta que viola:
    - i. A obrigação legal e o compromisso do MassDOT/MBTA de impedir a discriminação, o assédio ou a retaliação com base em uma característica protegida em relação a qualquer aspecto do serviço da Agência ao público;
    - ii. ou  
O compromisso assumido por sub-recipientes e empreiteiros que trabalham com o MassDOT/MBTA de aderir às políticas do MassDOT/MBTA;
  - E
  - 2) é apresentada em tempo hábil.
- B. Confirmará o recebimento da queixa e fornecerá uma determinação jurisdicional dentro de dez (10) dias úteis a partir do recebimento da queixa.
  - 1) Se o CRI determinar que a queixa não tem o potencial de se enquadrar como violação de direitos civis, o CRI deverá notificar o reclamante e o Especialista em Título VI por escrito de sua constatação e o assunto deverá ser encerrado.
- C. Conduzirá uma investigação completa das alegações contidas na queixa de acordo com os Procedimentos Internos de Queixa do MassDOT/MBTA.

#### 6. Constatações e recomendações?

No fim da investigação, a CRI transmitirá ao reclamante e ao réu uma das três cartas a seguir, com base nas constatações:

- A. Uma carta de resolução que explica os passos que o réu tomou ou tomará para cumprir com o Título VI.
- B. Uma carta de constatação que é emitida quando o réu é considerado em conformidade com o Título VI. Esta carta incluirá uma explicação do motivo pelo qual o réu foi considerado em conformidade e fornecerá notificação dos direitos de apelação do reclamante.
- C. Uma carta de constatação que é emitida quando o réu é considerado em desacordo.



Esta carta incluirá todas as violações referidas quanto aos regulamentos aplicáveis, uma breve descrição das constatações/recomendações, as consequências do não cumprimento voluntário e uma oferta de assistência na elaboração de um plano de remediação para o cumprimento, se apropriado.

#### 7. Posso apelar uma constatação?

Se o reclamante ou réu não concordar com as constatações do CRI, ele(a) poderá recorrer ao Secretário Assistente e ao Diretor de Diversidade. A parte apelante deve fornecer qualquer **nova informação que não foi prontamente disponível durante a investigação original e que levaria o MassDOT/MBTA a reconsiderar suas determinações**. O pedido de apelo e qualquer nova informação devem ser apresentados dentro de trinta (30) dias a partir da data em que a carta de constatação foi transmitida. Após a revisão dessas informações, o MassDOT/MBTA responderá ou emitindo uma carta de resolução revisada ou informando à parte apelante que a carta de resolução ou constatação original permanece em vigor.

# Appendix E

## Discrimination Complaint Form

Please provide the following information in order for us to process your complaint. This form is available in alternate formats and multiple languages. Should you require these services or any other assistance in completing this form, please let us know.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Numbers: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) \_\_\_\_\_

Email Address: \_\_\_\_\_

### Please indicate the nature of the alleged discrimination:

Categories protected under *Title VI of the Civil Rights Act of 1964*:

Race  Color  National Origin (including limited English proficiency)

Additional categories protected under related Federal and/or State laws/orders:

Disability  Age  Sex  Sexual Orientation  Religion  Ancestry

Gender  Ethnicity  Gender Identity  Gender Expression  Creed

Veteran's Status  Background  Low-Income

### Who do you allege was the victim of discrimination?

You  A Third Party Individual  A Class of Persons

### Name of individual and/or organization you allege is discriminating:

\_\_\_\_\_

**Do you consent** to the investigator sharing your name and other personal information with other parties to this matter when doing so will assist in investigating and resolving your complaint?

Yes  No





Maura Healey, Governor  
Kimberley Driscoll, Lieutenant Governor  
Gina Fiandaca, Secretary & CEO



## Formulário de Reclamação por Discriminação

Por favor, preencha com as seguintes informações para que possamos processar sua reclamação. Este formulário está disponível em formatos alternativos e em múltiplas línguas. Se você precisar de outro tipo de formulário ou de auxílio no preenchimento, por favor, avise um de nossos funcionários.

Nome: \_\_\_\_\_

Endereço: \_\_\_\_\_

Números de Telefone:

(Res.) \_\_\_\_\_ (Com.) \_\_\_\_\_ (Celular) \_\_\_\_\_

Endereço de

Email: \_\_\_\_\_

### Por favor, indique a natureza da discriminação alegada:

Categorias protegidas sob o *Título VI da Lei de Direitos Civis de 1964*:

Raça  Cor  Origem Nacional (incluindo proficiência limitada do inglês)

Categorias adicionais protegidas sob leis e/ou disposições federais e estaduais:

Deficiência  Idade  Sexo  Orientação Sexual  Religião   
Antepassados

Gênero  Etnia  Identidade de Gênero  Expressão de Gênero   
Credo

Condição de Veterano  Antecedentes  De baixa renda

### Quem você alega ter sido a vítima da discriminação?

Você  Terceiro  Uma Classe de Pessoas



Caso afirmativo, por favor,  
identifique: \_\_\_\_\_

**Você protocolou uma ação judicial relativa a esta reclamação?**

Sim     Não

Caso afirmativo, por favor, forneça uma cópia da ação.

Assinatura: \_\_\_\_\_

Data: \_\_\_\_\_

**Envie pelos correios para:** Title VI Coordinator, MassDOT Office of Diversity  
and Civil Rights, Suite 3800, 10 Park Plaza, Boston, MA 02116

**Envie por email para:**        [MassDOT.CivilRights@state.ma.us](mailto:MassDOT.CivilRights@state.ma.us)

## Appendix F





**Martha's Vineyard Commission**

**Report of Title VI Statute Complaints and Lawsuits**

<b>Date of Taken Investigation</b>	<b>Summary of Complaint/Investigation</b>	<b>Status, Disposition, and Action</b>
<b>NONE</b>		

## Appendix G

# TITLE VI/NONDISCRIMINATION ASSURANCES

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*The United States Department of Transportation (U.S. DOT) Order No. 1050.2A*

The Massachusetts Department of Transportation (MassDOT) (hereinafter referred to as the “Recipient”) hereby agrees that, as a condition to receiving any Federal financial assistance from the U. S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

## STATUTORY/REGULATORY AUTHORITIES

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- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin (including limited English proficiency));
- 49 C.F.R. Part 21 (entitled *Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites are referred to as the “Acts” and “Regulations,” respectively.

## GENERAL ASSURANCES

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In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurances that:

*No person in the United States shall, on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from U. S. DOT, including FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

## SPECIFIC ASSURANCES

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More specifically, and without limiting the above general Assurance, the Recipient gives the following Assurances:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all its programs and activities and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*The Massachusetts Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby affirmatively ensures that for any contract entered into pursuant to this advertisement, all bidders, including disadvantaged business enterprises, will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin in consideration for an award.*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to the Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith for the duration of Recipient ownership of the facility and future deeds, leases, licenses, permits, or similar transfers where the use of the facility remains transportation related (see Specific Assurance #8, below).
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 will extend to rights to space on, over, or under such property.

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program (Appendix C); and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program (Appendix D).
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 will provide for such methods of administration for the program 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 recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements 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.

By signing this Assurance, the Massachusetts Department of Transportation also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by FHWA. You must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Massachusetts Department of Transportation gives this Assurance in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal-aid Highway Program. This Assurance is binding on the Massachusetts Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the Federal-aid Highway Program. The person signing below is authorized to sign this Assurance on behalf of the Recipient.

**SIGNED FOR THE RECIPIENT:**



2/15/2021

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Jamey Tesler

Date

Acting Secretary/CEO

Massachusetts Department of Transportation

## **SUBRECIPIENT TITLE VI/NONDISCRIMINATION ASSURANCES**

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The Martha's Vineyard Commission (hereinafter referred to as the "Sub-Recipient"), hereby agrees that, as a condition of receiving any Federal financial assistance from the United States Department of Transportation (U. S. DOT), Federal Highway Administration (FHWA), from the Commonwealth of Massachusetts, through its Department of Transportation (Recipient), it is subject to and must comply with the Acts and Regulations detailed in this document.

This Assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the Department of Transportation under the FHWA Program and is binding on it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA Programs. The person or persons whose signature appears below are authorized to sign this assurance on behalf of the Sub-Recipient.

### **SIGNED FOR THE SUB-RECIPIENT:**



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(Signature & Date)



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(Print Name & Title)

## APPENDIX A

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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 (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Massachusetts Department of Transportation (MassDOT) or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, 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 will so certify to MassDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Nondiscrimination provisions of this contract, MassDOT will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.



6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as MassDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request MassDOT to enter into any litigation to protect the interests of MassDOT. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

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### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

*“Now, therefore, the U.S. Department of Transportation (hereinafter referred to as “U.S. DOT”), as authorized by law, and upon the condition that the Massachusetts Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with Title 23, U.S.C., the Regulations for the Administration of the above statute, and the policies and procedures prescribed by the Federal Highway Administration (hereinafter referred to as “FHWA”) of the U.S. DOT in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. DOT 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 Massachusetts Department of Transportation all the right, title and interest of the U.S. DOT 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 Massachusetts Department of Transportation and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the Massachusetts Department of Transportation, its successors and assigns.*

*The Massachusetts Department of Transportation, 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 will on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed, and;*

*(2) that the Massachusetts Department of Transportation will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and;*

*(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, U.S. DOT will have a right to enter or re-enter said lands and facilities on said land, and that above-described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. DOT and its assigns as such interest existed prior to this instruction.\**

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\* 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.

## APPENDIX C

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### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Massachusetts Department of Transportation, pursuant to the provisions of Assurance 7a:

1. *The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, 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:*
  - a. *In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.*
2. *With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the Massachusetts Department of Transportation will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\**

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\* 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.

3. *With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Massachusetts Department of Transportation will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Massachusetts Department of Transportation and its assigns.\**

## APPENDIX D

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### CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in all deeds, licenses, leases, permits, or similar instruments/agreements entered into by the Massachusetts Department of Transportation pursuant to the provisions of Assurance 7b.

1. *“The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, 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 (1) no person on the ground of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status will be excluded from participation in, denied the benefits of, or otherwise be 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, national origin (including limited English proficiency), age, sex, disability, or low-income status will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.*
2. *With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above non-discrimination covenants, the Massachusetts Department of Transportation will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\**
3. *With respect to deeds, in the event of breach of any of the non-discrimination covenants, the [description of the property] will there*

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\* Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.

