



## OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

### INFORMAL RESOLUTION AGREEMENT

between

**THE UPPER MISSISSIPPI RIVER BASIN ASSOCIATION (UMRBA)**

and

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**EPA COMPLAINT NO. 02R-21-R5**

#### I. PURPOSE AND JURISDICTION

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI) and other federal nondiscrimination laws, and United States Environmental Protection Agency's (EPA) implementing regulation at 40 C.F.R. Parts 5 and 7 prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and retaliation in the programs, services, and activities of applicants for or recipients of federal financial assistance.<sup>1</sup>
- B. The Upper Mississippi River Basin Association (UMRBA) receives federal financial assistance from the EPA. As a term of receiving that assistance, UMRBA agreed to comply with federal nondiscrimination laws, including Title VI, and all applicable civil rights regulations.<sup>2</sup> UMRBA also provided assurance that it would "fully comply with all applicable civil rights statutes and EPA regulations."<sup>3</sup> Therefore, UMRBA must ensure nondiscrimination in programs and activities pursuant to the provisions of Title VI, the other federal nondiscrimination laws, and the EPA's implementing regulation.
- C. On May 26, 2021, the EPA's Office of External Civil Rights Compliance (OECRC)

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<sup>1</sup> Title VI of the Civil Rights Act of 1964, 42 United States Code §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq.; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq.; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); 40 C.F.R. Parts 5 and 7.

<sup>2</sup> See Term and Condition 36, Civil Rights Obligations at [https://www.epa.gov/sites/production/files/2019-09/documents/fy\\_2020\\_epa\\_general\\_terms\\_and\\_conditions\\_effective\\_october\\_1\\_2019.pdf](https://www.epa.gov/sites/production/files/2019-09/documents/fy_2020_epa_general_terms_and_conditions_effective_october_1_2019.pdf)

<sup>3</sup> See Form 4700-4 Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance, most recently submitted by UMRBA on July 27, 2023. UMRBA entered into a six-month agreement with the EPA on November 24, 2023 to remedy their deficiencies in the Form 4700-4.

received EPA Complaint No. 02R-21-R5, which alleged discrimination by UMRBA based on race and national origin.

- D. On July 9, 2021, OECRC accepted for investigation the following issues:
1. Whether the UMRBA discriminates on the basis of race and national origin in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., and 40 C.F.R. Part 7, by allegedly excluding Black, Hispanic, and Hmong communities from participating in the development of programs, projects, and policies related to flooding along the Mississippi River floodplain; and
  2. Whether UMRBA has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that all recipients of EPA financial assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to the UMRBA's programs, services, and activities for individuals with limited English proficiency and individuals with disabilities, and whether the UMRBA has a public participation policy and process that is consistent with Title VI and other federal civil rights laws, and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.
- E. During OECRC's investigation of EPA Complaint No. 02R-21-R5, on July 30, 2021, UMRBA agreed to engage in the voluntary Informal Resolution Agreement (Agreement) process to resolve the complaint. On September 9, 2021, OECRC issued a letter to UMRBA memorializing UMRBA's willingness to engage in the IRA process and suspended its process to issue preliminary findings.
- F. This Informal Resolution Agreement is entered into by UMRBA and EPA's OECRC pursuant to the authority granted to OECRC under the federal nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation found at 40 C.F.R. Parts 5 and 7, and resolves EPA Complaint No. 02R-21-R5.
- G. This Agreement is entered into voluntarily by OECRC and UMRBA and does not constitute an admission by UMRBA of a violation of, or a finding of compliance or noncompliance by OECRC with, Title VI or 40 C.F.R. Parts 5 and 7.
- H. UMRBA is committed to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI and other federal nondiscrimination laws and the EPA regulation at 40 C.F.R. Parts 5 and 7. The activities detailed in Section III of this Agreement are in furtherance of this ongoing commitment by UMRBA.

