

# KUB Official Policy

## General

Title:	TITLE VI POLICY & IMPLEMENTATION PLAN		
Section:	Section A - Employment	Effective Date:	10/21/2003
Reference Number:	A-02	Revision Date:	05/15/19
Governance:	Title VI of the Civil Rights Act of 1964		
Related Policies:			

## Policy

### I. Introduction:

#### A. Purpose

The purpose of Title VI of the Civil Rights Act of 1964 (the “Act,” or sometimes “Title VI”) is to prohibit programs that receive Federal Financial Assistance from discriminating against participants or clients on the basis of race, color or national origin. The intent of the law is to ensure that all persons, regardless of their race, color or national origin, are allowed to participate in federally assisted programs. To ensure that the Knoxville Utilities Board (“KUB”) meets its compliance responsibilities, procedures are established below to provide for appropriate monitoring of KUB’s Title VI activities and, when necessary, processing of complaints.

#### B. Program Coverage

KUB will occasionally receive Federal Financial Assistance. For example, KUB has received a grant through the Federal Emergency Management Agency (FEMA) for federal disaster relief to fund repairs to the KUB system damaged by natural disasters.

KUB expects to seek Federal Financial Assistance when appropriate. To facilitate the receipt of Federal Financial Assistance where KUB believes such assistance is in the best interests of KUB and its customers, and to ensure that all KUB services are administered in a manner consistent with the requirements of Title VI, KUB is adopting this Title VI Policy and Implementation Plan (the “Plan”).

#### C. Administration

KUB has established this Plan to provide for Title VI compliance activities and complaint processing in all operations and programs which are directly or indirectly responsible to KUB and which receive Federal Financial Assistance from any source, in whole or in part. KUB’s President/CEO will designate an administrative officer to enforce or comply with federal guidelines and criteria to prohibit discrimination in programs and activities which are funded with Federal Financial Assistance, as required by the Act (“Administrative Officer”).

#### **D. Scope**

The Plan applies to (i) all KUB departments, functions, facilities, operations, programs and projects (hereinafter referred to as “Services”) that receive Federal Financial Assistance; and (ii) all Services provided by Sub-Recipients that receive Federal Financial Assistance through KUB. It is KUB’s objective that all Services be administered and provided in a nondiscriminatory manner in compliance with the Act.

#### **E. Notification**

The Plan will be communicated to all KUB employees through normal communication procedures. The Plan will be communicated to Sub-Recipients of Federal Financial Assistance through pre-award meetings and through language contained in all contracts and related agreements. A summary of the Plan and KUB’s commitment to nondiscrimination, together with the name, telephone number and address of the Title VI Administrative Officer (Administrative Officer), will be posted on the KUB web page ([www.kub.org](http://www.kub.org)).

### **II. Title VI Policy and Procedure:**

#### **A. Policy**

KUB reaffirms its policy to afford all individuals the opportunity to participate in Services which are funded with Federal Financial Assistance and adopts the following provision:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial Assistance.”

#### **1. Prohibited Discriminatory Practices**

KUB and its Sub-Recipients of Federal Financial Assistance will not, directly or through contractual or other arrangements, on the grounds of race, color or national origin:

(a) Deny any individual Services, aid or other benefit for which such individual is otherwise qualified to receive under any Program;

(b) Provide any Services, aid, or other benefit to an individual which is different (in quality or quantity), or is provided in a different manner, from that provided to others under such Program;

(c) Subject any individual to segregation or disparate treatment in any matter related to his or her receipt of any Services, aid or other benefit under such Program;

(d) Restrict any individual in any way in the enjoyment of any Services, advantage, privilege or benefit provided to or enjoyed by others receiving same under such Program;

(e) Adopt or use any method of administration or delivery of Services which would limit participation by any group of Beneficiaries or subject any individual to discrimination under such Program;

(f) Deny any individual the opportunity to participate in any Program through the provision of Services or otherwise, or afford such individual an opportunity to do so which is different from that afforded others under the Program;

(g) Address any individual in a manner that denotes inferiority;

(h) Subject any individual to discrimination in employment practices under a Federal Financial Assistance Program whose objective is to provide employment;

(i) Permit any discriminatory activity in a facility built in whole or in part with Federal Financial Assistance;

(j) Fail to advise individuals who may be eligible to be served or benefited by any Federal Financial Assistance Program offered by KUB of such Program's existence;

(k) Deny any individual the opportunity to participate in the operations of any planning or advisory body that is required as an integral part of a Federal Financial Assistance Program;

(l) Fail to provide Services or information related thereto in a language other than English where significant numbers of potential or actual Beneficiaries are of limited English-speaking ability and would otherwise be unable to fully realize the intended benefits of a Federal Financial Assistance Program or activity;

(m) Locate a facility in any manner which would limit or impede an individual's access to Services or benefits that are funded with Federal Financial Assistance.