*upon revert to and vest in and become the absolute property of the  
Massachusetts Department of Transportation and its assigns.\**

## APPENDIX E

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During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor,” which includes consultants) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **PERTINENT NON-DISCRIMINATION AUTHORITIES:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects)
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 *et seq.*) (prohibits discrimination on the basis of sex)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability) and 49 CFR Part 27
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age)
- Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex)
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of Federal-Aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not)
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities)
- The Federal Aviation Administration’s Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)



- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations)
- Executive Order 13166, Improving Access to Services for People with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100)
- Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 *et seq.*) (prohibits discrimination on the basis of sex in education programs or activities)

## Appendix H

*Not every provision of every certification will apply to every applicant or award. If a provision of a certification does not apply to the applicant or its award, FTA will not enforce that provision. Refer to FTA's accompanying Instructions document for more information.*

*Text in italics is guidance to the public. It does not have the force and effect of law, and is not meant to bind the public in any way. It is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.*

## **CATEGORY 1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EVERY APPLICANT.**

*All applicants must make the certifications in this category.*

### **1.1. Standard Assurances.**

*The certifications in this subcategory appear as part of the applicant's registration or annual registration renewal in the System for Award Management (SAM.gov) and on the Office of Management and Budget's standard form 424B "Assurances—Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.*

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
- (b) Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- (c) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- (d) Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- (e) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

- (f) Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
- (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, as effectuated by U.S. DOT regulation 49 CFR Part 21;
  - (2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 CFR Part 25;
  - (3) Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance from FTA because of race, color, religion, national origin, sex, disability, or age.
  - (4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 CFR Part 27;
  - (5) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;
  - (6) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
  - (7) The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - (8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
  - (9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
  - (10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
  - (11) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- (g) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“Uniform Act”) (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 CFR Part 24.

- (h) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- (i) Will comply, as applicable, with the provisions of the Davis–Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.
- (j) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- (k) Will comply with environmental standards which may be prescribed pursuant to the following:
  - (1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
  - (2) Notification of violating facilities pursuant to EO 11738;
  - (3) Protection of wetlands pursuant to EO 11990;
  - (4) Evaluation of flood hazards in floodplains in accordance with EO 11988;
  - (5) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
  - (6) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);
  - (7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
  - (8) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).
- (l) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- (m) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).
- (n) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- (o) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded

animals held for research, teaching, or other activities supported by this award of assistance.

- (p) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- (q) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Subpart F, “Audit Requirements”, as adopted and implemented by U.S. DOT at 2 CFR Part 1201.
- (r) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.
- (s) Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from:
  - (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;
  - (2) Procuring a commercial sex act during the period of time that the award is in effect; or
  - (3) Using forced labor in the performance of the award or subawards under the award.

## **1.2. Standard Assurances: Additional Assurances for Construction Projects.**

*This certification appears on the Office of Management and Budget’s standard form 424D “Assurances—Construction Programs” and applies specifically to federally assisted projects for construction. This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.*

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
- (b) Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.
- (c) Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work confirms with the approved plans and specifications, and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

**1.3. Procurement.**

*The Uniform Administrative Requirements, 2 CFR § 200.324, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.*

The applicant certifies that its procurement system complies with:

- (a) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, particularly 2 CFR §§ 200.317–200.326 “Procurement Standards;
- (b) Federal laws, regulations, and requirements applicable to FTA procurements; and
- (c) The latest edition of FTA Circular 4220.1 and other applicable Federal guidance.

**1.4. Suspension and Debarment.**

*Pursuant to Executive Order 12549, as implemented at 2 CFR Parts 180 and 1200, prior to entering into a covered transaction with an applicant, FTA must determine whether the applicant is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each applicant regarding the applicant’s exclusion status. 2 CFR § 180.300. Additionally, each applicant must disclose any information required by 2 CFR § 180.335 about the applicant and the applicant’s principals prior to entering into an award agreement with FTA. This certification serves both purposes.*

The applicant certifies, to the best of its knowledge and belief, that the applicant and each of its principals:

- (a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
- (b) Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

- (c) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph (b) of this certification;
- (d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

**1.5. Coronavirus Response and Relief Supplemental Appropriations Act, 2021, and CARES Act Funding.**

The applicant certifies:

- (a) To the maximum extent possible, funds made available under title IV of division M of the Consolidated Appropriations Act, 2021 (Public Law 116–260), and in title XII of division B of the CARES Act (Public Law 116–136; 134 Stat. 599) shall be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation); or
- (a) The applicant certifies that the applicant has not furloughed any employees.

**1.6. American Rescue Plan Act Funding.**

The applicant certifies:

- (a) Funds made available by Section 3401(a)(2)(A) of the American Rescue Plan Act of 2021 (Public Law 117-2) shall be directed to payroll and operations of public transportation (including payroll and expenses of private providers of public transportation); or
- (b) The applicant certifies that the applicant has not furloughed any employees.

**CATEGORY 2. PUBLIC TRANSPORTATION AGENCY SAFETY PLANS**

*This certification is required of each applicant under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), each rail operator that is subject to FTA’s state safety oversight programs, and each State that is required to draft and certify a public transportation agency safety plan on behalf of a small public transportation provider pursuant to 49 CFR § 673.11(d). This certification is required by 49 U.S.C. § 5329(d)(1) and 49 CFR § 673.13.*

*This certification does not apply to any applicant that receives financial assistance from FTA exclusively under the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or combination of these two programs.*

If the applicant is an operator, the applicant certifies that it has established a public transportation agency safety plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673.



If the applicant is a State, the applicant certifies that:

- (a) It has drafted a public transportation agency safety plan for each small public transportation provider within the State, unless the small public transportation provider provided notification to the State that it was opting out of the State-drafted plan and drafting its own public transportation agency safety plan; and
- (b) Each small public transportation provider within the State has a public transportation agency safety plan that has been approved by the provider's Accountable Executive (as that term is defined at 49 CFR § 673.5) and Board of Directors or Equivalent Authority (as that term is defined at 49 CFR § 673.5).

### **CATEGORY 3. TAX LIABILITY AND FELONY CONVICTIONS.**

*If the applicant is a business association (regardless of for-profit, not for-profit, or tax exempt status), it must make this certification. Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. E.g., Consolidated Appropriations Act, 2021, Pub. L. 116-260, div. E, title VII, §§ 744–745. U.S. DOT Order 4200.6 defines a “corporation” as “any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association”, and applies the restriction to all tiers of subawards. As prescribed by U.S. DOT Order 4200.6, FTA requires each business association applicant to certify as to its tax and felony status.*

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

- (a) It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (b) It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

### **CATEGORY 4. LOBBYING.**

*If the applicant will apply for a grant or cooperative agreement exceeding \$100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant's lobbying activities. This certification is required by 49 CFR § 20.110 and app. A to that part.*

*This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 CFR Part 20.*

#### **4.1. Certification for Contracts, Grants, Loans, and Cooperative Agreements.**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **4.2. Statement for Loan Guarantees and Loan Insurance.**

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### **CATEGORY 5. PRIVATE SECTOR PROTECTIONS.**

*If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.*

#### **5.1. Charter Service Agreement.**

*To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 CFR § 604.4.*

The applicant agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR Part 604, the terms and conditions of which are incorporated herein by reference.

#### **5.2. School Bus Agreement.**

*To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 CFR § 605.15.*

- (a) If the applicant is not authorized by the FTA Administrator under 49 CFR § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
  - (1) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
  - (2) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
- (b) If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 CFR § 605.11, the applicant agrees as follows:

- (1) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
- (2) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
- (3) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
- (4) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

#### **CATEGORY 6. TRANSIT ASSET MANAGEMENT PLAN.**

*If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).*

The applicant certifies that it is in compliance with 49 CFR Part 625.

#### **CATEGORY 7. ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING.**

##### **7.1. Rolling Stock Buy America Reviews.**

*If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 CFR § 663.7.*

The applicant certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 CFR Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 CFR Part 663.

##### **7.2. Bus Testing.**

*If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 CFR § 665.7.*

The applicant certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 CFR Part 665. The applicant has received or will

receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

### **CATEGORY 8. URBANIZED AREA FORMULA GRANTS PROGRAM.**

*If the applicant will apply for an award under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), or any other program or award that is subject to the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310); “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)); projects that will receive an award authorized by the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) (23 U.S.C. §§ 601–609) or State Infrastructure Bank Program (23 U.S.C. § 610) (see 49 U.S.C. § 5323(o)); formula awards or competitive awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(a) and (b)); or low or no emission awards to any area under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(c)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5307(c)(1).*

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out the program of projects (developed pursuant 49 U.S.C. § 5307(b)), including safety and security aspects of the program;
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities;
- (c) Will maintain equipment and facilities in accordance with the applicant’s transit asset management plan;
- (d) Will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—
  - (1) Senior;
  - (2) Individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and
  - (3) Individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. §§ 401 et seq., and 1395 et seq.);
- (e) In carrying out a procurement under 49 U.S.C. § 5307, will comply with 49 U.S.C. §§ 5323 (general provisions) and 5325 (contract requirements);
- (f) Has complied with 49 U.S.C. § 5307(b) (program of projects requirements);

- (g) Has available and will provide the required amounts as provided by 49 U.S.C. § 5307(d) (cost sharing);
- (h) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning);
- (i) Has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;
- (j) Either—
  - (1) Will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under 49 U.S.C. § 5336; or
  - (2) Has decided that the expenditure for security projects is not necessary;
- (k) In the case of an applicant for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under 49 U.S.C. § 5307 for associated transit improvements as defined in 49 U.S.C. § 5302; and
- (l) Will comply with 49 U.S.C. § 5329(d) (public transportation agency safety plan).

#### **CATEGORY 9. FORMULA GRANTS FOR RURAL AREAS.**

*If the applicant will apply for funds made available to it under the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), it must make this certification. Paragraph (a) of this certification helps FTA make the determinations required by 49 U.S.C. § 5310(b)(2)(C). Paragraph (b) of this certification is required by 49 U.S.C. § 5311(f)(2). Paragraph (c) of this certification, which applies to funds apportioned for the Appalachian Development Public Transportation Assistance Program, is necessary to enforce the conditions of 49 U.S.C. § 5311(c)(2)(D).*

- (a) The applicant certifies that its State program for public transportation service projects, including agreements with private providers for public transportation service—
  - (1) Provides a fair distribution of amounts in the State, including Indian reservations; and
  - (2) Provides the maximum feasible coordination of public transportation service assisted under 49 U.S.C. § 5311 with transportation service assisted by other Federal sources; and

- (b) If the applicant will in any fiscal year expend less than 15% of the total amount made available to it under 49 U.S.C. § 5311 to carry out a program to develop and support intercity bus transportation, the applicant certifies that it has consulted with affected intercity bus service providers, and the intercity bus service needs of the State are being met adequately.
- (c) If the applicant will use for a highway project amounts that cannot be used for operating expenses authorized under 49 U.S.C. § 5311(c)(2) (Appalachian Development Public Transportation Assistance Program), the applicant certifies that—
  - (1) It has approved the use in writing only after providing appropriate notice and an opportunity for comment and appeal to affected public transportation providers; and
  - (2) It has determined that otherwise eligible local transit needs are being addressed.

**CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS AND THE EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM.**

*If the applicant will apply for an award under any subsection of the Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), including an award made pursuant to the FAST Act’s Expedited Project Delivery for Capital Investment Grants Pilot Program (Pub. L. 114-94, div. A, title III, § 3005(b)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5309(c)(2) and Pub. L. 114-94, div. A, title III, § 3005(b)(3)(B).*

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
- (c) Will maintain equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan; and
- (d) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning).

**CATEGORY 11. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.**

*If the applicant is in an urbanized area and will apply for an award under subsection (a) (formula grants), subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Urbanized Area Formula*

*Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.*

*If the applicant is in a rural area and will apply for an award under subsection (a) (formula grants), subsection (b) (bus and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 9 for Formula Grants for Rural Areas (49 U.S.C. § 5311). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.*

*Making this certification will incorporate by reference the applicable certifications in Category 8 or Category 9.*

*If the applicant will receive a competitive award under subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) related to zero emissions vehicles or related infrastructure, it must make the following certification. This certification is required by 49 U.S.C. § 5339(d).*

The applicant will use 5 percent of grants related to zero emissions vehicles (as defined in subsection (c)(1)) or related infrastructure under subsection (b) or (c) to fund workforce development training as described in section 49 U.S.C. § 5314(b)(2) (including registered apprenticeships and other labor-management training programs) under the recipient's plan to address the impact of the transition to zero emission vehicles on the applicant's current workforce; or the applicant certifies a smaller percentage is necessary to carry out that plan.

#### **CATEGORY 12. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.**

*If the applicant will apply for an award under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. § 5310), it must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5310(e)(1). Making this certification will incorporate by reference the certification in Category 8, except that FTA has determined that (d), (f), (i), (j), and (k) of Category 8 do not apply to awards made under 49 U.S.C. § 5310 and will not be enforced.*

*In addition to the certification in Category 8, the applicant must make the following certification that is specific to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program. This certification is required by 49 U.S.C. § 5310(e)(2).*

The applicant certifies that:



- (a) The projects selected by the applicant are included in a locally developed, coordinated public transit-human services transportation plan;
- (b) The plan described in clause (a) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public;
- (c) To the maximum extent feasible, the services funded under 49 U.S.C. § 5310 will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services; and
- (d) If the applicant will allocate funds received under 49 U.S.C. § 5310 to subrecipients, it will do so on a fair and equitable basis.

### **CATEGORY 13. STATE OF GOOD REPAIR GRANTS.**

*If the applicant will apply for an award under FTA's State of Good Repair Grants Program (49 U.S.C. § 5337), it must make the following certification. Because FTA generally does not review the transit asset management plans of public transportation providers, the asset management certification is necessary to enforce the provisions of 49 U.S.C. § 5337(a)(4). The certification with regard to acquiring restricted rail rolling stock is required by 49 U.S.C. § 5323(u)(4). Note that this certification is not limited to the use of Federal funds.*

The applicant certifies that the projects it will carry out using assistance authorized by the State of Good Repair Grants Program, 49 U.S.C. § 5337, are aligned with the applicant's most recent transit asset management plan and are identified in the investment and prioritization section of such plan, consistent with the requirements of 49 CFR Part 625.

If the applicant operates a rail fixed guideway service, the applicant certifies that, in the fiscal year for which an award is available to the applicant under the State of Good Repair Grants Program, 49 U.S.C. § 5337, the applicant will not award any contract or subcontract for the procurement of rail rolling stock for use in public transportation with a rail rolling stock manufacturer described in 49 U.S.C. § 5323(u)(1).

### **CATEGORY 14. INFRASTRUCTURE FINANCE PROGRAMS.**

*If the applicant will apply for an award for a project that will include assistance under the Transportation Infrastructure Finance and Innovation Act ("TIFIA") Program (23 U.S.C. §§ 601–609) or the State Infrastructure Banks ("SIB") Program (23 U.S.C. § 610), it must make the certifications in Category 8 for the Urbanized Area Formula Grants Program, Category 10 for the Fixed Guideway Capital Investment Grants program, and Category 13 for the State of Good Repair Grants program. These certifications are required by 49 U.S.C. § 5323(o).*

*Making this certification will incorporate the certifications in Categories 8, 10, and 13 by reference.*

#### **CATEGORY 15. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

*If the applicant will apply for an award under FTA's Urbanized Area Formula Grants Program (49 U.S.C. § 5307), Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) programs, the applicant must make the following certification. The applicant must make this certification on its own behalf and on behalf of its subrecipients and contractors. This certification is required by 49 CFR § 655.83.*

The applicant certifies that it, its subrecipients, and its contractors are compliant with FTA's regulation for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, 49 CFR Part 655.

#### **CATEGORY 16. RAIL SAFETY TRAINING AND OVERSIGHT.**

*If the applicant is a State with at least one rail fixed guideway system, or is a State Safety Oversight Agency, or operates a rail fixed guideway system, it must make the following certification. The elements of this certification are required by 49 CFR §§ 672.31 and 674.39.*

The applicant certifies that the rail fixed guideway public transportation system and the State Safety Oversight Agency for the State are:

- (a) Compliant with the requirements of 49 CFR Part 672, "Public Transportation Safety Certification Training Program"; and
- (b) Compliant with the requirements of 49 CFR Part 674, "State Safety Oversight".

#### **CATEGORY 17. DEMAND RESPONSIVE SERVICE.**

*If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 CFR Part 37, it must make the following certification. This certification is required by 49 CFR § 37.77.*

The applicant certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) Response time;

- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Restrictions or priorities based on trip purpose;
- (f) Availability of information and reservation capability; and
- (g) Any constraints on capacity or service availability.

#### **CATEGORY 18. INTEREST AND FINANCING COSTS.**

*If the applicant will pay for interest or other financing costs of a project using assistance awarded under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), the Fixed Guideway Capital Investment Grants Program (49 U.S.C. § 5309), or any program that must comply with the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)), or awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the following certification. This certification is required by 49 U.S.C. §§ 5307(e)(3) and 5309(k)(2)(D).*

The applicant certifies that:

- (a) Its application includes the cost of interest earned and payable on bonds issued by the applicant only to the extent proceeds of the bonds were or will be expended in carrying out the project identified in its application; and
- (b) The applicant has shown or will show reasonable diligence in seeking the most favorable financing terms available to the project at the time of borrowing.

#### **CATEGORY 19. CYBERSECURITY CERTIFICATION FOR RAIL ROLLING STOCK AND OPERATIONS.**

*If the applicant operates a rail fixed guideway public transportation system, it must make this certification. This certification is required by 49 U.S.C. § 5323(v), a new subsection added by the National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92, § 7613 (Dec. 20, 2019). For information about standards or practices that may apply to a rail fixed guideway public transportation system, visit <https://www.nist.gov/cyberframework> and <https://www.cisa.gov/>.*

The applicant certifies that it has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks that complies with the requirements of 49 U.S.C. § 5323(v)(2).

**CATEGORY 20. PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS  
FORMULA AND DISCRETIONARY PROGRAM (TRIBAL TRANSIT  
PROGRAMS).**

*Before FTA may provide Federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), the applicant must select the Certifications in Category 21, except as FTA determines otherwise in writing. Tribal Transit Program applicants may certify to this Category and Category 1 (Certifications and Assurances Required of Every Applicant) and need not make any other certification, to meet Tribal Transit Program certification requirements. If an applicant will apply for any program in addition to the Tribal Transit Program, additional certifications may be required.*

FTA has established terms and conditions for Tribal Transit Program grants financed with Federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). The applicant certifies that:

- (a) It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- (b) It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
- (c) It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR Part 625. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
- (d) With respect to its procurement system:
  - (1) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, for Awards made on or after December 26, 2014,
  - (2) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR Part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
  - (3) It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
- (e) It will comply with the Certifications, Assurances, and Agreements in:
  - (1) Category 05.1 and 05.2 (Charter Service Agreement and School Bus Agreement),
  - (2) Category 06 (Transit Asset Management Plan),

- (3) Category 07.1 and 07.2 (Rolling Stock Buy America Reviews and Bus Testing),
- (4) Category 09 (Formula Grants for Rural Areas),
- (5) Category 15 (Alcohol and Controlled Substances Testing), and
- (6) Category 17 (Demand Responsive Service).

**CATEGORY 21. EMERGENCY RELIEF PROGRAM.**

*An applicant to the Public Transportation Emergency Relief Program, 49 U.S.C. § 5324, must make the following certification. The certification is required by 49 U.S.C. § 5324(f) and must be made before the applicant can receive a grant under the Emergency Relief program.*

The applicant certifies that the applicant has insurance required under State law for all structures related to the emergency relief program grant application.

**FEDERAL FISCAL YEAR 2022 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE PROGRAMS**

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant: MARTHA'S Vineyard Commission

The Applicant certifies to the applicable provisions of all categories: (check here) ABT ✓

Or,

The Applicant certifies to the applicable provisions of the categories it has selected:

Category	Certification
01 Certifications and Assurances Required of Every Applicant	✓
02 Public Transportation Agency Safety Plans	✓
03 Tax Liability and Felony Convictions	✓
04 Lobbying	✓
05 Private Sector Protections	✓
06 Transit Asset Management Plan	✓
07 Rolling Stock Buy America Reviews and Bus Testing	✓
08 Urbanized Area Formula Grants Program	✓
09 Formula Grants for Rural Areas	✓
10 Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	✓
11 Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs	✓

Certifications and Assurances

Fiscal Year 2022

12	Enhanced Mobility of Seniors and Individuals with Disabilities Programs	✓
13	State of Good Repair Grants	✓
14	Infrastructure Finance Programs	✓
15	Alcohol and Controlled Substances Testing	✓
16	Rail Safety Training and Oversight	✓
17	Demand Responsive Service	✓
18	Interest and Financing Costs	✓
19	Cybersecurity Certification for Rail Rolling Stock and Operations	✓
20	Tribal Transit Programs	✓
21	Emergency Relief Program	✓

CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE

AFFIRMATION OF APPLICANT

Name of the Applicant: Martha Vineyard Commission

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in the federal fiscal year, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

The Certifications and Assurances the Applicant selects apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during the federal fiscal year.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature Ad Turner Date: 5/23/2023