## II. BACKGROUND

UMRBA, an interstate entity, was established by the Governors of the five Upper Mississippi River basin states—Illinois, Iowa, Minnesota, Missouri, and Wisconsin—to foster interstate water resource planning and management, to facilitate dialogue and cooperative action regarding water and related land resource issues among the five states, and to serve as an advocate of the states' collective interests.

UMRBA is responsible for facilitating the five member states' long-term planning efforts to improve the resilience of the Upper Mississippi River to major flood events, prolonged drought, and excessive sediment. UMRBA states that it is committed to providing a fair and objective forum throughout the planning process and seeks to improve opportunities for affected residents to engage and collaborate in these efforts.

### III. SPECIFIC UMRBA COMMITMENTS

UMRBA agrees to the following commitments:

#### 1) Notice of Nondiscrimination under the Federal Nondiscrimination Laws

1. UMRBA shall prominently post a Notice of Nondiscrimination (Notice) on the UMRBA website's homepage, in all UMRBA's offices and facilities, and in its general publications that are distributed to the public (*e.g.*, public outreach materials, such as brochures, notices, fact sheets or other information on rights and services; applications or forms to participate in or access UMRBA programs, services, and activities). UMRBA shall ensure that its Notice, including the nondiscrimination statement posted on its public-facing website, is accessible to individuals with limited English proficiency (LEP) and individuals with disabilities, including ensuring that the Notice is also accessible to persons who are blind or have low vision.

The Notice shall contain, at a minimum, the following text:

- a) UMRBA does not discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex in administration of its programs, services, and activities. UMRBA does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or oppose actions protected or prohibited by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.
- b) UMRBA is responsible for the coordination of compliance efforts and receipt of inquiries concerning nondiscrimination requirements implemented by 40 C.F.R. Parts 5 and 7 (*Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental*

*Protection Agency*), including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter referred to collectively as federal nondiscrimination laws).

- c) If you have any questions about this Notice or any of UMRBA's nondiscrimination programs, policies, or procedures, you may contact:

[IDENTIFY NAME OF NONDISCRIMINATION COORDINATOR]  
Upper Mississippi River Basin Association  
c/o Operations Manager  
7831 East Bush Lake Road, Suite #302  
Bloomington, MN 55439  
(651) 224-2880  
[human.rights@umrba.org](mailto:human.rights@umrba.org)

- d) If you believe that you have been discriminated against with respect to the Upper Mississippi River Basin Association's programs, services, or activities, you may contact the UMRBA Nondiscrimination Coordinator identified above or visit UMRBA's website at [www.umrba.org/ethics](http://www.umrba.org/ethics) to learn how and where to file a complaint of discrimination.

2. If the identity of the Nondiscrimination Coordinator changes, then UMRBA will promptly update materials as appropriate.
3. Within 30 days after the effective date of this Agreement, UMRBA shall submit to OECRC a draft copy of its Notice of Nondiscrimination for review.
4. Within 30 days of receiving OECRC's comments, UMRBA shall prominently publish in print and on its website the final Notice of Nondiscrimination, including translated versions in all appropriate languages consistent with its language access plan (LAP). A link to the Notice of Nondiscrimination shall also be included in any appropriate UMRBA publications distributed to the public.

2) Grievance Procedures to Process Discrimination Complaints filed under the Federal Nondiscrimination Laws<sup>4</sup>

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<sup>4</sup> UMRBA confirmed that it does not employ 15 or more employees. As such, UMRBA is excepted from the requirements in 40 C.F.R. §§ 7.85(g) and 40 C.F.R. § 7.90. However, UMRBA has agreed to appoint a nondiscrimination coordinator and to develop Grievance Procedures as creating these will not significantly impair UMRBA's ability to provide programs or services, rather, it will enhance its ability to ensure nondiscrimination in its services, programs, and activities.