## 2. Assurances

### (a) **KUB**

Any Federal Financial Assistance provided to KUB is conditioned on providing assurances that Services to be benefited by such Federal Financial Assistance will operate without discrimination. Such an assurance is a contractual obligation through which KUB promises to comply with Title VI regulations, and promises that it will take immediate and continuing steps to effectuate this compliance. As part of its Title VI compliance documentation, KUB's assurances appear at **Appendix A**.

### (b) **Sub-Recipients**

Additionally, KUB will require a statement of assurance from all Sub-Recipients of Federal Financial Assistance, which acknowledges compliance with Title VI. As part of KUB's Title VI compliance documentation, the Sub-Recipient's assurances appear in applicable procurement documents and contracts. Further, the Sub-Recipient, by signing the contract, shall agree to the following provision which will be included in the terms of the contract:

The Contractor agrees that it will comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed by KUB to the effect that no person shall, on the grounds of race, color, or natural origin, be excluded from participating in, or denied the benefits of, or be subject to discrimination under any program or activities for which KUB received Federal Financial Assistance.

The Contractor agrees to compile appropriate data, maintain records, and submit reports as required to permit effective enforcement of Title VI.

If there are any violations of this assurance, KUB shall have the right to recommend corrective actions or to seek administrative enforcement of this assurance, up to and including termination of federal contracts involving the receipt of financial assistance.

(c) KUB occasionally receives Federal Financial Assistance from FEMA for disaster-related repairs to the system, particularly its electrical system. Because the FEMA funds are received after the fact, Sub-Recipients contracting to perform disaster repair on or related to KUB's electrical system will be required, in accordance with paragraph (b) above, to execute assurances and to acknowledge compliance with Title VI in their contracts with KUB so as to ensure KUB's and the Sub-Recipient's compliance before such work is performed.

## **Compliance Reviews**

The ultimate responsibility for complying with the provisions of Title VI is vested in the President/CEO, who is accountable for the administration of KUB; however, the Administrative Officer has the responsibility of ensuring that KUB complies with the Plan.

### **1. KUB Review**

(a) Each Senior Vice President or Vice President shall work with an appointed liaison from the HR Department to prepare an annual Title VI compliance survey report for his or her area of responsibility that will be delivered to the Administrative Officer. As part of KUB's Title VI compliance documentation, the organizational compliance survey report appears at **Appendix B**.

(b) The Administrative Officer will conduct annual reviews of the organizational compliance survey reports to ensure that the organizations have received orientation or sufficient information about Title VI policies; have received all materials required for administering the Title VI program; have received procedural manuals, posters, and pamphlets; and have on file a current organizational compliance survey report indicating the status of the organizations' Title VI compliance.

(c) If the Administrative Officer's review of the organizational compliance survey reports shows that compliance problems exist, the problems will be discussed with the respective organizational manager. If serious compliance problems are noted, an exception report will be filed with the HR Department, and procedures for correcting noncompliance will be stipulated with the organization.

(d) The Administrative Officer will compile a comprehensive annual Title VI compliance report. The Administrative Officer will provide copies of this report to the President/CEO, to the KUB Board Chair and to the City of Knoxville in accordance with Article III of the City of Knoxville's Charter. A copy will also be maintained on permanent file. This report shall certify that KUB (1) has not subjected any person to discrimination on the basis of race, color, or national origin under any of its programs or activities; (2) has not excluded any person from participating in any of its programs or activities on the basis of race, color, or national origin; and (3) has not denied any person the benefits of any of its programs or activities on the basis of race, color, or national origin.

(e) The Administrative Officer will cooperate with the responsible official(s) of any grantor Federal agency to provide compliance reports as requested by the grantor Federal agency.

(f) Where appropriate and requested by the grantor Federal agency, the Administrative Officer will make available data showing the extent to which minority groups are beneficiaries of Federal Financial Assistance Programs. KUB notes in this regard that in the past KUB's grants have not focused on services to individuals, but have focused on system-wide initiatives or on disaster-related repairs reimbursed by FEMA.

## **2. Sub-Recipient Review**

(a) Procurement will be responsible for ensuring that KUB Sub-Recipients are in compliance with the Act.

(b) Procurement will require sub-recipients to acknowledge their Title VI obligations through the signing of binding agreements that include Title VI requirements.