Name Adam Turner Authorized Representative of Applicant

**AFFIRMATION OF APPLICANT'S ATTORNEY**

For (Name of Applicant): \_\_\_\_\_

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

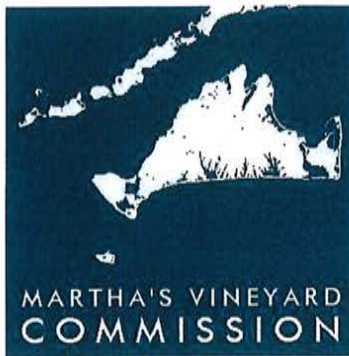
Signature \_\_\_\_\_ Date: \_\_\_\_\_

Name \_\_\_\_\_ Attorney for Applicant

*Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.*



# Appendix I



# **BY-LAWS**

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## **OF THE MARTHA'S VINEYARD COMMISSION**

Amended September 1, 2016

**1. NAME OF DOCUMENT, ADOPTION, AND AMENDMENTS**

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**1.1 Name of Document**

This document shall be known as the "By-Laws of the Martha's Vineyard Commission" or "MVC By-Laws"

**1.2 Date of Adoption**

This document was adopted on April 6, 1978

**1.3 Amendments**

DATE	SECTION
11/22/78	3.1, 3.1.1, 3.1.6
07/24/80	6.1, 10.0
05/14/81	2.4.3
10/18/84	3.1.1, 3.1.7 (deleted), 6.1
12/15/88	2.6, 6.4
07/18/91	6.0
11/17/94	2.6, 3.1.3, 5.1, 2.4.1, 2.4.3,
07/10/97	3.1, 3.4.1.4, 6.2.4, 6.3, 7.2, 8.2, 8.3, 9, 6.3.1.3(deleted) 6.3.1.6 (deleted)
01/09/14	1.1 (renumbered), 2.4 (renumbered), 3.5, 6.2, 6.3.1
10/02/14	4.3.1
09/01/16	6.2.2.2

**2. NAME OF ORGANIZATION, PURPOSES, AND POWERS**

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**2.1 Authority**

The people of Martha's Vineyard on March 14, 1974 voted to endorse the provisions of Chapter 637, Acts of 1974, of the General Court of the Commonwealth of Massachusetts, as signed by Governor Francis W. Sargent on July 27, 1974. The Martha's Vineyard Commission, a public body corporate, in addition to the functions delineated in Chapter 637, replaced the Dukes County Planning and Economic Development Commission and adopted its functions.

On December 21, 1977, Governor Michael S. Dukakis signed Chapter 831, Acts of 1977 entitled An Act Further Regulating the Protection of Land and Waters of the Island of Martha's Vineyard (the "Act"). The Martha's Vineyard Commission, referred to in Chapter 831, hereinafter referred to as the "Commission", replaces the Martha's Vineyard Commission referred to in Chapter 637, with like responsibilities, duties and powers over the lands and waters of Dukes County with the exception of the Elizabeth Islands and the Indian Common Lands known generally as the Cranberry Bogs, the Clay Cliffs, and Herring Creek, all situated in the Town of Gay Head, and to the extent they are excluded from the responsibilities, duties and powers of the towns, all lands owned by the Commonwealth or any of its constituent agencies, boards, departments, commissions or offices.

Included in the Commission's jurisdiction is the incorporated municipality of Gosnold. It is recognized, however, that Gosnold shall not have a vote on the Commission, neither shall it be assessed for any of the regulatory functions assumed by the Commission under the Act, although it shall be assessed for its share of the planning and economic development functions transferred by the Act to the Commission from the Martha's Vineyard Commission, established by Chapter 637.

The Commission may have such other functions, powers and jurisdiction as may be delegated to it by an appropriate authority.

**2.2 Purposes and Powers**

As specified in Section 1 of Chapter 831, Acts of 1977:

The people of Martha's Vineyard did, on March fourteenth, nineteen hundred and seventy-four, vote to endorse the provisions of Chapter 637 of the Acts of 1974;

The purpose of the Commission created by this act shall be to further protect the health, safety, and general welfare of Island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study, by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies.

Also, the Commission shall be responsible for the preparation of comprehensive plans for the physical, social, and economic development of Dukes County. Such plans shall include, but not be limited to the preparation of studies, research reports, and maps of natural resources and conservation, transportation and population characteristics. In order to carry out these responsibilities, the Commission may retain such experts as may be required.

The Commission may receive for the purposes of this act any funds or monies from any source, including grants, bequests, gifts or contributions made by individuals, associations, corporations, or by municipal, county, state or Federal government.

Monies so received shall be disbursed by the Commission treasurer upon an order voted by the Commission; and the charges upon all towns may be reduced correspondingly upon a majority vote of the members if such monies were not included in the calculation of the towns' net shares of expenses for the fiscal year.

The Commission shall assume, in addition to those enumerated herein, all the powers and all of the obligations given to it by Chapter 831, and all of the powers and obligations as transferred from the Martha's Vineyard Commission established by Chapter 637 by the Act.

The Commission may adopt, by majority vote, administrative procedures and policies to govern the processing of Districts of Critical Planning Concern and the review of Developments of Regional Impact.

### **2.3 Initial Transfer of Responsibilities**

Past assets, liabilities, records, and documents of the Martha's Vineyard Commission established by Chapter 637 are assumed by the Commission as provided in Sections 20, 21, 22, 23, and 24 of the Act.

### **2.4 Finances**

2.4.1 Fiscal Year: The Fiscal Year of the Commission shall be July 1 to June 30.

2.4.2 Audit: The Commission shall cause to have made in July of each year an independent audit of its accounts which audit shall be part of its annual report and shall be forwarded to the Department of Corporations and Taxation of the Commonwealth of Massachusetts (as well as any other agencies that have contractual arrangements with the Commission and thus require an audit of said funding expenditures).

2.4.3 Maximum Levy: The Commission's net expenses determined and levied on the basis of the latest equalized valuation for property tax purposes shall not exceed .036 percent of the latest equalized valuations for each town.

2.4.4 Excess of Local Monies: Any local monies over 12 percent of the Budget posted to the General Fund Balance of the Martha's Vineyard Commission at their Annual Audit of the Fiscal Year will be reflected in the Martha's Vineyard Commission Annual Finance Report and used to reduce the towns' assessment at the second billing time period. This reduction will be calculated by the same equalized valuation formula as the annual assessment.

### **2.5 DRI Standards and Criteria**

The Commission shall review the standards and criteria for Developments of Regional Impact (DRIs) at least every two years.

### **2.6 DRI Hearings and Decisions**

The Commission shall hold the public hearing for Developments of Regional Impact (DRIs) and make the required written decision pursuant to the regulations of the Martha's Vineyard Commission adopted November 19, 1987 as amended. The Commission shall make the required findings and notify the referring agency and applicant of its decision within sixty (60) days after the close of the public hearing. These limits may be extended by mutual agreement between the Commission and the applicant for the Development.

### **3. MEMBERSHIP**

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#### **3.1 Constituent Membership**

Subject to the provisions of Paragraphs 3.1.6 and 3.1.7 below, the Commission shall consist of 21 members, 17 of whom are voting members.

- 3.1.1 Town-Appointed Members: One Selectman or a resident registered to vote from each town of Martha's Vineyard appointed by the Board of Selectmen of that Town.
- 3.1.2 Elected Members: Nine members, elected by an Island-wide vote. No less than one or more than two members shall be from each town.
- 3.1.3 County Appointee: One Dukes County Commissioner, or a designee of the Dukes County Commissioners, appointed by the Dukes County Commissioners.
- 3.1.4 Governor's Cabinet Member: A member of the Cabinet of the Commonwealth of Massachusetts of his designee, appointed by the Governor.
- 3.1.5 Non-Resident Member: Four non-voting members whose principal place of residence is other than on Martha's Vineyard, appointed by the Governor.
- 3.1.6 Commonwealth or Federal Member: One additional member to bring the total membership to 22 and the voting membership to 18. This individual would be the Secretary of the Interior or his designee, should Federal legislation supportive of the purposes of Chapter 831 be enacted by the United States Congress.

#### **3.2 Terms of Membership**

- 3.2.1 Elected Members and non-resident Members shall serve a term of two years.
- 3.2.2 Town-appointed Members, Town Review Committee Members, and the County Commissioner shall serve a term of one year and may be renewed as members only upon a vote of the appointing body.
- 3.2.3 The Governor's Cabinet Member shall serve for an indefinite term at the discretion of the Governor.
- 3.2.4 All terms of membership shall begin on January 1 of the appropriate year, except that the terms of initial members shall begin on the date of the initial meeting and terminate as if they had begun on January 1, 1977.

#### **3.3 Attendance at Meetings**

- 3.3.1 Attendance at meetings by members is essential to the success of the Commission. It is particularly important that members attend all public hearings so that the fullest range of discussion and input may be achieved. All minutes of all regular and special meetings shall include a list of which members were present and which members were absent from that particular meeting. Attendance records for all members will be included in the Commission's Annual Report.

#### **3.4 Responsibilities of Members**

- 3.4.1 The principal responsibilities of each member can be summarized as follows:
  - 3.4.1.1 To hear and receive testimony and to make decisions on applications for developments of regional impact and nominations for districts of critical planning concern.

- 3.4.1.2 To participate in establishing Commission policy and objectives.
- 3.4.1.3 To assist in on-going efforts to communicate or implement Commission policies, objectives and recommendations on both local and regional levels.
- 3.4.1.4 To participate in Commission decisions-making through attendance and participation in Commission and committee meetings.
- 3.4.1.5 To serve, in the case of appointees of local towns or the County, as liaison between the Commission and the towns or the County which the appointee represents.
- 3.4.1.6 To apprise local, County and other regional officials of significant Commission Activities and/or programs.
- 3.4.1.7 To carry out such other duties and responsibilities as may be assigned from time to time by the Chair.

### **3.5 Vacancies and Residency**

- 3.5.1 Special Cases and Vacancies: "Any vacancy in an appointed position shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Any vacancy in the elected membership shall be filled by a majority vote of the planning board, or the board of selectmen in the absence of a planning board, of the town in which the former member was a registered voter; said vacancy to be filled for the remainder of the unexpired term." Excerpt from the Act, Section 2
- 3.5.2 Resignation: Any member may resign by giving written notice to the Chair of the Commission who shall, in turn, notify the proper local official.
- 3.5.3 Change of Residency of Commissioners: If a Commissioner moves to another town on Martha's Vineyard, he or she may continue to serve the remainder of his or her term.

## **4. OFFICERS**

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### **4.1 Required Officers and Elections**

The Commission, at this initial meeting, shall elect by majority vote a Chairman, Vice-Chairman, and Clerk-Treasurer from among its membership. Subsequent regular elections for these officers and any other elected officers shall be held annually on or before December thirty-first.