1. UMRBA shall prominently publish on UMRBA's website, in all UMRBA's offices and facilities, and in its general publications, as appropriate, that are distributed to the public its Grievance Procedures to process discrimination complaints filed under federal nondiscrimination statutes and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.
  - a) The Grievance Procedures shall ensure prompt and fair processing and resolution of discrimination complaints filed under federal nondiscrimination statutes and, where applicable, the EPA's implementing regulations at 40 C.F.R. Parts 5 and 7.
  - b) UMRBA shall ensure that its Grievance Procedures are accessible to individuals with LEP and individuals with disabilities, including ensuring that the Grievance Procedures posted on the UMRBA's website are accessible to individuals who are blind or have low vision.
2. The Grievance Procedures shall:
  - a) Identify by name the Nondiscrimination Coordinator, including contact information.
  - b) Explain the role of the Nondiscrimination Coordinator relative to the coordination and oversight of the Grievance Procedures.
  - c) State who may file a complaint under the Grievance Procedures and describe the appropriate bases for filing a complaint.
  - d) Describe the process available, and the options for Complainants in pursuing it.
  - e) State that the preponderance of the evidence standard will be applied during analysis of the complaint.
  - f) Contain assurances that intimidation and retaliation are prohibited<sup>5</sup> and that claims of intimidation and retaliation will be handled promptly and fairly pursuant to the Grievance Procedures in the same manner as other claims of discrimination.
  - g) Assure the prompt and fair resolution of complaints that allege violations of federal nondiscrimination laws.
  - h) State that written notice will be promptly provided about the outcome

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<sup>5</sup> See 40 C.F.R. § 7.100.

of the investigation, including whether discrimination is found and the description of the investigation process.

- i) Be reviewed on an annual basis, and revised as necessary, to ensure prompt and fair resolution of discrimination complaints; and
  - j) Include a complaint form that can be used by the public to file complaints of discrimination with UMRBA.
3. Within 30 days after the effective date of this Agreement, UMRBA shall submit to OECRC a copy of its Grievance Procedures for review.
  4. Within 30 days of receiving OECRC's comments, UMRBA shall address all comments and translate the Grievance Procedures in other appropriate languages consistent with its LAP,<sup>6</sup> and post its Grievance Procedures in English and in other appropriate languages on its website.

### 3) Designation of Nondiscrimination Coordinator<sup>7</sup>

1. UMRBA shall designate at least one Nondiscrimination Coordinator to ensure compliance with the federal nondiscrimination laws, who shall:
  - a) Provide information to individuals internally and externally that UMRBA does not discriminate on the basis of race, color, national origin, disability, age, or sex in the administration of UMRBA's programs, services, and activities, and that UMRBA does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or oppose actions protected or prohibited by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.
  - b) Provide notice of UMRBA's formal grievance processes and the ability to file a discrimination complaint.
  - c) Include in grievance procedures enough information about the process for implementation of UMRBA's Grievance Procedures to ensure that all discrimination complaints filed with UMRBA under federal nondiscrimination laws and EPA's implementing regulations at 40 C.F.R.

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<sup>6</sup> Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 F.R. 35602, <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>

<sup>7</sup> As previously mentioned, UMRBA does not employ 15 or more employees. As such, UMRBA is excepted from the requirements in 40 C.F.R. §§ 7.85(g), CFR §7.90. However, UMRBA has agreed to appoint a nondiscrimination coordinator and to develop Grievance Procedures as creating these will not significantly impair UMRBA's ability to provide benefits or services, rather, it will enhance its ability to ensure nondiscrimination in its services, programs, and activities.

Parts 5 and 7 are processed promptly and fairly. Ensure meaningful access to UMRBA's grievance policies and procedures for individuals with limited English proficiency and individuals with disabilities.

