

**Resolution: #2021-004**

**Agenda Item:**

**Date: May 17, 2021**

**BE IT RESOLVED**, by the City Commission of the City of Tioga, Williams County, North Dakota: A RESOLUTION FORMALLY ADOPTING TITLE VI AND NONDISCRIMINATION POLICY, dated May 17, 2021.

Whereas; the City of Tioga, Williams County, North Dakota, is a municipal corporation, organized and existing under the laws so the State of North Dakota;

Whereas; the City desires to formally adopt a certain Title VI and Nondiscrimination policy, which has become necessary in light of its desire to receive federal assistance, including federal grants.

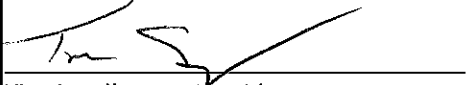
Whereas; Title VI of the Civil Rights Act of 1964 ensures that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination, including sex, age, disability, low income, or LEP discrimination, under any program or activity for which the Recipient receives Federal financial assistance. The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statuses and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally- assisted.

Whereas; it is the policy of the City to ensure compliance with Title VI of the Civil Rights Act of 1964 and all related statutes or regulation in all programs and activities.


As set forth in the City's Title VI and Nondiscrimination Policy, the City Auditor, working with the Commission President and the City's legal counsel, is granted the authority to administer and monitor the Title VI and Nondiscrimination Program as promulgated under the Title VI of the Civil Rights Act of 1964 and any subsequent legislation. The City will provide assistance as needed. The City recognizes the need and will provide Title VI training for City personnel. Anyone who believes that he or she has been discriminated against would contact the City Auditor.

**NOW, THEREFORE**, the City Commission approves the foregoing resolution and adopts the Title VI and Nondiscrimination Policy of the City of Tioga, dated May 17, 2021.

Moved by Bugbee Second by Maize to adopt.

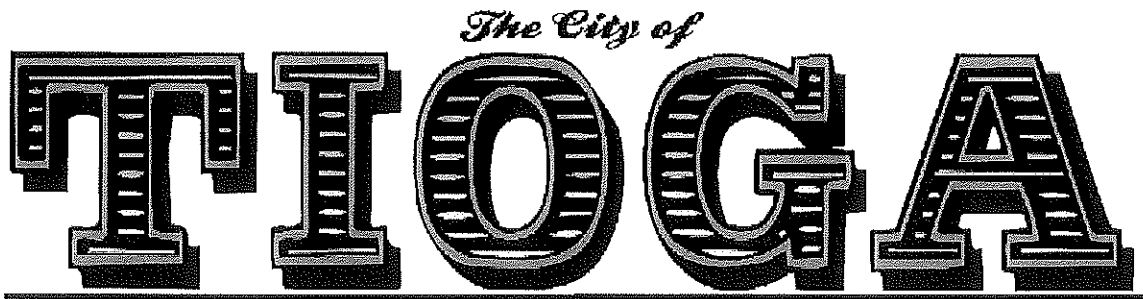
Commission				
Action:	Yes	No	Pass	Absent
Sundhagen	✓			
Christianson	✓			
Bugbee	✓			
Sandberg				✓
Maize	✓			
Motion Carried				
 _____ Tim Sundhagen, President				

IN WITNESS WHEREOF, I have hereunto set my hand the day and year above written.

  
 \_\_\_\_\_  
 Abby Salinas, City Auditor

CERTIFICATE

I, Abby Salinas, City Auditor of said City hereby certify that at a meeting of the City Commission held on the above date, among other proceedings, the above was adopted.



# CITY OF TIOGA

A North Dakota Municipal Corporation and  
Political Subdivision of the State of North Dakota

## TITLE VI AND NONDISCRIMINATION POLICY

**Prepared by:**

Abby Salinas, City Auditor

Elizabeth L. Pendlay, Municipal Attorney

The foregoing Title VI and Nondiscrimination Policy was reviewed and approved by Tioga City Commission on May 17, 2021, as set forth in Resolution No. 2021-04, which was unanimously approved and adopted on the May 17, 2021.

## I. INTRODUCTION AND BACKGROUND

The City of Tioga, North Dakota (hereinafter referred to as “the City” or “Tioga”), is a North Dakota municipal corporation and political subdivision of the State of North Dakota. The City is also a recipient of federal financial assistance. Title VI of the Civil Rights Act of 1964 requires recipients to comply with various nondiscrimination laws and regulations. Title VI of the Civil Rights Act of 1964 bars discrimination against anyone in the United States because of race, color, or national origin by any agency receiving federal funds.