### **4.2 Other Officers**

- 4.2.1 General: The Commission may elect from among its membership other officers with such titles and duties as prescribed at the time by the Commission.
- 4.2.2 Executive Director: The Commission may employ an Executive Director who is a not a member of the Commission, but who serves as a non-voting officer; fulfilling the duties as outlined herein.

### **4.3 Terms of Office for Officers**

- 4.3.1 General: Terms of office for officers shall begin on January 1 of the year following the election and the following December 31. Should there occur a vacancy among any of the officers, whether resulting from expiration of the officer's term as member of the Commission, or any other cause, the Commission membership shall elect an officer to fill the remainder of the vacancy.
- 4.3.2 Resignation: Any office holder may resign by giving written notice to the Commission, upon which he or she may continue to serve as a Commission Member, and his or her replacement shall be determined by a majority vote of the Commission.
- 4.3.3 Removal: The Commission may remove an officer for just cause, by a two-thirds vote of all members of the Commission. Fourteen votes in favor are needed for removal.

### **4.4 Duties of Officers**

- 4.4.1 Duties of Chairman: The Chairman shall preside at all Commission meetings and may call special meetings. The Chairman shall execute all contracts authorized on behalf of the Commission and shall validate by signature all official documents, orders and proceedings of this body unless this authorization has been specifically delegated by a majority vote of the Commission. He or she shall, in consultation with the Commission, appoint the members to any standing or special committees authorized by the Commission and shall be a member ex-officio of all committees. The Chairman may also consult in advance with the Executive Director and staff regarding Commission meeting agenda and proceedings.
- 4.4.2 Duties of the Vice-Chairman: The Vice-Chairman shall act for the Chairman during his or her absence from the chair, and if the position of Chairman becomes vacant, he or she shall act as Chairman in all matters until the position is again filled as set forth.
- 4.4.2.1 In the absence of the Chairman and Vice-Chairman, the Commission may elect by a majority vote an Acting Chairman for the term of the meeting.
- 4.4.3 Duties of Clerk-Treasurer:
- 4.4.3.1 The Clerk-Treasurer shall be the recording officer of the Commission and custodian of its records except as are specifically assigned to others. The Clerk/Treasurer shall ensure that all minutes and recordings of official Commission business shall be kept in the offices of the Commission under adequate safeguards. He/she shall ensure that public records shall be open to the public for inspection at reasonable times in accordance with applicable laws of the Commonwealth. The Clerk-Treasurer shall ensure that a register of membership shall be kept and attendances duly noted. The Clerk-Treasurer shall authenticate, when necessary, all acts, orders, decisions and proceedings of the Commission; and shall ensure that all members are notified of their election and/or appointments; and shall ensure that adequate and proper notices of all scheduled meetings are sent in accordance with applicable laws of the Commonwealth and Commission policy.
- 4.4.3.2 As Treasurer, the Clerk-Treasurer shall be the fiscal agent of the Commission and it shall be his/her duty to oversee the appropriate financial staff to ensure that proper financial records are maintained. The Clerk-Treasurer shall be the custodian of the funds of the Commission and may direct the financial staff to deposit all funds in the name of the Commission in banks or trust companies of his/her choice or as the Commission may designate. He/she shall ensure that there are kept accurate books of account which shall be open to the inspection of the members of the Commission, the Executive Director and the general public during normal business hours in the Commission offices.
- 4.4.3.3 The Clerk-Treasurer shall render to the Commission at its regular monthly meeting, or whenever circumstances may require it, a statement of financial condition of the Commission and shall cause to be presented at the Annual Meeting a report giving the financial condition for the fiscal year and a proposed budget for the coming fiscal year. The Clerk-Treasurer shall ensure that an annual audit is conducted by an independent auditor pursuant to state and federal laws.
- 4.4.3.4 The Clerk-Treasurer shall give the Commission a bond, with a surety company authorized to transact business in the Commonwealth as surety, for the faithful performance of his or her duties, in such sum and upon such conditions as the Commission may require. The bonding fee shall be paid out of Commission revenues.
- 4.4.3.5 The Clerk-Treasurer shall perform such other duties as are incident to this office and required by the Commission.
- 4.4.3.6 The Clerk-Treasurer shall be custodian of the Commission's seal.
- 4.4.4 Duties of the Executive Director
- 4.4.4.1 The Commission shall employ an Executive Director who shall serve at the pleasure of the Commission.
- 4.4.4.2 The Executive Director is responsible to the Commission for the administration of programs and projects determined by the Commission. The Executive Director shall supervise both administrative, regulatory and planning policies and maintenance of all books, records and documents; and perform such other tasks as, from time to time, the Commission shall determine.

4.4.4.3 The Executive Director is empowered within the limits of budgets approved by the Commission to hire individuals of his or her choice to fill staff positions. The Executive Director may also terminate the employment of any individual on the staff. The hiring and firing of consultants and professionals on retainer shall be by the Executive Director, subject to Commission ratification.

4.4.4.4 The Executive Director is charged with keeping records of Commission proceedings, including the following:

4.4.4.4.1 Attendance records of all Commission Meetings, the results of which shall be analyzed and reported for the annual meeting.

4.4.4.4.2 Minutes of all regular and special meetings.

4.4.4.4.3 Applications, maps and plans, written reviews and decisions, copies of permits and other materials pursuant to the land and water-review functions of the Commission, all of which must be carefully organized and available to the interested public.

4.4.4.4.4 A record of all receipts and disbursements in accordance with the requirements of the Commonwealth which govern accounting practices for towns. All personnel, material and service charges shall be kept separately and allocated to either direct or indirect accounts by project or complete annual accounting reports, prepared in the manner prescribed for towns, shall be published and distributed within ninety (90) days after the end of each fiscal year. Copies of the report shall be made available to the public and copies shall be sent to the town clerks and the finance committees of each town in Dukes County, and to Federal and State agencies which fund the Commission.

4.4.4.5 The Executive Director shall be responsible for establishing necessary liaison and communication in all areas between the Commission, staff and the community at large, including distribution of fiscal information to Town finance committees.

4.4.4.6. The Executive Director shall draft proposed budgets for the Commission's consideration and, with Commission guidance and approval, seek useful external funding and delineate internal fiscal policies and expenditures.

#### 4.4.5 Vacancy in Position of Executive Director

4.4.5.1 When a vacancy occurs in the position of Executive Director, the Commission shall appoint a Search Committee from its membership. Any member of the Commission may participate at any meeting.

##### 4.4.5.2 Search Committee

4.4.5.2.1 The Search Committee shall meet and draft a notice of vacancy to be placed in a newspaper of general circulation covering the local area as well as within any professional journals as deemed appropriate by the Committee. The notice which shall be approved by the Commission, shall include a brief job description.

4.4.5.2.2 The Search Committee shall review and screen all resumes which have been received in response to the notice and which have been received prior to the deadline set forth in the notice of vacancy.

4.4.5.2.3 The Search Committee shall meet and develop a list of candidates from amongst those persons who have submitted resumes and who, in the opinion of the members of the Search Committee, appear to be the most qualified and that should be invited for a personal interview.

4.4.5.2.4 The Search Committee shall interview each candidate who is invited and shall determine which candidates, in the opinion of its members, should have their names submitted to the full Commission for further interviews.

##### 4.4.5.3 Role of the Full Commission

4.4.5.3.1 The full Commission shall meet with each individual candidate put forth by the Search Committee. Following the end of the interview period, the full Commission shall meet to discuss the merits of each of the candidates.

4.4.5.3.2 The full Commission by vote of those present and voting, shall select from the names of those interviewed, a person to be offered the position of Executive Director and shall determine the salary to be offered.



## 5. MEETINGS

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### 5.1 Regular Meetings

Regular meetings of the Commission shall be held on the third Thursday of each month unless otherwise determined by the Commission.

### 5.2 Special Meetings

Special meetings may be called as often as necessary at the discretion of the Chairman, upon notice duly given to the membership.

### 5.3 Annual Meeting

The annual Commission meeting shall be the regular January meeting unless the Chairman sets another date for the Annual meeting, as soon as practical but not later than the regular February meeting.

### 5.4 Agendas for Meetings

5.4.1 The Executive Director, at the direction of the Chair, shall be responsible for the emailing or mailing of meeting agendas to the Commission members and all local town boards no later than the Friday preceding the date of the meeting.

5.4.2 The Executive Director, at the direction of the Chair, shall be responsible for providing, as necessary, reports on any agenda items; said reports shall be emailed or mailed to each Commission member at least three working days in advance of the meeting at which they are to be considered.

5.4.3 Copies of the agenda and reports, if any, shall be available at the Commission offices for the general public.

5.4.4 Any member of the Commission may, upon advanced notice to the Executive Director four working days prior to the meeting, place any item on the agenda.

## 6. VOTING

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### 6.1 Majority and Quorum

The quorum of the Commission shall be at least nine (9) voting members present and, in the case of the opening of a public hearing at which testimony is taken on a development of regional impact or a district of critical planning concern, said quorum must include no less than one (1) member who is a resident of the town in which the DRI or DCPC is proposed.

### 6.2 Voting

With the exception of amending or adopting these by-laws (sec 10) or the removal of an officer (sec 4.3.3) all elections, adoptions, decisions or actions requiring a vote of the membership of the Commission shall be accomplished by a majority vote of the Commission members eligible to vote.

6.2.1 Scheduling of Meetings: The Executive Director shall make all reasonable efforts to schedule continued public hearings or votes on DRIs or DCPCs at such time as the members from the town in which the DRI or DCPC is located that are eligible to vote will be able to attend.

#### 6.2.2 Voting Eligibility:

6.2.2.1 No member of the Commission who has not been present for all sessions of a public hearing at which testimony is taken on a particular DRI or DCPC, or at an adjudicatory hearing, shall be eligible to participate in any discussions, deliberations or votes thereon.

6.2.2.2 Notwithstanding section 6.2.2.1 and any general or special law to the contrary, for public hearings held for review of DRIs, and DCPCs, and for adjudicatory hearings, a member of the Commission shall not be

disqualified from participating in any discussions or deliberations, or voting in a matter solely due to that member's absence from no more than a single session of a hearing made up of two or more sessions at which testimony or other evidence is taken, provided that the member is present at the final session of the hearing. If a member misses a session of a hearing and the member has certified that he or she has examined all evidence received at the missed session, which evidence shall include a video or audio recording of the missed session or a transcript thereof, that member may participate fully in any future session of the hearing. The written certification shall be part of the record of the hearing. In no event may this written certification be used to create a quorum for a public hearing at which a quorum was not physically present. An absence may only be for one or more of the following reasons: personal illness; personal disability; emergency, defined as a "sudden, generally unexpected occurrence or set of circumstances demanding immediate action"; military service; or geographic distance, defined as being off the Island of Martha's Vineyard.