- d) Track all discrimination complaints filed with UMRBA under federal nondiscrimination laws identified in 40 C.F.R Parts 5 and 7. Conduct periodic reviews of the issues raised, and outcomes achieved to identify and address any patterns, systematic problems, or trends.
  - e) Ensure that appropriate training is provided for UMRBA staff and contractors, as appropriate, on UMRBA's nondiscrimination policies and procedures, obligation to comply with federal nondiscrimination laws, and in the processes available to resolve complaints filed with UMRBA under federal nondiscrimination laws.
  - f) Ensure that the Complainants are updated on the progress of their complaints filed with UMRBA under federal nondiscrimination laws and are promptly informed as to any determinations UMRBA has made.
  - g) Undertake periodic evaluations of the efficacy of UMRBA's efforts to provide services, aids, benefits, and participation in any of UMRBA's programs, services, and activities without regard to race, color, national origin, disability, age, sex or prior exercise of rights or opposition to actions protected under federal nondiscrimination laws.
  - h) Provide appropriate staff with resources to determine language access needs so that staff may identify language needs for any project requiring public participation, and ensure UMRBA identifies a qualified language service contractor with capabilities of accurately translating UMRBA's vital information and interpreting its substantive subject matters, (e.g., create and maintain a glossary of key technical terms and concepts into appropriate languages), and ensure all public participation documents issued to the public in English are simultaneously issued in the appropriate translated languages, consistent with the language access plan as detailed in Section III(E) of this Agreement.
2. The Nondiscrimination Coordinator shall not have other responsibilities that create a conflict of interest (e.g., serving as UMRBA's Nondiscrimination Coordinator as well as its legal advisor or representative on civil rights issues).
  3. Within 90 days after the effective date of this Agreement, UMRBA shall identify at least one individual who shall serve as the Nondiscrimination

Coordinator, consistent with the regulatory requirements of 40 C.F.R. §§ 5.135, 7.85(g), and 7.95(a).

4. Within 90 days of appointment of the Nondiscrimination Coordinator, UMRBA shall forward to OECRC proof that the responsibilities have been included in the incumbent's statement of duties and that the incumbent(s) accepted the duties.

4) Public Participation Plan

UMRBA convenes its five member states, federal agencies, and sets of stakeholders in its role of facilitating cooperative action and information exchange regarding water and related land resource issues.

- (1) UMRBA's meaningful public engagement strives to provide accessibility to UMRBA's programs and projects, including by designing processes that allow for obtaining and considering public input. This involves providing forums for any community member or group that could be impacted by UMRBA at various stages of its decision-making processes as well as generating and delivering responses to the community member or larger community's needs. Therefore, UMRBA shall draft a Public Participation Plan that shall:
  - a) Ensure that the factors used to determine the time, place, location, duration, and security at public hearings and meetings are developed and applied in a nondiscriminatory manner (e.g., consideration of religious/cultural holidays and unique community needs).
  - b) Ensure that UMRBA's public participation procedures are implemented consistent with federal nondiscrimination laws, the Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Program,<sup>8</sup> the EPA's Public Participation Guide,<sup>9</sup> and any analogous guidance issued by any other federal agency that provides federal financial assistance to UMRBA.
  - c) Allow comments to UMRBA to be submitted:
    - i) In writing or electronically before, during, and after public comment hearings; and
    - ii) Orally at public comment hearings, subject to any reasonable deadlines established by UMRBA, and taking into account the nature of the hearings and their relationship to UMRBA's

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<sup>8</sup> <https://www.epa.gov/external-civil-rights/external-civil-rights-guidance>

<sup>9</sup> <https://www.epa.gov/international-cooperation/public-participation-guide>



decision-making process, including deadlines for written and electronic comments that expire before the close of public comment hearings in order to meet a statutory deadline.