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

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

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

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

Title VI regulations are created and implemented for the protection of the public in regard to the City’s activities and effects. The City is or will be a primary recipient of federal financial assistance. Sub-recipients of such aid may include contractors, subcontractors, suppliers, consultants, or any other entity receiving funds directly from the City.

The City is required to protect the public interest by developing a Title VI and Nondiscrimination Program for the benefit of the public in light of its receipt of federal financial assistance. The following “Title VI Assurances” serve to memorialize the foundation of the City’s commitment to nondiscrimination. The City has a longstanding history of adopting and implementing antidiscrimination policies within Tioga, and the City believes it appropriate to formally adopt and

implement clear and express policy regarding the application of Title VI and further nondiscrimination policy within Tioga, in addition to the City's other existing written policies for nondiscrimination at present. This Title VI plan identifies the implementation, compliance, and enforcement policies and procedures the City has developed to ensure compliance with Title VI at all levels within the City.

## **II. ORGANIZATION, STAFFING, AND RESPONSIBILITIES**

The Commission President and the City Auditor have been designated and appointed by the Tioga City Commission for coordinating the overall administration of the Title VI and Nondiscrimination Program within the City. The Commission President and the City Auditor has been instructed to work with the heads and/or supervisors of all City departments to ensure knowledge of and compliance with the policies contained herein. Additionally, with regard to Title VI and Nondiscrimination Policy, the Commission President and the City Auditor have been instructed to work closely with all Commission Members (who oversee various departments within the City), along with the City's Municipal Counsel to ensure Title VI compliance and nondiscrimination in all City employment and program areas. The individuals mentioned in this paragraph have other responsibilities in their current positions within the City; therefore, adequate time is being made available for these individuals to carry out their additional Title VI duties. The City will provide such individuals adequate time and appropriate resources to implement, monitor and ensure compliance with the policy set forth herein.

### **A. Commission President and City Auditor – Oversight and Implementation**

The Commission President and the City Auditor are responsible for the overall implementation and administration of the Title VI Program for the City of Tioga. The Commission President and the City Auditor are responsible for the establishment of a Title VI program and providing adequate staffing to effectively implement the Title VI requirements. The Commission President signs the Title VI Assurances ensuring compliance in all the City's programs, activities, and services. *See Exhibit A.*

### **B. Office of the City Auditor - Coordination – Chief of Planning and Programs**

The Office of the City Auditor will provide the administrative direction necessary to ensure that the City's policies and procedures relating to the Title VI Plan are implemented and that its established goals are appropriately attained. The City Auditor's Office, working with the President of the Commission and the City's legal counsel, are charged with the responsibility for implementing, monitoring, and ensuring City's compliance with Title VI regulations, including:

1. Developing and coordinating the implementation of the City's Title VI and Nondiscrimination Program; Providing technical assistance, guidance, and advice to all levels of City management on the Title VI program, in consultation with the Commission President and Municipal Counsel.
2. Developing and implementing procedures for the prompt processing and resolution of Title VI discrimination complaints within the City.

3. Coordinate the Title VI and Nondiscrimination Program with support staff.
4. Review City's procedures and guidelines as they relate to various program directives, manuals, and other regulations to determine whether Title VI provisions are contained. Where corrections are necessary, the City Auditor will coordinate revisions.
5. Assist the Commission President and the City Auditor in the development and implementation of monitoring activities deemed necessary for contractors, consultants, suppliers, vendors, planning agencies, and other sub-recipients of all City programs.
6. Arrange and conduct Title VI training programs for the City where appropriate.
7. Develop and publish other Title VI, Limited English Proficiency (LEP), and Environmental Justice (EJ) information for dissemination to the public, where appropriate.
8. Monitor inclusion of the Title VI Assurances in all applicable construction and non-construction contracts, consultant agreements, etc., and disseminate the clause and instructions for its use to all City Departments and all sub-recipients.

#### **D. City Auditor – Grants**

The City Auditor was assigned to assist in the development and implementation of the City's Title VI responsibilities. In this respect, the City Auditor's will also have related responsibilities include the following:

1. Work closely with the Commission President, other Commission Members, and legal counsel to develop and implement policies and procedures to monitor and ensure Title VI compliance in all of City programs and activities.
2. Document and communicate any known deficiencies found in the program and promote new concepts to the program.
3. Provide and prepare data, information, and reports as appropriate.
4. Receive and report concerns of Title VI issues or complaints for proper guidance and/or processing.
5. Include Title VI clauses in contracts, information distributed or advertised to the public, where applicable.
6. Annually review and update the Title VI and Nondiscrimination Program with the City Commission.
7. Devise and implement monitoring activities deemed necessary for sub-recipients.

8. Review all construction and non-construction related contracts, and consultant agreements to ensure Title VI Assurances are included, where appropriate.