(c) Sub-Recipients will be required to submit post-award compliance reports to Procurement in accordance with regulations and requirements of the grantor Federal agency. Procurement will notify the Administrative Officer in a timely manner of any violations.

(d) Any Sub-Recipient found guilty of violating Title VI will be given a written notice of such violation and an opportunity to comply. Failure to eliminate further discrimination within thirty (30) days of receipt of such notice will be considered a violation of the terms of the contract and a basis for contract suspension, termination, or rejection. Federal funds will be terminated or withheld as a sanction for noncompliance. Procedures for correction of noncompliance issues will be stipulated to the Sub-Recipient.

### **C. Employee Compliance**

If a KUB employee is found guilty of any discriminatory practice based on provisions of Title VI, the Administrative Officer will then make a recommendation on the appropriate progressive discipline for such employee which will be in accordance with established KUB disciplinary procedures and will be coordinated through KUB's HR Department. In addition, the Administrative Officer may recommend special Title VI re-training for the employee in lieu of or in combination with disciplinary action for a first offense. Any recommendation made hereunder by the Administrative Officer shall be subject to review and approval by KUB's Executive Staff prior to implementation.

### **D. Public Awareness and Notification**

KUB will periodically distribute pamphlets, brochures, and posters designed to inform KUB employees, customers and prospective customers, and Sub-Recipients of their obligations and rights under Title VI and of the availability of Services under any Program. Posters will be displayed in prominent locations. As noted above, KUB's commitment to nondiscrimination under Title VI will be posted on its web page

### **E. LEP Policy**

KUB will have working procedures in place for providing meaningful access to its programs and services to persons with limited English proficiency published on its web page.

## **F. Civil Rights Training**

Newly hired KUB employees shall, during their orientation process, be advised about KUB's Title VI policies and procedures. KUB employees generally will receive periodic training regarding their obligations and rights under Title VI. In-service training programs for all employees will be conducted by the HR Department and shall continually apprise staff of their responsibility to render a high quality of services to all customers regardless of their race, color, or national origin.

## **G. Complaint Procedures**

A complaint against KUB alleging discrimination in violation of the Act may be filed with the Administrative Officer.

1. The Administrative Officer has the primary responsibility for receiving, acknowledging, and investigating complaints and for reporting findings to the President/CEO. Complaints must be filed in writing, preferably on the Complaint of Discrimination Form found at **Appendix C**, and sent to the Administrative Officer. A complaint can be filed by the complainant or by his/her representative. The Administrative Officer will retain the original complaint, and the respective organization manager will receive a copy of any complaints filed. If a complainant is unwilling or unable to complete the Complaint of Discrimination Form, the complainant may write, or have written, a letter setting forth the circumstances of the complaint. The Administrative Officer shall then complete the Complaint of Discrimination Form on Appendix C and attach it to the complainant's letter.

2. Unless a complaint is being filed externally, all complaints should first be filed with the Administrative Officer, who will immediately notify the respective organization manager. The Administrative Officer has broad latitude to review and investigate a complaint and to make appropriate findings. Procedures can include, but are not limited to, discussing the complaint with the complainant, the alleged offender, and the initial reviewer, to determine the facts. The Administrative Officer will conduct and complete such fact-finding within thirty (30) consecutive calendar days after receipt of the complaint. In the event that the investigation may not be completed within this thirty (30) day time frame, the Administrative Officer and the complainant may mutually agree, in writing, to allow for additional time to determine the facts. Once the investigation is completed, the Administrative Officer will prepare a written report of findings. If the report includes a finding of violation of the Act, the Administrative Officer should include a proposed corrective action in the report.

3. The Administrative Officer will maintain a Title VI complaint log to show identifying information, type, and status of each complaint filed. When any investigation is concluded, the Administrative Officer will keep a copy of the report on permanent file. Within five (5) consecutive work days after the completion of this report, the written findings will be communicated to the complainant by the Administrative Officer. At this

point, a complainant who wishes to pursue the complaint may choose to appeal the charges externally, if the complainant has not done so already.

4. To allow time to file sequentially with KUB and then externally with an appropriate outside agency or court, as the complainant chooses, the complaint within KUB should be filed no later than thirty (30) calendar days after the alleged discrimination occurred. If the complaint is filed beyond the thirty (30) calendar day period, the Administrative Officer is nevertheless encouraged to investigate and process the complaint. If the complainant is unsatisfied with the findings or the proposed remedial action, the complainant may file externally within any applicable statutes of limitations.