- d) Ensure that UMRBA's public involvement and communication process is available and accessible to all persons regardless of race, color, national origin (including limited English proficiency), disability, sex, age, or prior exercise of rights or opposition to actions prohibited under federal nondiscrimination laws by:
- i) Providing a process, for generally describing communities to be impacted by a particular UMRBA decision-making process.
  - ii) Requiring the posting of contact information for relevant staff members on UMRBA's website, including phone numbers and email addresses, to allow the public to communicate with appropriate staff.
  - iii) Identifying a place to maintain records regarding past and present community concerns (including any complaints filed under the federal nondiscrimination laws).
  - iv) Providing a mechanism for UMRBA's community partners to provide input (enhancing community engagement and involvement).
  - v) Requiring the consideration of contingency plans for unexpected events.
  - vi) Promoting the availability of virtual hearings and meetings when consistent with governing law and, when virtual hearings and meetings are conducted, providing public notice of procedures, including telephone access instructions or other alternatives for anyone without internet access.
  - vii) When in-person hearings and meetings are conducted, identifying location(s) where public meetings shall be held considering the accessibility of the location (e.g., availability and schedules of public transportation).
  - viii) Maintaining resources for obtaining translation and interpretation services.
  - ix) Ensuring all public hearing notices include instructions for registration (if required), how to make comments, how persons with LEP can request language assistance services, how persons with disabilities can request a reasonable modification, auxiliary aid or service, and any timeframes for submitting a request before an event.

- x) Providing a mechanism for UMRBA’s community partners to submit input regarding posting of public notices in high traffic areas such as, local nonprofits and community organizations, local medical offices, schools, senior centers, bus stop shelters, and libraries in the affected communities.
  - xi) Maintaining a list of appropriate local free and accessible media platforms and contacts (based on the culture and linguistic needs of the community); and
  - xii) Providing for the publication of the location of any information repositories.
- (2) Within 180 days of the effective date of this Agreement, UMRBA shall submit a copy of its draft Public Participation Plan to OECRC for review. Within 30 days of receiving OECRC’s comments, UMRBA shall post its draft Public Participation Plan, including a translated draft Public Participation Plan in all appropriate languages, for public comment for 60 days. After the public comment period ends, UMRBA shall review all comments and finalize the Public Participation Plan within 45 days and publish the final Public Participation Plan, translated in all appropriate languages, on the UMRBA website and in print. UMRBA shall inform OECRC of the publicly accessible location where the Public Participation Plan shall be, such as an office and/or a link to its website once the final Public Participation Plan is posted.
- (3) *Standard Operating Procedures for Quarterly Meetings*

UMRBA convenes meetings of its Board Members and Alternates and Federal Liaisons on a quarterly basis, typically in February, May, August, and late October/early November. The meetings include reviewing and approving organizational business matters (e.g., approving financial reports), hosting briefings on policies and programs affecting the Upper Mississippi River System, and sharing new ideas and progress in advancing interstate and multi-jurisdictional planning efforts.

UMRBA’s Board of Directors, consisting of duly appointed representatives and alternates from each member state appointed by the respective Governors, meets quarterly in public sessions in St. Paul, MN; La Crosse, WI; the Quad Cities, IL and IA; and St. Louis, MO. The quarterly meetings provide a forum for the discussion of river-related issues of common concern to the states of the Upper Mississippi River Basin. An important purpose of the quarterly meetings is to receive public input that will form the basis of working groups and further study and evaluation.

- a) UMRBA shall develop guidance for its quarterly meeting-related

communications and agendas that shall include an opportunity for the impacted public to give input into policies and programs that affect their communities. UMRBA shall also develop a process by which UMRBA:

- i) Receives public input regarding their programs during each quarterly meeting;
  - ii) Reviews public input and identifies work groups or other resources best suited to consider the public input before the next quarterly meeting; and
  - iii) After review of the public input, reports to the public how the public input was considered and considered in any decision-making process during the next applicable quarterly meeting.
- b) Within 90 days of the effective date of this Agreement, UMRBA shall submit to OECRC a draft copy of its Standard Operating Procedures for Quarterly Meetings for review.
- c) Within 30 days of receiving OECRC's comments, UMRBA shall address all comments and publish the final Standard Operating Procedures, translated in all appropriate languages, on the UMRBA website.

(4) *Standard Operating Procedures for Other Public Meetings*

UMRBA facilitates and fosters cooperative planning and coordinated management, including by creating a forum for discussion, study, and evaluation of major issues. Workshops, summits, planning sessions, and other meeting formats are convened as one-time events as deemed helpful to advancing coordination around a particular matter. These events are unique, tailored to the issue area and engagement goals.