6.2.3. Conflict of Interest: The members and staff of the Commission shall comply in full with the Commonwealth of Massachusetts so-called "Conflict of Interest Laws" as delineated in Chapter 268A of the General Laws.

6.2.4. Non-Resident Members: All non-resident members to the Commission may participate in any votes taken by the Commission except those votes taken on DRIs and DCPCS as provided by statute.

### **6.3 Meetings in General**

6.3.1. Open Meeting Law: The Commission will conduct its meetings in accordance with the Massachusetts Open Meeting Law Chapter 30A, sections 11A and 11A 1/2.

6.3.1.1 All Commission meetings shall be open to the public and to the press, unless the Commission shall vote to go into Executive Session.

6.3.1.2 Such executive session may be held only for the purposes authorized under the Open Meeting Law.

6.3.2. Meeting Notices: Except in an emergency, the notice of each Commission meeting shall be posted on the MVC website, the Commission's official posting site as approved by the Attorney General, on the principal official bulletin board of the Commission, at least forty-eight hours prior to such meeting, excluding Saturdays, Sundays, or Legal Holidays. "Emergency" shall mean a situation where immediate undelayed action is deemed by the Commission to be imperative. Meeting notices shall also be sent to the Clerk of each town on Martha's Vineyard.

6.3.3. Meeting Records: The Martha's Vineyard Commission shall maintain accurate records setting forth the action taken at each meeting. A summary of all matters voted shall be made available with reasonable promptness after each meeting; provided, however, that votes taken in executive session may remain a secret so long as their publication would defeat the lawful purposes of the executive session, but no longer.

#### **6.3.4 Voting**

6.3.4.1 In any meeting requiring the vote of the Commission, the vote shall be by voice or roll-call vote, providing, however, that on issues of lesser importance the Chairman may, without objection, call for the "yeas" and "nays".

6.3.4.2 Those voting in the minority on any issue shall be entitled to file a minority report in the meeting's minutes, and such minutes shall be kept open for the Commission for five business days following the meeting to receive such report. The members shall also be entitled to staff assistance, coordinated by the Executive Director, in preparing its report.

## **7. INTERNAL STRUCTURE OF COMMISSION**

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The Commission's operations may be divided into as many divisions as necessary including the following.

### **7.1 Regulatory Division**

The Regulatory Division will carry out the functions delineated in Chapter 831 of the Acts of 1977, as amended, regarding the protection of the land and waters of the County of Dukes County through: (1) Districts of Critical Planning Concern, and (2) Developments of Regional Impact.

## **7.2 Planning and Economic Development Division**

The Planning and Economic Development Division will undertake regional comprehensive planning activities and extend local technical assistance and general advisory services to municipalities within, but not limited to the following areas: housing; land use; social services; transportation; economic development; open space and recreation; gaseous, solid and liquid waste management; other infrastructure; and coastal resources management; as well as certain supportive services for the Regulatory Division.

## **8. COMMITTEES OF THE COMMISSION**

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The Chair shall appoint at least the following committees.

### **8.1 Nominating Committee**

- 8.1.1 The Nominating Committee shall be appointed by the Chair at the Regular Meeting in October and shall consist of one (1) member from each of the six (6) towns plus the County member.
- 8.1.2 The Chair of the Nominating Committee shall be selected by the members of the Nominating Committee.
- 8.1.3 The Nominating Committee shall review the qualifications, including length of time of the Commission and availability of members and shall recommend a slate of officers at the Regular monthly meeting in November.
- 8.1.4 The proposed slate shall be acted upon by the full Commission at the Regular meeting in December.
- 8.1.5 Nominations from the floor may be made at the Regular meeting in December prior to any vote being taken on the proposed slate offered by the Nominating Committee.

### **8.2 Finance Committee**

- 8.2.1 The Finance Committee shall be appointed by the Chair of the Commission annually. The Clerk-Treasurer shall serve as the chair of the Finance Committee. Any member who wishes to participate shall be appointed.
- 8.2.2 The Finance Committee shall assist the Executive Director in preparing a proposed budget for each coming fiscal year and shall assist in presenting the proposed budget to the full Commission at the Regular Meeting in January of each year.
- 8.2.3 The Finance Committee shall assist the Executive Director in presenting the proposed budget to the local finance committees and boards of selectmen.

### **8.3 Land Use Planning Committee**

- 8.3.1 The Chair of the Commission shall appoint from amongst the membership, one member who shall serve as Chair of the Land Use Planning Committee.
- 8.3.2 Membership on the Land Use Planning Committee shall be open to all members of the Commission.
- 8.3.3 It shall be the duty of the Land Use Planning Committee to function within the procedures set forth in Section 2.610 of the Regulations of the Martha's Vineyard Commission and to provide, as needed, advice and guidance to prepare applicants who may come before the full Commission with DRI applications.

### **8.3 Planning and Economic Development Committee**

- 8.4.1 The Chair of the Commission shall appoint from amongst the membership, one member who shall serve as Chair of the Planning and Economic Committee.
- 8.4.2 Membership on the Planning and Economic Development Committee shall be open to all members of the Commission.

8.4.3 It shall be the function of the Planning and Economic Development Committee to advise the staff on various planning and economic development activities and programs as may be undertaken from time to time.

**8.5 Executive Committee**

8.5.1 The Executive Committee shall consist of the three (3) voting officers of the Commission plus the Chairs of the Land Use Planning Committee and the Planning and Economic Development Committee.

8.5.2 It shall be the duty of the Executive Committee to provide advice and guidance to the Chair of the Commission and shall meet at his/her call.

8.5.3 The Chair of the Commission shall serve as the Chair of the Executive Committee.

**8.6 Other Committees**

8.6.1 The Martha's Vineyard Commission may establish other standing or special committees from time to time as are deemed necessary to accomplish the goals, objectives and mandates of the Commission.

**9. REIMBURSEMENT OF EXPENSES**

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Commission members and staff shall be eligible for reimbursement of all reasonable and necessary travel and other expenses for duties performed pursuant to Commission business, such as on-Island and off-Island transportation costs, meals, parking, registration fees, and hotel accommodations. Before payments by the Clerk-Treasurer, all such staff reimbursements shall be submitted in writing and authorized by the Executive Director within the limits of approved budgets or policies. All such reimbursements of expenses by Commission members shall be submitted in writing, with receipts, and authorized by the Executive Director and paid by the Clerk-Treasurer according to approved budgets or policies.

**10. ADOPTION OF, AND AMENDMENTS TO, THE BY-LAWS OF THE MARTHA'S VINEYARD COMMISSION**

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These By-Laws may be adopted, amended or rescinded at any meeting of the Commission by a two-thirds vote of those voting, a quorum of nine being present; provided that the proposed amendment and notice of the meeting when the vote is to be taken has been sent to all members at least ten days prior to such meeting. If an amendment is proposed during a meeting, a vote on the adoption of such an amendment may not take place until the next meeting.

## Appendix J

# **Bylaws of the Martha's Vineyard Joint Transportation Committee**

Adopted as revised by the Joint Transportation Committee on May 20, 2015

Prepared by The Martha's Vineyard Commission  
in cooperation with the Massachusetts Department of Transportation, and the U.S. Department of Transportation, Federal Highway Administration and Federal Transit Administration

## **1. Introduction**

The Martha's Vineyard Joint Transportation Committee (JTC) was created by agreement of the Committee of Signatories (COS) in 1979. The agreement, formally called the Memorandum of Understanding (MOU), was signed by the Secretary of the Executive Office of Transportation (EOT), the Commissioner of the Massachusetts Department of Public Works, the Chairman of The Martha's Vineyard Commission (MVC), and the Chairman of the Martha's Vineyard Transit Authority (VTA), jointly known as the COS.

Desiring to sustain a "transportation planning process that is reflective of both Federal and State policies and responsive to local goals and objectives", the COS established the JTC as a "citizen's advisory committee". The JTC's primary role is to advise the COS:

- on matters of policy affecting the conduct of the "comprehensive, cooperative, and continuous (3-C)" transportation planning process, and
- on such regional transportation documents as may from time to time be required by Federal or State laws and regulations.

Updates in major transportation laws, including the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) have broadened the 3-C transportation planning process. Now, "proactive involvement" of the public is the new foundation. Simply stated, the development of regional transportation planning documents is to be guided by the following principles:

- early and continuing public involvement,
- reasonable public access to information,
- timely public notice of activities, and
- explicit consideration and response to all public comments.

The purpose of the by-laws is to state the means by which the JTC, as the core group responsible for managing the 3-C process, will carry out its mission. The mission statement, objectives, and general procedures are consistent with the JTC's *Public Participation Plan*.

While the *Public Participation Plan* details policies on how citizens may become involved in transportation planning on Martha's Vineyard, it is worth emphasizing that the JTC always welcomes public input, be it through comment on documents, participation in public forums, participation in JTC workgroups or the JTC itself, or simply through contacting the JTC or a JTC member. The JTC also notes that if a member of the public has a concern regarding transportation on the Island, the first point of contact should be the voting representative to the JTC from that town. Of course, the JTC or its Coordinator will be happy to assist any member of the public with a concern or issue, but an official town representative to the JTC is often also a town official with the capacity to deal directly with certain concerns. The JTC would also like to note that the VTA has a Consumer Advisory Group that deals directly with issues involving public transit. In short, while the JTC makes every effort to solicit and respond to public input in its decision-making, members of the

public should always feel free to contact the JTC with issues or concerns, and the JTC will make every effort to respond appropriately.

## **2. Mission Statement**

Maintaining a 3-C transportation planning process requires the JTC to:

- identify significant regional transportation issues and needs;
- seek the fullest possible participation from individuals, interest groups, and public officials;
- consider the needs of Island residents, visitors, and businesses;
- provide advice, information, and recommendations to decision-makers at all levels of government concerning the planning and implementation of regional transportation projects; and
- review the effectiveness of the public involvement activities.

## **3. Objectives**

The intent of the 3-C process is to allow all interested individuals and groups to influence the planning of an intermodal regional transportation system. The intermodal system will cover all modes of travel and highway systems on the Island and going to and from the Island. The intermodal system should result in improved mobility and accessibility for all Island residents, visitors, businesses, and goods.

The 3-C process shall be supported by activities of the JTC that:

- are oriented toward open planning and consensus-building;
- are perceived by the residents of Martha's Vineyard as a dynamic process through which the results are based on wide and effective participation;
- recognize that decisions affecting the regional transportation system should be made within the framework of the *Regional Island Plan*, the comprehensive plan periodically adopted by The Martha's Vineyard Commission; and
- produce recommendations concerning regional transportation priorities and programs that are consistent with the *Regional Transportation Plan for Martha's Vineyard*, the region's *Transportation Improvement Program*, the *Unified Work Program*, and other regional transportation planning documents.

