

# **CITY OF MERCER, NORTH DAKOTA**

## ***TITLE VI COMPLAINT PROCEDURE***

### **SCOPE OF TITLE VI COMPLAINTS**

The scope of Title VI covers all external City of Mercer activities. Adverse impacts resulting in Title VI complaints can arise from many sources, including advertising, bidding, and contracts.

Complaints can originate from individuals or firms alleging inability to bid upon or obtain a contract with City of Mercer for the furnishing of goods and/or services. Examples include advertising for bid proposals; prequalification or qualification; bid proposals and awards; selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.

Complaints can originate as a result of project impacts on individuals or groups. For example, social and economic, traffic, noise, air quality, access, accidents, and failure to maintain facilities.

### **FORMAL TITLE VI COMPLAINT PROCEDURE**

City of Mercer's Title VI Policy assures that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, and/or disability/handicap 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 City of Mercer, its recipients, subrecipients, and contractors. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on income status.

City of Mercer uses the following detailed, internal procedures for prompt processing of all Title VI complaints received directly by it. 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 City of Mercer. 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 of Mercer's 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. City of Mercer's Title VI Complaint Form **must** be used.
3. The complaint may also be filed with the Secretary, U.S. Department of Transportation, Room 4132, 400 Seventh Street, Southwest, Washington, D.C. 20590. The complaint must be filed, in writing, no later than 180 days after the date of the alleged discrimination, unless the time frame for filing is extended by the Secretary, U.S. Department of Transportation.

4. Immediately, upon receipt of a Title VI complaint, City of Mercer determines a course of action. Possible courses of action include:
  - a. Title VI complaints filed against City of Mercer are referred to the North Dakota Department of Transportation (NDDOT) for processing. NDDOT notifies the Federal Highway Administration (FHWA) Division Office of the complaint.
  - b. Title VI complaints filed against City of Mercer recipients and subrecipients (e.g. contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed by City of Mercer in accordance with the FHWA approved complaint procedures, as required under 23 Code of Federal Regulations Part 200. NDDOT is available to provide assistance.
    - i. A copy of the complaint, together with a copy of City of Mercer's report of the investigation and recommendations, are forwarded to the FHWA Division Office, 1471 Interstate Loop, Bismarck, ND 58503, within sixty (60) days of the date the complaint was received by City of Mercer.
    - ii. A copy of the complaint, together with a copy of City of Mercer's report of the investigation and recommendations, are forwarded to NDDOT, Local Government Division, 608 East Boulevard, Bismarck, ND 58505 – 0700, for informational purposes only.
    - iii. The FHWA Headquarters Office of Civil Rights makes the final agency decision.
5. City of Mercer reviews and determines the appropriate action regarding every complaint. City of Mercer will recommend to the FHWA Division Office, with a copy to NDDOT, not to proceed with or continue a complaint investigation if:
  - a. The complaint is, on its face, without merit.
  - b. The same allegations and issues of the complainant have been addressed in a recently closed investigation or by previous federal court decisions.
  - c. The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.
6. If an investigation is to be initiated, City of Mercer determined the method of investigation and who will conduct the investigation.
7. The entire investigation process, including the submission of the final report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT, is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by City of Mercer.
8. City of Mercer acknowledges receipt of the allegation(s) within ten (10) working days. The complainant is notified of the proposed action to be taken to process the allegation(s). The notification letter contains:

- a. The basis for the complaint.
  - b. A brief statement of the allegation(s) over which City of Mercer has jurisdiction.
  - c. A brief statement of City of Mercer's jurisdiction over the recipient to investigate the complaint; and
  - d. An indication of when the parties will be contacted.
  - e. Depending on the nature of the complaint, the complaint will be referred to the following for final decision:
    - i. Federal Highway Administration (FHWA)
    - ii. U.S. Department of Justice (USDOJ)
9. City of Mercer also notifies the FHWA Division Office, with a copy to NDDOT, within ten (10) calendar days of receipt of the allegations. The following information is included in the notification to FHWA:
  - a. Name, address, and phone number of the complainant.
  - b. Name(s) and address(es) of persons alleged to have been involved in the act.
  - c. Basis of alleged discrimination (i.e., race, color, sex, age, national origin, disability/handicap, or income status).
  - d. Date of alleged discriminatory act(s).
  - e. Date complaint was received by City of Mercer.
  - f. A brief statement concerning the nature of the complaint.
  - g. Other agencies (federal, state, or local) with which the complaint has been filed.
  - h. An explanation of the actions City of Mercer proposed to take to resolve the issue(s) raised in the complaint.
10. The investigation consists of an in-depth, personal interview with the complainant(s). Information gathered in this interview includes but is not limited to: identification of each complainant by race, color, sex, age, national origin, disability/handicap, or income status; name of the complainant; a complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint; the date the complaint was filed; and any other pertinent information the investigator(s) feels is relevant to the complaint. The interview(s) is recorded, either on audio tape or by an investigator taking notes. The investigator(s) arranges for the complainant to read, make necessary changes to, and sign the interview transcript or interview notes.
11. Following the interviews, the investigator(s) develops a report of the investigation and recommendations based on the facts. The report contains the investigator's(s') findings, conclusions concerning each issue raised in the complaint, and recommendations for corrective action. The report is the last document prepared by the investigator(s). Any other actions taken as a result of the investigator's(s') findings and conclusions are the responsibility of City of Mercer management.

12. The complainant received a letter from City of Mercer detailing the findings and any recommendations for corrective action to be taken based on the facts. All issues in the complaint are addressed. The complainant is informed that the final determination is made by the FHWA Office of Civil Rights.
13. City of Mercer forwards the report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT. Included with the report is a copy of the complaint, copies of all documentation pertaining to the complaint, the date the complaint was filed, the date the investigation was completed, and any other pertinent information.
14. The FHWA Headquarters Office of Civil Rights makes the final agency decision.

### **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. Any complaint received in writing is considered to be a formal complaint and is handled under the formal complaint procedure outlined above.
3. City of Mercer periodically informs NDDOT of the status of all informal complaints.
4. When a complaint has been directly filed with another federal or state agency, City of Mercer is to be informed by the agency where the complaint has been filed and is to take whatever action is needed to resolve the complaint.