UMRBA's water quality meetings are open to the public and allow for public interaction. These meetings are held routinely and are held in-person with remote connection. The in-person location is typically in the Quad Cities area in Illinois and Iowa as a central location.

Outside of quarterly meetings, UMRBA facilitates other discussions among working groups and targeted subjects of interest such as conservation, infrastructure and planning. These meetings are often virtual.

- a) UMRBA shall develop guidance to ensure that UMRBA's public engagement strategies are implemented consistent with the federal civil

rights laws and EPA's Public Involvement Guidance<sup>10</sup> and include steps for effective public engagement that are accessible to all persons without regard to race, color, national origin (including limited English proficiency), disability, age, or sex each time UMRBA engages in a public participation or public engagement process. This includes performing a situation assessment, selecting the right level of public participation, and designing the appropriate process, including clearly articulating expectations, and ensuring that the process is feasible and that the necessary resources are available.

- b) UMRBA shall also develop a process by which UMRBA:
  - i) Receives public input during public meetings;
  - ii) Reviews public input and identifies work groups or other resources best suited to consider the public input; and
  - iii) After review of the public input, reports to the public how the public input was considered and considered in any decision-making process.
- c) Within 90 days of the effective date of this Agreement, UMRBA shall submit to OECRC a draft copy of its Standard Operating Procedures for Other Public Meetings for review.
- d) Within 30 days of receiving OECRC's comments, UMRBA shall address all comments and publish the final Standard Operating Procedures for Other Public Meetings, translated in all appropriate languages, on the UMRBA website.

E. Plan to Ensure Meaningful Access to Programs and Activities for Persons with Limited English Proficiency (LEP)

- 1. UMRBA shall develop and implement a written Language Access Plan ("LAP") to ensure meaningful access to all UMRBA programs, services, and activities for individuals with LEP, at no direct cost to those individuals. The LAP shall provide information on how UMRBA shall:

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<sup>10</sup> 71 F.R. 14207, 14210 (March 21, 2006) at <https://www.federalregister.gov/documents/2006/03/21/06-2691/title-vi-public-involvement-guidance-for-epa-assistance-recipients-administering-environmental>

- a) Conduct an analysis as described in the EPA's LEP Guidance<sup>11</sup> to identify the appropriate language groups in the Upper Mississippi River Basin and specific areas within the Basin that may need language services and determine what language services or mix of language services UMRBA needs to provide (e.g., qualified interpreters and translators), to ensure that individuals with LEP can meaningfully participate in UMRBA's programs, services, and activities.
- b) Translate vital documents<sup>12</sup> of interest to the public into the appropriate languages as identified through the process outlined in Section III(E)(1)(a) above, for individuals with LEP who are served by or likely to be encountered by UMRBA's programs, services, and activities, including any public notices that are identified as vital documents.
- c) Translate vital documents of interest to a particular individual with LEP or group of individuals with LEP (e.g., an individual with LEP wishing to file a grievance).
- d) Provide for simultaneous oral interpretation, by qualified interpreters, of live proceedings (e.g., community engagement meetings and public hearings) in prominent languages, and the ability for individuals with LEP to meaningfully participate in those proceedings to the same extent as persons with English proficiency can participate (e.g., provide comments during public hearings, proceedings, programs, and activities hosted or provided by UMRBA).
- e) Consider the best way to receive feedback on the accuracy and quality of the language assistance services (add acknowledgement that translation or interpretation services were utilized and request people contact UMRBA's Operations Manager to address any accuracy or quality issues).
- f) Utilize UMRBA's social media platform to provide translated vital documents information and increase messaging to populations with LEP.

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<sup>11</sup> Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 F.R. 35602. <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>

<sup>12</sup> Whether or not a document (or the information it disseminates or solicits) is "vital" may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurate or in a timely fashion. See EPA's 2004 Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons at <https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>.