## **4. Membership**

The membership of the JTC should be inclusive to provide for a widely representative viewpoint and ensure a balanced consideration of transportation issues. There shall be two membership classes - Voting Members, and *Ex-officio* and other Non-voting Members.

### **4.1 Voting Members**

Voting Members of the JTC shall consist of representatives of:

- County of Dukes County,
- Town of Aquinnah,
- Town of Chilmark,



- Town of Edgartown,
- Town of Oak Bluffs,
- Town of Tisbury,
- Town of West Tisbury,
- Vineyard Transit Authority Administrator or his/her appointee,
- Martha's Vineyard Commission Executive Director or his/her appointee,
- Wampanoag Tribe of Gay Head (Aquinnah).

## **4.2 Ex-Officio Members**

The *Ex-officio* (non-voting) Members of the JTC shall consist of one representative of each of the following:

- Steamship Authority (SSA),
- Massachusetts Department of Transportation (MassDOT),
- Federal Highway Administration,
- Federal Transit Administration,
- Martha's Vineyard Airport (MVY),
- Martha's Vineyard Chamber of Commerce
- Bicycle Pedestrian Advisory Committee (BPAC),

Other representatives of persons with disabilities, older citizens, private providers of transportation, business groups, consumer groups, environmental groups, minority communities, and the public may also join the JTC as Non-voting Members. All are welcome to the JTC public meetings.

JTC members shall be appointed, reappointed, or reaffirmed every three years, or as necessary to fill a vacancy.

## **4.3 Officers and Their Duties**

The officers of the JTC who are to be selected by a majority of the members shall consist of the Chairman and Vice Chairman. Each officer's term shall be for one (1) calendar year.

The Chairman shall have the general supervision of the JTC and the duties shall include, but not be limited to:

- scheduling meetings and forums;
- assisting MVC staff in preparing the agenda;
- opening all meetings and forums at the appointed hour, calling the sessions to order, and adjourning all sessions;
- facilitating discussion and meeting business;

The Vice Chairman shall preside in the absence of the Chairman.

## **5. Meetings**

### **5.1 Regular Meetings.**

All meetings shall be open to the public and conducted according to the Massachusetts Open Meeting Law (M.G.L. Chapter 39, section 23B).

Regular meetings shall be held monthly unless otherwise determined by the Chairman.

Regular meetings shall be publicized at least seven (7) working days in advance by the Coordinator. If the topic of a regular meeting pertains to the development, review, or amendment of the *Regional Transportation Plan, Unified Work Program, Transportation Improvement Program, or Public Participation Plan*, then the meeting will be publicized at least ten (10) calendar days in advance.

Meeting notices shall state the place, date, and time of the meeting and the topics to be discussed. Meeting places and times shall be arranged to accommodate low-income householders and individuals whose mobility is impaired.

Notices shall be sent via email to members of the JTC and to all interested individuals and organizations. Meeting notices and any supplementary materials for review will be available on the website of the Martha's Vineyard Commission ([www.mvcommission.org](http://www.mvcommission.org)).

A quorum for regular meetings shall consist of four (4) voting members.

Minutes of each meeting will be kept by MVC staff. Copies of meeting records will be available on the website of the Martha's Vineyard Commission ([www.mvcommission.org](http://www.mvcommission.org)).

### **5.2 Subcommittees and Working Groups.**

The JTC can, when necessary, designate subcommittees or working groups that report back to the JTC on specific issues. Subcommittees and working group coordinators may call special meetings to consider issues and topics as directed by the JTC as a whole.

All meetings shall be open to the public and conducted according to the Massachusetts Open Meeting Law.

Scheduling of subcommittee and working group meetings shall be as for regular meetings.

**5.3 Forums.** Forums at which regional transportation issues, regional planning documents, or regional transportation projects may be presented to the public shall occur as deemed appropriate by the JTC as a whole.

Forums will be the primary means of informing the public and soliciting opinions related to a balanced regional transportation system.

Whenever possible, forums shall be publicized fourteen (14) calendar days in advance by the MVC staff. If the topic of a forum pertains to the development, review, or amendment of the *Regional Transportation Plan*, *Unified Work Program*, *Transportation Improvement Program*, or *Public Participation Plan*, then the forum will be publicized fourteen (14) calendar days in advance.

Forum notices shall state the place, date, and time of the forum and the topics to be discussed. Forum places and times shall be arranged to accommodate low-income householders and individuals whose mobility is impaired.

Notices shall be sent to the chief elected officials of Dukes County and the municipalities of Dukes County, the Island's Legislative Liaison, members of the COS, members of the JTC, town clerks, local news media, and to all interested individuals and organizations. Meeting notices and any supplementary materials for review will be available on the website of the Martha's Vineyard Commission ([www.mvcommission.org](http://www.mvcommission.org)).

A complete record of each forum will be prepared by the Coordinator. Copies of forum records will be available on the website of the Martha's Vineyard Commission ([www.mvcommission.org](http://www.mvcommission.org)) or from the Coordinator.

#### **5.4 Public Comment**

A public-comment period as to the *Unified Planning Work Program* or *Transportation Improvement Program*, or amendments thereto, shall be for fifteen (15) calendar days. A public-comment period as to the *Regional Transportation Plan*, or amendments thereto, shall be for thirty (30) calendar days. A public-comment period as to the *Public Participation Plan*, or amendments thereto, shall be for forty-five (45) calendar days. All public-comment periods begin on the day the legal notice appears in the local newspaper. Copies of the subject documents and supporting reports and research memoranda shall be available for public review during the public-comment period.

At the end of the public-comment period, the Coordinator shall summarize all public comments received and present a written report to the JTC that shall be published on the website of the Martha's Vineyard Commission ([www.mvcommission.org](http://www.mvcommission.org)).

Prior to its recommendations, endorsements, and other decisions, the JTC shall explicitly acknowledge and respond to comments received during the public-comment period.

If the final *Regional Transportation Plan* or *Transportation Improvement Program* or amendment thereto differs significantly from the one which was made available for public review, discussion and comment and raises new material issues which interested individuals could not have foreseen, then an additional fifteen (15) calendar day public-comment period shall be instituted by the Chairman. The additional public-comment period will follow the same procedures of the initial public-comment period.

The Chairman at regular meetings and forums, and the Coordinators at working group meetings, having solicited all opinions and comments and sensing that the discussion is complete, shall restate

the issue and its resolution. With the consent of a majority of the JTC members, the Chairman of a regular meeting or forum or the Coordinator of a subcommittee or working group meeting shall direct the Coordinator to prepare a consensus statement in the minutes of that meeting to be adopted at the next regular JTC meeting.

The Chairman or Coordinators, if sensing that a consensus cannot be reached, shall, with the consent of the JTC members in attendance, either:

- request additional information so that the issue can be discussed at the next regular JTC meeting, or
- take a formal vote of Voting Members present, with a simple majority ruling.

Consensus statements in the minutes shall describe the consensus or result of the vote, and summarize the interest and major positions advocated by participating individuals and groups. Consensus statements shall be available on the website of the Martha's Vineyard Commission ([www.mvcommission.org](http://www.mvcommission.org)) or from the Coordinator.

## **5.5 Amendments**

By-law amendments may be proposed by a majority of the JTC members at a regular meeting.

The Chairman shall distribute written amendment proposals at least fourteen (14) calendar days before a regular meeting.

At a regular meeting, proposed amendments shall be discussed and shall be voted on by the members.

The *Transportation Improvement Program* may be amended in order to:

- add or delete a project,
- increase the cost of a highway project by more than twenty-five (25) percent, or
- increase the cost of a transit project by more than ten (10) percent.

## **5.6 Decision Making**

Decisions to be made by the JTC shall be based on consensus agreement when possible. The goal of consensus-building is to ensure that the actions of the JTC reflect the interests of many individuals and groups.

The Chairman shall facilitate consensus-building by:

- Soliciting opinions and comments from all persons attending meetings and forums; written statements may be submitted to the JTC prior to the preparation of any recommendation, endorsement, decision, or report;
- Encouraging discussion of issues until the interests of all individuals and groups are clearly expressed and understood;
- Resolving conflicting viewpoints so as to form a compromise or consensus statement; and

Requesting formal presentations from the transportation planning staff of The Martha's Vineyard Commission.

## **6. Consistency with Federal and State Policies**

Questions as to policy or procedure shall be resolved by the JTC as a whole in light of the provisions set forth in the MOU.

The *Public Participation Plan* is intended to reflect the JTC's commitment to conform to the public involvement policies of the Federal Highway Administration and the Federal Transit Administration as such policies may be applicable to the Martha's Vineyard Region. The *Public Participation Plan* is also consistent with applicable federal legislation, most recently the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This law specifically requires that the public, as well as other entities, be consulted in development of the *Regional Transportation Plan* and the *Transportation Improvement Program*. The JTC, through the use of public forums and direct consultation, will actively seek the participation of not only the public, but also specifically cyclists and pedestrians, the disabled, relevant federal agencies, state and local regulatory agencies, the Wampanoag Tribe of Gay Head (Aquinnah), and other public and private entities engaged in planning, environmental protection, wildlife and natural resource management, historic preservation, and conservation.

Consistent with Title VI of the Civil Rights Act of 1964, Executive Order 12898 (Environmental Justice), and Executive Order 13166 (Limited English Proficiency), reasonable efforts will be made by the JTC to include and accommodate such populations.