**E. Resources Allocated**

The City Commission has assured that the City budget has funds that can be used towards Title VI administration, compliance, and enforcement.

**III. PROGRAM ADMINISTRATION**

**A. Public Involvement**

The City shall disseminate the Title VI and Nondiscrimination Policy internally, via interdepartmental email and written deliveries, to City departments, supervisors, and employees and externally, via the Internet, to sub-recipients, contractors, beneficiaries, and the general public as well as in other formats as requested. Public dissemination of other Title VI information will include posting the Title VI and Nondiscrimination Policy Statement and Title VI Assurances on the City's webpage.

**B. Complaints**

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

*See Exhibit B.*

**D. Training Program**

The City Auditor's Office, in consultation with the Commission President, will establish and thereafter offer training to City personnel and any other pertinent parties. Scheduled training will be held once annually.

**IV. MONITOR AND REVIEW**

**A. Policy Review**

The City Auditor and Commission Present will coordinate efforts to ensure equal in application and participation in this Policy in all City departments.

**B. Review**

The City will conduct one review annually of a selected City Department. Reviews will be conducted on a cyclic basis across the City's Departments (e.g., Police Department, Auditor's Office/City Hall, Streets Department, Water Department).

**C. Operational Guidelines**

City directives, policies, procedures, and guidelines will provided to contractors, sub-recipients, and internal program, where appropriate, and

will be reviewed annually to ensure the required Title VI provisions, state law, and related requirements are included.

#### **D. Remedial Action**

The City will actively pursue the prevention and corrective action of Title VI deficiencies and violations and take the necessary steps to ensure compliance with all requirements.

### **V. TITLE VI COMPLAINT PROCESS**

#### **A. Formal Title VI Complaint Procedure**

The City's Title VI Policy, as outlined in its Title VI and Nondiscrimination Program, assures that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the City. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on income status and Executive Order 13166 prohibits discrimination based on Limited English Proficiency (LEP). The City uses the following internal procedures for prompt processing of all Title VI complaints received directly by any program having responsibilities under Title VI. These procedures include but are not limited to:

1. Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with the City Auditor's Office. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of City's departments or programs for it to be considered and processed as an allegation of a discriminatory practice.
2. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. The City's Title VI Complaint Form must be used. **See Exhibit B.**
3. Upon receipt of a formal Title VI complaint, the City Auditor immediately forwards the complaint to the Commission President and legal counsel for the City.
  - a. Title VI complaints filed against the City are referred to the City Auditor's Office, the Commission President and legal counsel for processing, staffing and investigation.
  - b. A copy of the complaint, together with a copy of the Auditor's report of the investigation and recommendations, are forwarded to the Commission within 90 days of the date the complaint was received by the City.



- c. The Commission Board makes the final decision with regard to Title VI Complaints within the City.

**D. Informal Title VI Complaint Procedure**

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

## EXHIBIT "A"

### Title VI Assurances

The City (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance, it is subject to and will comply with the following:

#### Statutory/Regulatory 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);
- 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 hereinafter are referred to as the "Acts" and "Regulations," respectively.

#### General Assurances

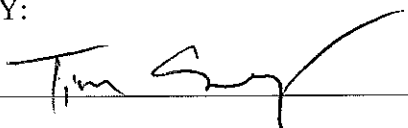
In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity.*

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.

Dated this 17 day of May, 2021.

BY:



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COMMISSION PRESIDENT

**EXHIBIT “B”**  
**COMPLAINT FORM**



# TITLE VI COMPLAINT

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

EXHIBIT "C"

# Limited English Proficiency Plan

## City of Tioga, North Dakota

### INTRODUCTION

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

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

### Plan Summary

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

### LANGUAGE ASSISTANCE

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

How the City's staff may identify an LEP person who needs language assistance:

- Post notice of LEP Plan and the availability of interpretation or translation services, where available, in a manner and form an LEP individual can understand.

- All City staff will be provided with language identification cards or use Google translator to assist in identifying the language interpretation needed if the occasion arises.
- All City staff will be informally surveyed periodically on their experience concerning any contacts with LEP persons during the previous year.

### **Language Assistance Measures**

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

1. City staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating English.
2. The following resources may be available to accommodate LEP persons:
  - a. Volunteer language interpreters are available throughout the state and will be provided within a reasonable time and request period provided they are available to the City.

### **STAFF TRAINING**

The following training will be offered to staff:

- Information on the Title VI Policy and LEP responsibilities.
- Use of Google Translator.
- How to handle a potential Title VI/LEP complaint.

### **DISSEMINATION OF LEP PLAN**

- Post signs in City service area(s) notifying LEP persons of the LEP Plan and how to access language services.