- g) Strive to hire staff with diverse bilingual capabilities to better serve the public; and
  - h) Provide qualified language services through qualified employees or through a contract for such services.
2. Within 90 days of the effective date of this Agreement, UMRBA shall submit a draft copy of its LAP to OECRC for review.
  3. Within 30 days of receiving OECRC's comments, UMRBA shall submit its draft LAP, including a translated draft LAP in all appropriate languages, for public comment for 60 days. After the public comment period ends, UMRBA shall review all comments and finalize the LAP within 45 days and publish the final LAP, translated in all appropriate languages, on the UMRBA website and in print.
- F. Plan to Ensure Meaningful Access to Programs and Activities for Persons with Disabilities
1. UMRBA shall develop and implement policies and procedures for providing individuals with disabilities equal opportunity to participate in or benefit from its programs, services, and activities through its compliance with Section 504 of the Rehabilitation Act of 1973. UMRBA shall make reasonable modifications at no cost to its policies, practices, and procedures, where necessary, to avoid discrimination, unless UMRBA can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided.
  2. UMRBA shall ensure that communication with individuals with communication disabilities (*e.g.*, vision, hearing, speech) is equally effective as communication with people without disabilities. UMRBA shall provide no cost auxiliary aids and services when needed to communicate effectively with people who have communication disabilities, considering the nature, length, complexity, and context of the communication and the individual's normal method(s) of communication. For example, for individuals who are deaf or hard of hearing, auxiliary aids and services may include, but are not limited to, qualified interpreters for individuals who are deaf or hard of hearing.
  3. UMRBA shall, upon request,<sup>13</sup> provide reasonable modifications and auxiliary aids in a timely manner and in such a way as to protect the privacy and independence of the individual.

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<sup>13</sup> The failure to request a reasonable modification or auxiliary aid or service does not always excuse UMRBA from providing a reasonable modification or auxiliary aid or service, as long as it does not result in a fundamental alteration or undue burden.

4. UMRBA shall administer its programs and activities in the most integrated setting appropriate to the needs of qualified persons with disabilities. In addition, UMRBA shall ensure that its facilities and other facilities utilized by UMRBA for public programs and activities are physically accessible for individuals with disabilities.
5. Within 180 days of the effective date of this Agreement, UMRBA shall forward to OECRC for review its written policies and procedures to ensure meaningful access to all UMRBA programs, services, and activities by individuals with disabilities.
6. Within 30 days of receiving OECRC's comments, UMRBA shall prominently publish in print and post a direct link to the disability policies and procedures on the UMRBA website in all appropriate languages, consistent with its LAP.

#### H. Training

1. Within 180 days after implementing the deliverables in Section III of this Agreement, UMRBA shall ensure that all staff and contractors, as appropriate, are trained on the processes and procedures, as well as the nature of the federal nondiscrimination obligations. UMRBA may request assistance from OECRC for any of the trainings required in this Agreement.
2. UMRBA shall ensure that such trainings referenced in Section III(H)(1) of this Agreement is a routine part of the onboarding process for new employees and contractors, as appropriate, and for current employees on an annual basis.
3. Within 120 days of the effective date of this Agreement, UMRBA shall forward a draft training plan to OECRC for review.
4. Within 30 days of receiving OECRC's comments, UMRBA shall respond to all comments, discuss with OECRC any concerns, if necessary, forward a final copy of the final training plan to OECRC once complete, and then implement the training plan.

#### IV. **GENERAL**

- A. In consideration of UMRBA's implementation of its obligations described in Section III of this Agreement, OECRC shall end its investigation of EPA Complaint No. 02R-21-R5 and not issue a decision containing findings on the merits of the complaint.
- B. In committing to the obligations described in Section III of this Agreement, UMRBA

makes no admission that any of its programs, service, or activities are being or have been conducted in violation of Title VI of the Civil Rights Act or any other federal nondiscrimination laws or implementing regulations.