5. If a complaint is filed within KUB and is filed externally during the same time, the external complaint supersedes the internal complaint filing; accordingly KUB's complaint procedures will be suspended pending outcome of the external complaint.

#### **H. Participation in Planning and Advisory Committees**

Other than its Board of Commissioners, KUB does not rely on any advisory bodies. In the event and to the extent that KUB opts to establish a planning or advisory body, such as a committee, as an integral part of KUB's services in the ordinary course of KUB's business, KUB shall take such legally permissible steps as are necessary to ensure that minorities are notified of the existence of such bodies and are provided equal opportunity to participate as members. These provisions shall apply to KUB's Board of Commissioners and to any other advisory body KUB may choose to establish.

### **III. Definitions:**

**A. "Beneficiary"** shall mean any person to whom assistance, Services or benefits are ultimately provided pursuant to a Federal Assistance Program. Potential beneficiaries are those who are eligible to receive Program benefits or Services.

**B. "Complaint"** shall mean a formal, written allegation of discrimination filed with the Administrative Officer which indicates that any KUB Program is operated in such a manner that it results in disparity of treatment to persons or groups of persons because of race, color, or national origin. Complaints over programs that do not implicate disparate treatment or impact because of race, color, or national origin will not be governed by this Plan.

**C. "Compliance"** shall mean the fulfillment of the requirements of Title VI, implementing regulations, and instructions to the extent that no distinctions are made in the delivery of any service or benefit on the basis of race, color, or national origin.

**D. "Compliance Review"** shall mean regularly scheduled inspections of KUB programs conducted in a systematic manner to determine compliance with Title VI.



**E. “Contractor”** shall mean a person or entity that agrees to perform specific services at a specified price.

**F. “Desk Audit”** shall mean a structured review of statistical or narrative compliance information submitted by organizations, Recipients, Sub-Recipients, or agency program offices and obtained without going on-site, conducted according to review procedures. Desk audits include routine reviews of assurance forms or other documents to ensure that they have been properly completed.

**G. “Discrimination”** shall mean to make any distinction between one person or group of persons, either intentionally or by the effect of actions or inactions, based on race, color, or national origin.

**I. “Federal Financial Assistance”** includes:

1. Grants and loans of federal funds;
2. The grant or donation of federal property and interests in property;
3. The detail of federal personnel;
4. The sale and lease of, and the permission to use (other than on a casual or transient basis) federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purposes of assisting the Recipient, or in recognition of the public interest to be served by such sale or lease to the Recipient; and
5. Any federal agreement, arrangement or other contract which has as one of its purposes the provision of assistance.

**H. “Minority”** shall mean a person or groups of persons differing from others in some characteristics and often subjected to differential treatment on the basis of race, color or national origin.

**I. “Noncompliance”** shall mean failure or refusal to comply with Title VI, other applicable rights laws, or KUB policies and procedures, including without limitation this plan.

**J. “Post-Award Review”** shall mean an inspection of Programs during and after Federal Financial Assistance has been provided to the Beneficiary, Recipient, or Sub-Recipient. Reviews may be conducted through desk audits, on-site visits, or other mechanisms. A post-award review may result in a written report that shows the compliance status of Programs, Recipients, or Sub-Recipients. When necessary, the report will contain recommendations for corrective action. If KUB finds the Program or Recipient in noncompliance, technical assistance and guidance will be provided to bring

the recipient into voluntary compliance. If voluntary compliance cannot be secured, formal enforcement action will be initiated.

**K. "Program"** includes any program, project or activity for the provision of Services or other benefits to individuals (including education or training, rehabilitation, or other services or disposition), whether provided through employees of the Recipient of Federal Financial Assistance or provided by others through contracts or other arrangements with Recipient, including work opportunities, cash or loan or other assistance to individuals, or for the provision of facilities for furnishing Services, financial aid or other benefits to individuals.

**L. "Public Notification"** shall mean the process of providing information to minority racial groups, including statements of nondiscrimination, about KUB's programs, services, and activities. This is achieved through the use of newspapers, periodicals, radio, television, brochures, pamphlets, the KUB web site, and contact with community organizations.

**M. "Recipient"** means the state, any political subdivision of the state, or any instrumentality of the state or political subdivision, any public or private agency, institution, corporation, organization, or other entity or individual to whom Federal Financial Assistance is extended, directly or through another Recipient, for any Program, including any successor, assign, or transferee thereof, but such term does not include any ultimate Beneficiary under such Program.

**N. "Sub-Recipient"** shall mean a non-federal or state entity that receives the proceeds of Federal Financial Assistance under a contract with KUB which provides that the Contractor carry out a Program funded with Federal Financial Assistance.