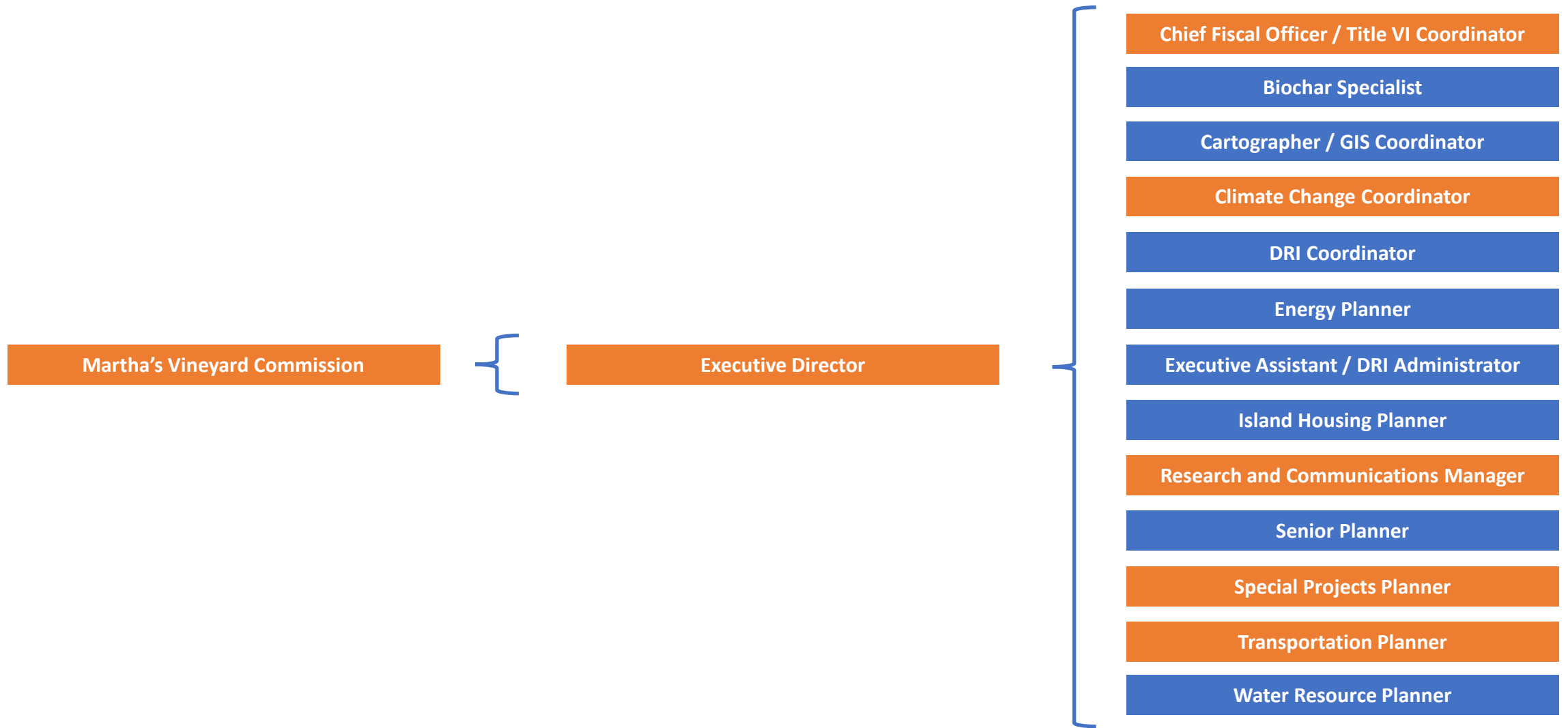
As well, the *Public Participation Plan* is intended to be consistent with the public involvement activities of the Executive Office of Transportation wherever possible in order to enhance the public discussion of regional transportation planning issues.


## **7. Review of Process**

The functioning of the JTC and its public-involvement activities will be formally reviewed biennially (every two years) by the JTC in order to evaluate the effectiveness of the by-laws and the *Public Participation Plan*.

## Appendix K

# MVC Organizational Flow Chart



 = Transportation related

## Appendix L





Maura Healey, Governor  
Kimberley Driscoll, Lieutenant Governor  
Gina Fiandaca, Secretary & CEO



Dec. 2023 MVC responses in red

August 29, 2023

Martha's Vineyard Commission  
Attn: Mike Mauro  
33 New York Avenue  
Oak Bluffs, MA 02557

Dear Mr. Mauro,

The Office of Diversity and Civil Rights (ODCR) has reviewed Martha's Vineyard Commission's (MVC) most recent Title VI submission. Below you will find our comments – a mix of recognizing those elements of the report that are compliant, some commendations for strong points, required follow-ups for the next reporting cycle, and recommendations for longer term updates.

In a slight variation from previous reporting cycles, rather than requiring a new report we are treating the upcoming reporting cycle as an opportunity for the regions to complete any required follow up from this recent submission. MVC should submit a revised plan addressing the required follow-ups by December 31, 2023. Recommendations are provided when ODCR is not expecting an update to the requirement by the December 31, 2023, deadline.

1. Title VI Assurances

**Substantially meets the requirements**

2. Title VI Certifications and Assurances

**Substantially meets the requirements**

3. Title VI Notice to the Public

**Required Follow-Up (due December 31, 2023)** – The notice is currently posted in English and Portuguese on the [Transportation Planning Activities](#) page of the website. MassDOT suggests either developing a Title VI webpage to provide the public with easier access to Title VI related documents or make these more prominent on the general [Transportation](#) webpage.

**The notice has been relocated to the top of the main transportation webpage.**

4. Title VI Complaint Procedures (i.e., instructions to the public regarding how to file a Title VI discrimination complaint)

**Required Follow-Up (due December 31, 2023)** – Complaint procedures included in the submission read more as a list of guidelines than an investigative process. MassDOT has recently updated its template complaint procedures and recommends MVC adopt them, including translated versions. Copies of MassDOT's complaint procedures, which may be helpful by reducing the amount of content the MPO needs to have translated, can be found [here](#).

**Required Follow-Up (due December 31, 2023)** – Complaint procedures are not currently available on the website Once updated to address the recommendation

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above, MVC should post the procedures including translated versions on the website in a location easily accessible by the public.

We have adopted the MassDOT procedures. The procedures and complaint forms have also been added to the Transportation Planning Activities webpage in English and Portuguese.

5. Title VI Complaint Form

**Required Follow-Up (due December 31, 2023)** – The complaint form included in the submission is only in English, and the form is not currently available on the MVC website. MVC should update its submission to include complaint forms in other languages, based on the results of its four-factor analysis and post the English and translated versions on the website in a location easily accessible by the public. Copies of MassDOT’s complaint forms, including translated versions, which be helpful by reducing the amount of content that MVC would need to translate can be found [here](#).

Please see 4 above.

6. List of Title VI investigations, complaints, and lawsuits

**Substantially meets the requirements**

7. Public Participation Plan (PPP), including information about outreach methods to engage minority and limited English proficient populations (LEP).

**Recommendation** – MVC reports that it is interested in an update to its 2017 PPP. MassDOT is in the final stages of an update to its own PPP. Once finalized, a copy will be shared with all MPOs and can be used as a resource for future PPP updates.

**Commendation** – MVC generates quarterly newsletters, with an already expansive distribution strategy and continues to monitor this strategy to further expand the reach of its newsletter, specifically to historically underrepresented populations.

8. Language Assistance Plan (LAP) for providing language assistance to persons with limited English proficiency (LEP), based on the DOT LEP Guidance

**Required Follow-Up (due December 31, 2023)** – MVC’s submission did not include a copy of its four-factor analysis. MVC should update the submission to include this analysis and outline a strategy for providing language assistance to LEP populations identified in the analysis.

**Required Follow-Up (due December 31, 2023)** – The LAP mentions that the MVC has not had a request for language assistance in several years. MassDOT suggests outlining strategies to encourage increased participation from LEP populations.

**Recommendation** – Due to the recent increase in LEP populations, MVC plans on conducting a survey to identify language assistance needs, including on specific planning documents. To ensure LEP populations are reached, MassDOT suggests translating the survey into multiple languages, informed by the results of the four-factor analysis.

We have added a four-factor analysis to section 10, and expanded our proposed actions.

9. Primary recipients shall include a description of how the agency monitors its subrecipients for compliance with Title VI.

**Required Follow-Up (due December 31, 2023)** - MVC should report whether it had active subrecipients during the reporting cycle, and include the process that is/would be used to ensure subrecipient compliance with Title VI requirements (i.e. program

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adoption, implementation, monitoring, etc.).

This has been added to section 5.

10. A copy of board meeting minutes, resolution, or other appropriate documentation showing the board of directors or appropriate governing entity or official(s) responsible for policy decisions reviewed and approved the Title VI Program.

**Required Follow-Up (due December 31, 2023)** – MVC should update its submission to address this requirement.

Please see cover letter from Executive Director Adam Turner.

11. An organizational chart identifying the MPOs/RPAs Title VI Coordinator and demonstrating ready access to the head of the agency.

**Required Follow-Up (due December 31, 2023)** – MVC should update its submission to address this requirement.

Please see Appendix K.

12. Description of how the Title VI coordinator confirms that Title VI compliance requirements are being met by the MPO/RPA.

**Required Follow-Up (due December 31, 2023)** – MVC should update its submission to address this requirement.

This has been clarified in section 1.

13. Describe how the MPO/RPA collects, utilizes, and analyzes Title VI related data, such as population demographics.

**Substantially meets the requirements**

14. Identify and describe any Title VI related trainings that MPO/RPA staff have participated in during the last year (since July 2021).

**Recommendation (Ongoing)** – MVC reports that its employees did not participate in formal training related to Title VI. MassDOT suggests MVC identify and encourage staff to participate in civil rights related trainings. MassDOT Title VI staff is available to facilitate training, upon request.

15. Description and examples of how Title VI related documentation and information is shared with the public.

**Required Follow-Up (due December 31, 2023)** – MVC should update its website to include additional Title VI related documentation, including but not limited Title VI Complaint Procedures and the Title VI Complaint Form.

Please see 4 above.

16. Provide a demographic profile of the metropolitan areas, including the identification of minority populations in the aggregate. In addition to minority populations, the MPO/RPA can also identify low-income and limited English proficient populations as well as the concentration of individuals with disabilities.

**Substantially meets the requirements**

**Commendation** – MVC provides an in-depth demographic profile, and accompanying narrative that demonstrates a thorough understanding of resident demographics in

[Type here]

the region. This understanding is a crucial component to performing inclusive outreach and engagement and should inform the strategies in the upcoming update to MVC's PPP.

17. Description of the procedures by which the mobility needs of minority populations are identified and considered within the planning process.

**Substantially meets the requirements**

ODCR would like to call special attention to the last two requirements (#18 and #19). MPOs employed several different strategies for conducting these analyses. To provide you with the most productive guidance, ODCR has not commented on the specific approach taken to address these requirements. Instead, ODCR is researching how MPOs across the country approach these requirements and will share any findings on approaches that may be relevant to our MPO partners.

18. Provide demographic maps and charts analyzing the impacts of the distribution of state and federal funds in the aggregate for public transportation purposes.
19. Provide an analysis of MPO transportation system investments, identifying and addressing any disparate impacts.

**Please see section 12 and Appendix B.**

Please direct any questions or concerns on the follow-ups or submission deadlines to your MPO liaison Raissah Kouame at [raissah.a.kouame@state.ma.us](mailto:raissah.a.kouame@state.ma.us). We appreciate your cooperation and demonstrated commitment to Title VI compliance.

Sincerely,

*Tiffany Garcia*

Tiffany Garcia  
Senior Title VI Specialist

[Type here]