- C. OECRC shall monitor the implementation of the obligations in Section III of this Agreement to ensure they are fully implemented. Once the obligations of this Agreement are satisfied, OECRC shall issue a letter documenting closure of its monitoring actions in EPA Complaint No. 02R-21-R5 and closure of the complaint as of the date of that letter.
- D. If not otherwise specified herein, OECRC shall review and provide feedback on any documentation submitted by UMRBA demonstrating completion of each commitment and shall provide an assessment, to include verbal and/or written feedback, as to whether the documentation satisfies the commitment for each such submission. If, upon review, OECRC determines that edits to the draft submissions are needed to address any concerns raised, the parties shall convene to resolve the concerns by proposing edits to the documents, which shall be incorporated and completed within 30 days of receipt of notice of the concerns from OECRC.
- E. OECRC remains available to provide technical assistance to UMRBA regarding any of the civil rights obligations previously referenced, upon request by UMRBA.

## **V. COMPUTATION OF TIME AND NOTICE**

- A. As used in this Agreement, “day” shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- B. Service of any documents required by this Agreement shall be made personally via electronic mail as outlined below. Documents forwarded by email for review are to be sent in native format for draft documents and PDF format for documents intended to be final.
- C. Electronic documents submitted by UMRBA to OECRC shall be sent to the following email address: [kurt.temple@epa.gov](mailto:kurt.temple@epa.gov).

Documents mailed by UMRBA to OECRC shall be sent to:

US Environmental Protection Agency  
Office of External Civil Rights Compliance  
1200 Pennsylvania Ave. NW  
Mail Code: 2310A



Washington, DC 20460

- D. Electronic documents submitted by OECRC to UMRBA shall be sent to the following email address: [human.rights@umrba.org](mailto:human.rights@umrba.org).

Documents mailed by OECRC to UMRBA shall be sent to:

Upper Mississippi River Basin Association  
7831 East Bush Lake Road, Suite #302  
Bloomington, MN 55439

## **VI. EFFECT OF THE AGREEMENT**

- A. UMRBA's obligations under this Agreement are limited to compliance with Title VI and other applicable federal nondiscrimination laws and EPA's regulation at 40 C.F.R. Parts 5 and 7. Nothing in this Agreement shall be construed to prevent UMRBA from also complying with other federal requirements and applicable state laws.
- B. UMRBA understands that, if necessary, OECRC may visit UMRBA, interview staff, and request such additional reports or data as are necessary for OECRC to determine whether UMRBA has fulfilled the terms of this Agreement.
- C. UMRBA understands that OECRC shall not close its monitoring of this Agreement until OECRC determines that UMRBA has fully implemented the commitments in Section III of this Agreement and that a failure to satisfy any term in this Agreement may result in the OECRC re-opening an investigation.
- D. If either Party desires to modify any portion of this Agreement, the Party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstances justifying the proposed modification. Any modification(s) to this Agreement shall take effect only upon written agreement by the Executive Director of UMRBA and the Director of OECRC. Notwithstanding the foregoing, the email addresses and mailing addresses specified in Sections V(C) and V(D) of this Agreement may be modified by the Party receiving submissions or mailings by delivering notice to all counterparties.
- E. This Agreement constitutes the entire Informal Resolution Agreement between UMRBA and OECRC regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person shall be construed to change any obligation or term of this Agreement, except as specifically agreed to by UMRBA and OECRC, in accordance with the provisions of Section VI(D) of this Agreement above.

- F. This Agreement does not affect UMRBA’s continuing responsibility to comply with Title VI of the Civil Rights Act or other federal nondiscrimination laws, and the EPA regulation at 40 C.F.R. Parts 5 and 7, nor does it affect the OECRC’s investigation of any other Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.
  
- G. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Executive Director, in her capacity as an official of the UMRBA, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The Director of OECRC has the authority to enter into this Agreement.

**On behalf of UMRBA:**



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Kirsten Wallace, Executive Director  
Upper Mississippi River Basin Association

April 19, 2024

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(Date)

**On behalf of the U.S. Environmental Protection Agency:**

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Kurt Temple, Acting Director  
Office of External Civil Rights Compliance  
Office of Environmental Justice and External Civil Rights

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(Date)